

CITY OF SURPRISE
Regular City Council Meeting
16000 N. Civic Center Plaza
Surprise, AZ 85374
Tuesday, December 15, 2020 @ 6:00 PM

COUNCIL CHAMBERS

Amended agenda - item #16 on December 11, 2020 at 11:00 AM
Amended agenda - Added item # 22 and Executive Session on December
11, 2020 at 2:30 PM



NOTICE: In an effort to protect health and safety of city employees, residents, and visitors, the Council Chambers will be closed to the public during this meeting. The public may access the meeting by viewing a live stream or broadcast of the meeting. To watch live, please visit www.surpriseaz.gov/surprisetv, the Surprise City Gov Facebook page at www.facebook.com/cityofsurprise. Cox channel 11 and Century Link channel 8513 will also carry the meeting live.

For instructions on how to comment on agenda items and public hearings, please go to <https://bit.ly/3asyowo>

A. Call To Order

Any prayer or invocation that may be offered before the start of the Regular Council Meeting is a voluntary offering by a private resident of Surprise; has not been previously reviewed or approved by City Council or City staff; should not be considered an endorsement of any particular religion by the City or its officials, as the beliefs, viewpoint, and content are personal to the speaker; and no participation by any person in attendance is required. A list of volunteers is maintained by the office of the City Clerk and interested persons should contact the Clerk's Office for further information.

B. Roll Call

C. Pledge of Allegiance

D. Proclamation and Community Acknowledgements

E. City Manager Report

1. Update on COVID-19

F. City Clerk Report

- | | | |
|----|---|--|
| 2. | Consideration and action to appoint Jo Grant to fill a vacancy on the Arts and Cultural Advisory Commission (term expiration of 06/30/2023) and HarryLouis Rodriguez to fill a vacancy on the Veterans, Disabilities and Human Services Commission (term expiration of 06/30/2021). | None

Sherry Aguilar
City Clerk |
|----|---|--|

G. Call To The Public

Public comment will be taken through email or via phone. To submit email comments, including Call to the Public for non-agenda items, please email publiccomments@surpriseaz.gov. Comments for Call to the Public must be submitted prior to the start of the meeting. To comment on agenda items, emails must be submitted prior to the time(s) designated for public comment by the Mayor during the meeting or before the agenda item has otherwise concluded.

To comment live by phone for Call to the Public for non-agenda items or for agenda items, please call 623-222-1250 prior to, or during, the meeting to have your name placed on a callback list. If you reach voicemail, please leave your name and phone number. The City Clerk will call those wishing to comment from the dais during the meeting, and the call will be streamed through the Council Chamber audio system. Only calls received before Call to the Public for non-agenda items or before or during the time(s) designated for public comment by the Mayor during the meeting on the subject agenda item will be accepted and streamed. No calls will be accepted after the time(s) designated by the Mayor for public comment or after an agenda item has otherwise concluded.

H. Regular City Council Meeting Agenda

CONSENT AGENDA:

- | | | | |
|----|------------|--|--|
| 3. | Citywide | Consideration and action on the minutes of the Regular City Council Work Session and the Regular City Council Meeting of December 1, 2020. | None

Sherry Aguilar
City Clerk |
| 4. | District 6 | Consideration and action to approve a request by Samuel David Byrum (Agent) for a Series 12 Restaurant Liquor License for VENUE TAPROOM located at 13699 N. Litchfield Road, Surprise, AZ. 85379. | None

Sherry Aguilar
City Clerk |
| 5. | District 1 | Consideration and action pertaining to the approval of the Final Plat entitled, "Lingor Estates – Final Plat" dated October 5, 2020, an approximately 4.95 acre property generally located on the southwest corner of Williams Road and 178th Avenue adjacent to the North Copper Canyon PAD; Case FS20-396. | None

Hobart Wingard
Community
Development |
| 6. | District 1 | Consideration and action pertaining to approval of the Final Plat entitled, "Asante Well Site No. 1" dated October 1, 2020, an approximately .478 acre property generally located south of Jomax Road and east of the 171st Avenue alignment; Case FS20-412. | None

Sergio Angulo
Community
Development |
| 7. | District 1 | Consideration and action pertaining to approval of the Final Plat entitled, "Heritage Asante – Parcel 6 Phase 1" an approximately 18.396 acre property generally located west of 163rd Avenue and north of Grand Avenue; Case FS20-416. | None

Sergio Angulo
Community
Development |

- | | | | |
|-----|------------|--|---|
| 8. | District 1 | Consideration and action pertaining to approval of the Amended and Restated Asante Water Development Agreement to include construction costs for the expansion related to the City's obligation for the Desert Oasis arsenic treatment plant capacity; Resolution # 2020-69. | None

Lee Lambert
Water Resource
Management |
| 9. | District 1 | Consideration and action pertaining to acceptance of a Bridge Construction and Access Easement, Sewer Line Utility License, and Water Line Utility License from Maricopa Water District at the Beardsley Canal and 147th Avenue. | None

Lloyd Abrams
Community
Development |
| 10. | District 1 | Consideration and action pertaining to approval of the Final Plat entitled "Heritage Asante – Parcel 6 Phase 2" an approximately 11.652 acre property generally located west of 163rd Avenue and north of Grand Avenue; Case FS20-417. | None

Sergio Angulo
Community
Development |
| 11. | Citywide | Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations in the amount of \$31,000 within the Grants Fund from Contingency to Project G31430 to provide funding for the purchase of personal protective equipment related to COVID-19 exposure and other safety equipment and for acceptance of a grant award from the Arizona Attorney General's Office; Resolution #2020-155. | None

Terry Young
Police |
| 12. | District 1 | Consideration and action pertaining to approval of the Public Improvements In-lieu Payment Agreement for Rio Rancho with Forestar (USA) Real Estate Group, Inc.; Resolution #2020-156. | None

Kristin Tytler
Public Works |
| 13. | District 1 | Consideration and action conditionally accepting certain streets and public utility improvements at Austin Ranch East Phase 1B – Parcels 12A and 12C; Resolution # 2020-163. | None

Mike Gent
Public Works |
| 14. | Internal | Consideration and action pertaining to authorizing submission of the annual Request for Exemption from posting deposit to the Industrial Commission of Arizona. | None

Robert Wingo
Legal |

REGULAR AGENDA ITEM - PUBLIC HEARING:

- | | | | |
|-----|----------|--|---|
| 15. | Citywide | Consideration and action pertaining to adoption of the Land Development Ordinances that will replace Chapters 101-122 of the Surprise Municipal Code, which comprise the Surprise Unified Development Code ;Ordinance # 2020-38. | None

Joshua Mike
Community
Development |
|-----|----------|--|---|

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

- | | | | |
|-----|------------|--|---|
| 16. | Citywide | Consideration and action pertaining to approval of a Fiscal Year 2021 budget amendment by 1) amending the public safety pension funding policy and transferring 13 million dollars from the General Fund to the Public Safety Pension Fund (Resolution # 2020-160); 2) reallocating appropriations from General Contingency of \$6,570,700 to the General Capital Fund and \$1,561,700 Police and Fire Development Impact Fee Funds for Community projects and the Public Evidence and Readiness Center (Resolution # 2020-164); and 3) amending the comprehensive financial management policies pertaining to General Fund reserve (Resolution # 2020-165). | None

Andrea Davis
Finance |
| 17. | District 1 | Consideration and action pertaining to approval of the Austin Ranch Supplemental Development Agreement (Citrus Road South -- Sewer Overlay Agreement); Resolution #2020-159. | None

Lloyd Abrams
Community
Development |
| 18. | District 1 | Consideration and action pertaining to approval of the Final Plat entitled "Tierra Verde East Phase 1", located in the Tierra Verde East PAD; Resolution # 2020-157. | None

Sergio Angulo
Community
Development |
| 19. | District 1 | Consideration and action pertaining to approval of the Final Plat entitled, "Tierra Verde East Phase 2", generally located on the northwest corner of Happy Valley Road and 151st Avenue; Resolution # 2020-158. | None

Sergio Angulo
Community
Development |
| 20. | Citywide | Consideration and action to approve an amendment to the Fiscal Year 2020 budget by reallocating appropriations required to close the Fiscal Year 2020 budget, inter-fund cash transfers and loans; Resolution #2020-161. | None

Andrea Davis
Finance |
| 21. | District 1 | Consideration and action pertaining to approval of the Final Plat entitled, "Tierra Verde West" located in the Tierra Verde West PAD; Resolution #2020-162. | None

Sergio Angulo
Community
Development |
| 22. | Internal | Consideration and action pertaining to approval of the Restructuring Support Agreement (RSA) between Mallinckrodt PLC, each of its subsidiaries, and Governmental Entities holding Opioid Claims, including the City of Surprise. | Robert Wingo
Legal |
- I. Other Business and Future Agenda Items
- J. City Council Reports
- K. Executive Session

23. Internal Consideration and action to recess into executive session for discussion and consultation with the City Attorney for legal advice, and to consider and instruct the City Attorney regarding the City Council's position pertaining to opioid litigation pursuant to A.R.S. 38-431.03(A)(3) and (4). Robert Wingo Legal

For information Purposes; Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, but for only the following purposes:

- discussion or consideration of personnel matters (A.R.S. §38-431.03 (A)(1));
- discussion or consideration of records exempt by law from public inspection (A.R.S. §38-401.03 (A)(2));
- discussion or consultation for legal advice with the city's attorneys (A.R.S. §38-431.03 (A)(3));
- discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid or resolve litigation (A.R.S. §38-431.03 (a)(4));
- discussion or consultation with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. §38-431.03 (A)(5)); or
- discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town. A.R.S. §38-401.03 (A)(6)).
- discussing or consulting with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. §38-431.03 (A)(7)).

Confidentiality Requirements Pursuant to A.R.S. §38-431.03(C)(D): Any person receiving executive session information pursuant to A.R.S. §38-431.02 shall not disclose that information except to the Attorney General or County Attorney by agreement of the City Council, or as otherwise ordered by a court of competent jurisdiction.

The council may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

L. Adjournment

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: December 10, 2020 at 12:05 PM
Amended agenda December 11, 2020 at 2:30 PM

SPECIAL NOTE: PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETER, SHOULD CONTACT THE CITY CLERK'S OFFICE @ 623.222.1200 OR TTY 623.222.1002, BY NO LATER THAN 24 HOURS IN ADVANCE OF THE REGULAR SCHEDULED MEETING TIME.



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: City Clerk
Staff Recommendations:

Contact Person:
District: Internal

Consent: No Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Invocation

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020

Contact Person: Michael Frazier, CITY
MANAGER

Submitting Department: City Clerk

District: Internal

Staff Recommendations: None

Consent: No	Regular: No	Public Hearing: No	Report/Discussion: No
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Agenda Wording:

Update on COVID-19

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: City Clerk
Staff Recommendations: None

Contact Person: Sherry Aguilar, City Clerk
District: Internal

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action to appoint Jo Grant to fill a vacancy on the Arts and Cultural Advisory Commission (term expiration of 06/30/2023) and HarryLouis Rodriguez to fill a vacancy on the Veterans, Disabilities and Human Services Commission (term expiration of 06/30/2021).

Motion:

I move appoint Jo Grant to fill a vacancy on the Arts and Cultural Advisory Commission (term expiration of 06/30/2023) and HarryLouis Rodriguez to fill a vacancy on the Veterans, Disabilities and Human Services Commission (term expiration of 06/30/2021).

Background:

Objective Analysis:

Policy Compliant:

This item follows City Code relating to Boards and Commission appointment process.

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

1. bnc appts_Redacted
-

RECEIVED
Janae Silva
3:50 pm
11/18/2020



City of Surprise

APPOINTMENT APPLICATION FOR ALL
SURPRISE COMMISSIONS

(Per City Code, All applicants must reside in the City of Surprise)

Name: Jo Grant

Year(s) you have resided in the City of Surprise? : 3 1/2

Board/Commission(s) you are applying for?

Arts and Cultural Advisory Commission

Education: Attended ASU.

EMPLOYMENT BACKGROUND:

Present Employer/Position: Retired - worked for over 30 years for State of Arizona - Last 28 years managed the

Previous Employer(s)/Position (Last 5 Years): Southern Arizona

Office of State Senate and House of Representatives.

(Continued on Reverse Side)

Special Qualifications (Include list of Surprise activities or organizations you have participated in and dates):

Rotary Club of Surprise - 2 yrs - MLK Service
(2019) (2019 - Day of Service Women & Women - 2019 to present)

Do you currently serve, or have you previously served on any other City of Surprise Commissions? If yes, which one(s):

No

Statement as to why you want to serve as a Commission Member for the City of Surprise:

As a former School Governing Board member, the arts provide students a well rounded education. The same ^{holds} true as adults, the arts make a well rounded community. Arts can be enjoyed by all ages. The City has a diverse population and the arts can bring us all together.

I, Jo Grant certify that to the best of my knowledge, all information given herewith is true and correct. I understand that any falsification or misrepresentation of facts will be cause for dismissal from the position if I am appointed by the City Council.

Jo Grant
Applicant's Signature

Please return to:

City Clerk's Office – 16000 N. Civic Center Plaza, Surprise, AZ. 85374, or email to:
clerk@surpriseaz.gov

Please note that applications are accepted on an open rolling basis and shall be maintained as an active application for future vacancies.

12:00 Noon



RECEIVED

12/14/18

10:00A

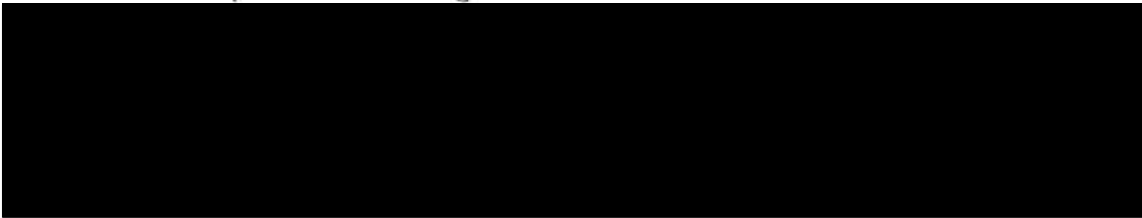
ce

City of Surprise

APPOINTMENT APPLICATION FOR ALL SURPRISE COMMISSIONS

Name: Harry Louis Rodriguez

Date Submitted: 12-14-18



Resident of Surprise: X Yes No Number of Years: 6

Board/Commission(s) you are applying for? Veterans, Disability and Human Services

Education: BA Healthcare Admin, ~~and~~ Organizational Management

EMPLOYMENT BACKGROUND:

Present Employer/Position: Retired US Army medically Disabled

Previous Employer(s)/Position (Last 5 Years): N/A

Special Qualifications (Include list of Surprise activities or organizations you have participated in and dates):

(Continued on Reverse Side)

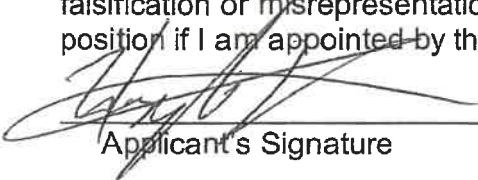
Do you currently serve, or have you previously served on any other City of Surprise Commissions? If yes, which one(s): N/A

Statement as to why you want to serve as a Commission Member for the City of Surprise:

I want to screw my city, I am a Disabled Vet. I believe
I can bring a unique view to this position. I want
to help make surprise the best city in America

Additional Information/Comments:

I, Humberto Rodriguez certify that to the best of my knowledge, all information given herewith is true and correct. I understand that any falsification or misrepresentation of facts will be cause for dismissal from the position if I am appointed by the City Council.


Applicant's Signature

Please return to:

City Clerk's Office – 16000 N. Civic Center Plaza, Surprise, AZ. 85374, or email to: clerk@surpriseaz.gov

Please note that applications are accepted on an open rolling basis and shall be maintained as an active application for future vacancies.



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: City Clerk
Staff Recommendations: None

Contact Person: Sherry Aguilar, City Clerk
District: Citywide

Consent: No Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action on the minutes of the Regular City Council Work Session and the Regular City Council Meeting of December 1, 2020.

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

1. 1212020 WKS
 2. 1212020 reg
-

CITY OF SURPRISE
Regular City Council Work Session Minutes
16000 North Civic Center Plaza
Surprise, AZ 85374

Tuesday, December 1, 2020 @ 4:30PM

Call To Order

Roll Call

Mayor Hall called to order the Regular City Council Work Session of December 1, 2020 at 4:30 PM at Surprise City Hall Council Chambers, 16000 N Civic Center Plaza, Surprise, Arizona 85374. Also in attendance with Mayor Hall were Vice Mayor Judd, Council Members; Winters, Hayden, Duffy, Hastings and Remley.

Staff Present: City Manager, Michael Frazier; City Attorney, Robert Wingo and City Clerk, Sherry Ann Aguilar.

Pledge of Allegiance

Call To The Public

Regular City Council Work Session Agenda

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

1. Presentation and discussion pertaining to alternative language to the proposed Land Development Ordinances offered by stakeholders -NO ACTION

City Planner, Joshua Mike gave a detailed powerpoint presentation on this item.

Vice Mayor Judd - asked for clarification on the section relating to Narrow Lot Subdivisions and the minimum percentage of lot size.

Council Member Duffy - I am in agreement with the 50%.

Council Member Hayden - can you explain why our City would want high density developments with narrow properties? Some of these could be condos. I am worried about this. I want 50% on minimal lot size.

Mayor Hall - agreed with the 5 x 8 on the driveway size.

Vice Mayor Judd - if the Council did not approve this change, what are the alternative processes?

Lloyd Abrams - to Vice Mayor Judd's point, it may be better to leave it in the rezoning than leave it in the rezone final plot process.

City Attorney Wingo clarified Mr. Abrams response to rezoning vs. plat approval.

Council Member Remley - commented that he would like to see these come back case by case for review.

Council Member Hastings -would prefer case by case basis.

Vice Mayor Judd - how big can the project be classified under TND?

Yes that is correct, the entire property per Joshua Mike.

Council Member Remley asked for clarification on Alternative language 6.

City Council provided consensus on including option 2 with a modification and options 4-9.

Executive Session

Adjournment

Vice Mayor Judd made the motion to adjourn the Regular City Council Work Session of December 1, 2020 at 5:31 PM. Council Member Winters seconded the motion. Seven yes votes, motion carried.

Skip Hall, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Work Session of **Tuesday, December 1, 2020.**

Sherry Ann Aguilar, City Clerk, MMC

CITY OF SURPRISE
Regular City Council Meeting Minutes
16000 North Civic Center Plaza
Surprise, AZ 85374

Tuesday, December 1, 2020 @ 6:00PM

Call To Order

Invocation

Led by Lisa David.

Roll Call

Mayor Hall called to order the Regular City Council Meeting of December 1, 2020 at 6:00 PM at Surprise City Hall Council Chambers, 16000 N Civic Center Plaza, Surprise, Arizona 85374. Also in attendance with Mayor Hall were Vice Mayor Judd, Council Members; Winters, Hayden, Duffy, Hastings and Remley.

Staff Present: City Manager, Michael Frazier; City Attorney, Robert Wingo and City Clerk, Sherry Ann Aguilar.

Pledge of Allegiance

Proclamation and Community Acknowledgements

City Manager Report

City Manager Frazier asked Emergency Manager, Tracy Montgomery to give a COVID-19 update. Ms. Montgomery review powerpoint slides with current COVID information. Ms. Montgomery reviewed simple transmission reduction strategies.

Mayor Hall asked about the vaccine distribution, one or both?

Employee Appreciation update:

City Manager Frazier gave a report on the Employee Appreciation Update. It

was recommended by the Executive Team to acknowledge every employee for the City to receive the City Manager's Excellence Award due to major adjustments by every department as we are dealing with COVID.

City Clerk Report

Call To The Public

Alejandro Christ - spoke about freedom and liberty, losing both since this pandemic. The mandates have caused more harm to the citizens both physically and mentally. The numbers are available on the government website outlining infections vs. deaths. I could not come in to the meeting in person because it is closed to the public to address Council.

Regular City Council Meeting Agenda

1. Reports

CONSENT AGENDA:

Council Member Duffy made the motion to approve the consent agenda, excluding item #7. Council Member Hayden seconded the motion. Seven yes votes, motion carried.

2. Consideration and action on the minutes of Regular City Council Work Session and the Regular City Council Meeting and Executive Session of November 17, 2020 - APPROVED

3. Consideration and action pertaining to approval of a Fiscal Year 2021 budget amendment reallocating appropriations of \$1,500 from Contingency within the Grants Fund to Project G31057 FY21 Walmart Community Grant for the Explorer Post Program; Resolution 2020-148 - APPROVED

4. Consideration and action pertaining to approval of an amendment to the Joint Agency Agreement No. 1061 with the Maricopa Association of Governments for the reimbursement for geometric safety improvements at Litchfield Road and Bell Road; Resolution # 2020-132 - APPROVED

5. Consideration and action pertaining to the conditional acceptance of certain streets and public utility improvements at Prasada Phase 1B Lot 3, generally located at W. Waddell Road and N. Prasada Parkway; Resolution # 2020-153 - APPROVED

6. Consideration and action pertaining to approval of the One Arizona Opioid Settlement Memorandum of Understanding - APPROVED

7. Consideration and action pertaining to approval of the Amended and Restated Asante Water Development Agreement to include construction costs for the expansion related to the City's obligation for the Desert Oasis arsenic treatment plant capacity; Resolution # 2020-69 - TABLED - DECEMBER 15, 2020 REGULAR COUNCIL MEETING

Council Member Hastings made the motion to table this item to the December 15, 2020 Regular Council Meeting. Council Member Duffy seconded the motion. Seven yes votes, motion carried.

8. Consideration and action pertaining to the approval of the Final Plat entitled, "North Copper Canyon Village – Parcel 1.2" and an associated Alternative Assurance Agreement, for an approximately 42.84 acre property generally located on the northern corner of Deer Valley Road and Williams Road in the North Copper Canyon PAD; Case FS20-340 - APPROVED

-

REGULAR AGENDA ITEM - PUBLIC HEARING:

9. Consideration and action pertaining to the approval of a Revised Preliminary Plat entitled "Unit Q - Phase 2 - Toll at Prasada" an approximately 81.8 acre property generally located west of Cotton Lane, between Cactus Road and Peoria Avenue - APPROVED

Lloyd Abrams gave a powerpoint presentation on this item.

Council Member Duffy made the motion to approve Revised Preliminary Plat, Unit Q-Phase 2-Toll at Prasada. Council Member Remley seconded the motion. Seven yes votes, motion carried.

Other Business and Future Agenda Items

Executive Session

Adjournment

Council Member Winters made the motion to adjourn the Regular City Council Meeting of December 1, 2020 at 6:44 PM. Council Member Hastings seconded the motion. Seven yes votes, motion carried.

City Council Reports

Mayor and Council attended and/or reported on following"

Council Member Hastings - Meet and Greet, 2nd Saturday of each month at Chef Peter's Bistro; congratulations to Dr. Kellis at Dysart, PR Superintendent of the year; Citizen Review Meeting for expansion of the existing storage facility, Waddell Road, Tuesday, December 22nd 6:00 p.m. on Zoom.

Council Member Remley - No report.

Council Member Duffy - This Saturday Meet and Greet at Spencer's place at 10 to noon.

Council Member Hayden - Tour of water campus, PW operations facility, very impressed with operations and staff.

Council Member Winters - Council at the stadium lighting the annual Christmas tree.

Vice Mayor Judd - Quarter at Surprise, corner of Bell and Bullard, thanked ED team; sorry could not attend the meeting in person.

Mayor Hall - Good relationship with our schools, especially Dr. Kellis, received high honor. Thank you for all you do. Virtual Surprise Party experience.

Skip Hall, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Meeting of **Tuesday, December 1, 2020.**

Sherry Ann Aguilar, City Clerk, MMC



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: City Clerk
Staff Recommendations: None

Contact Person: Sherry Aguilar, City Clerk
District: District 6

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action to approve a request by Samuel David Byrum (Agent) for a Series 12 Restaurant Liquor License for VENUE TAPROOM located at 13699 N. Litchfield Road, Surprise, AZ. 85379.

Motion:

I move to approve a request by Samuel David Byrum (Agent) for a Series 12 Restaurant Liquor License for VENUE TAPROOM located at 13699 N. Litchfield Road, Surprise, AZ. 85379.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

1. 516 Hospitality Group LLC dba Venue Taproom_Memo to Clerk_20201123
 2. Under Review new application - interim permit
 3. VENUE TAPROOM, DECEMBER 2020 MAP
 4. VENUE TAPROOM - DECEMBER 2020 Report
-



TA

Date: 11/23/2020

To: Sherry Aguilar, City Clerk
Linda Stevens, Deputy City Clerk
From: Stacie McQuarrie, Fiscal Support Specialist

RE: Liquor License Application – 516 Hospitality Group LLC dba Venue Taproom – 13699 N
Litchfield Rd

Business License Status:

Application packet to be mailed on 11/23/2020.

Mailing to:

516 Hospitality Group LLC
Dbas Venue Taproom
Attn: Mr Samuel Byrum
9229 N 185th Ave
Waddell AZ 85355

S U R P R I S E P O L I C E D E P A R T M E N T
L I Q U O R L I C E N S E A P P L I C A T I O N R E V I E W

REFERENCE:

DATE: December 3, 2020

JOB NUMBER: 116770

Series #12 – New Application/Interim Permit

APPLICANT:

Venue Taproom

13699 N. Litchfield Road

Surprise, Arizona 85374

FINDINGS:

1) ***Evidence concerning the nature of the proposed business, its potential market and its likely customers.***

Venue Taproom is taking over the previous establishment, which operated as Under Review, with a full restaurant menu, which mostly consists of hamburgers, salads, wings and a small children's menu. There is seating for 208 patrons, including 48 for the bar area. There are 35 televisions, which is an increase of 12 more than previous occupant, Under Review, spread out throughout the establishment. There is also a pool table and two dart board games on site. Additionally, there is are other scheduled entertainment activities planned, including a trivia night, music bingo, karaoke one night each a week, along with a one-man acoustic live music scheduled twice a month. All live activities are suspended until Covid-19 restrictions are lifted.

2) ***Effect of vehicular traffic in close proximity.***

There are multiple ingress/egress points for Venue Taproom, which is located near the main intersection of Litchfield and Waddell Roads in the large commercial retail plaza known as Surprise Pointe. The change of ownership should not have an effect on traffic.

3) ***The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report of such activity at least 20 days before the hearing.***

In the last five years, the establishment was under prior ownership as Under Review. In this time there have been various calls for service to include: (1) Assault, (5) Disorderly Conduct, (1) DUI, (3) Thefts, (4) Fights, (7) Intoxicated person calls, (4) Trespass calls, and (6) Unwanted Guests. A few of these incidents resulted in the arrests, and most of them resulted in the involved persons being asked to leave the premises. The DUI resulted from a patron refusing a cab and drove off in his vehicle before being stopped by police in the parking lot. In October, 2020 at approximately 5 AM, Peoria Police called Surprise PD to advise they had a woman call them and claimed the owner of the establishment reportedly assaulted her, however when officers attempted to follow up by phone, they were unable to contact due to phone issues, and no further contact to Surprise Police was attempted by alleged victim.

NOTE: Recently in August of 2020, under previous ownership and name, Under Review's temporary permit was cancelled by Arizona Dept. of Liquor for COVID-19 related violations.

4) ***Comparison of hours of operation of the proposed premises to the existing businesses in close proximity.***

Venue Taproom is in the northwest section a large retail plaza. It's website shows they regularly close at midnight from Sundays to Wednesdays and close at 2 AM from Thursday to Saturdays. Across the parking lot at the southeast section is the Uptown Alley, which has a bowling, video games and a bar inside the facility. It is open until 2AM on weekends during normal operation times, but under the current pandemic, hours are varied. After 10 PM, it is only for patrons over 21 years old, unless accompanied by a parent. There are approximately three other restaurants in the plaza that have series 12 liquor licenses. None of them are open late like Uptown Alley. Additionally, the AMC theaters, which are directly east across the parking lot from Under Review has a series 6 liquor license as well, but they have been temporarily closed also due to the pandemic. During normal operation days, AMC would close usually by midnight at latest, unless special engagements are playing.

5) ***Appropriateness of series license requested.***

A series 12 license is appropriate and applicable for the Venue Taproom per state guidelines for restaurants which advises more than 40% of revenue are for food. However, it is noted they appear to have bar type hours and activities.

Submitted by Officer Chris Tovar #2059

VENUE TAPROOM

PAD
ROYAL
RANCH

IG,
I-2

PAD
SIERRA VERDE

RL-5, R1-5

PAD
ROSEVIEW

CC, C-2

RR, R1-43

RL-5, R1-5

PAD
MARLEY
PARK

SITE

Amigos Authentic
Mexican Grill and Bar

PAD
SURPRISE
POINTE

Nick's Diner II

AMC



COMMUNITY DEVELOPMENT DEPARTMENT

Date: December 1, 2020
To: Sherry Aguilar, City Clerk
From: Chris Boyd, Community Development Director
James Stewart, Zoning Specialist
Re: Liquor License Application for:

VENUE TAPROOM
Samuel David Byrum, Agent
13699 N. Litchfield Road, Surprise, Arizona 85379

SERIES 12 – RESTAURANT – APPLICATION # 125781

The number and series of licenses in close proximity to the subject site are:

1. N & B Pizza (Series 12) – 14010 N. Litchfield Rd.#212
2. Fry's Marketplace #674 (Series 9) – 13982 W. Waddell Rd.
3. Safeway Food & Drug # 2699 (Series # 9) – 13828 W Waddell Rd.
4. Native Grill & Wings (Series 12) – 13929 W. Waddell Rd.
5. Quiktrip #466 (Series 10) – 14057 W. Waddell Rd. (Expired)
6. Walgreen's #12087 (Series 10) – 13723 N. Litchfield Rd.
7. Song Lynn Vietnamese Cuisine (Series 12) – 13749 N. Litchfield Rd. #109
8. Nicks Diner II (Series 12) – 13765 N. Litchfield Rd. (Not Shown)
9. AMC Surprise Pointe 14 (Series 6) – 13649 N. Litchfield Rd. (Not Shown)
10. Amigos Authentic Mexican Grill and Bar (Series 12) – 13621 N. Litchfield Rd. (Not Shown)
11. Uptown Alley II (Series 6) – 13525 N. Litchfield Rd.

The immediate area is comprised of commercial establishments. The property is zoned PAD C-2 which is consistent with the proposed use.

Commercial and residential growth is expected to remain static.

If managed properly, the effects of granting this liquor license on surrounding residences will be minimal. This license will have little to no affect on parking in the area. Staff believes that granting this liquor license will not directly impact the surrounding business and residential areas in a negative way.



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Hobart Wingard, PLANNER II
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to the approval of the Final Plat entitled, “Lingor Estates – Final Plat” dated October 5, 2020, an approximately 4.95 acre property generally located on the southwest corner of Williams Road and 178th Avenue adjacent to the North Copper Canyon PAD; Case FS20-396.

Motion:

I move to approve the Final Plat entitled, “Lingor Estates – Final Plat” dated October 5, 2020.

Background:

Gordon Nichols, on behalf of Lingor LLC, seeks approval of a Final Plat for a four (4) lot single-family residential subdivision generally located on the southwest corner of Williams Road and 178th Avenue

Objective Analysis:

Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Policy Compliant:

The requested Final Plat is consistent with the Residential Ranch zoning district and advances the goals and policies of the General Plan.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. 00 - FS20-396 - Lingor FP - CC Staff Report - 121520
 2. 01 - FS20-396 - Lingor FP - Location Map - 121520
 3. 02 - FS20-396 - Lingor FP - Case Map - 121520
 4. 03 - FS20-396 - Lingor FP - Final Plat - 121520
 5. PP - FS20-396 - Lingor FP - CC PowerPoint - 121520
-

FINAL PLAT

REPORT TO THE CITY COUNCIL

1 **Case:** **FS20-396**
2
3 **Project Name:** Lingor Estates Final Plat
4
5 **Council District:** 1 - Acacia
6
7 **City Council Date:** **December 15, 2020**
8
9 **Planner:** Hobart Wingard, Planner II
10
11 **Owner:** Lingor LLC
12
13 **Applicant:** Gordon Nichols of Lingor LLC
14
15 **Request:** Final Plat for a four (4) lot, single-family subdivision generally located
16 on the southwest corner of Williams Road and 178th Avenue adjacent
17 to the North Copper Canyon PAD.
18
19 **Site Location:** Generally, on the southwest corner of Williams Road and 178th
20 Avenue adjacent to the North Copper Canyon PAD.
21
22 **Site Size:** 4.95 acres (approx.)
23
24 **Density:** 1.24 DU/Ac
25
26 **Findings:**
27
28 • The proposed Final Plat is consistent with the Surprise General Plan 2035.
29 • The proposed Final Plat is consistent with the City of Surprise Unified Development Code.
30
31 **Alternative Actions:** **Approve** – Approval of the proposed Final Plat will allow the applicant
32 the ability to subdivide the property as proposed.
33
34 **Deny** – Denial of the requested Final Plat will prevent the applicant
35 from subdividing the property as proposed.
36
37
38
39
40
41
42 **Additional Information:**
43

44 Gordon Nichols, on behalf of Lingor LLC, requests approval of the Final Plat for Lingor Estates. The
45 subject property is approximately 4.95 acres and it is located on the southwest corner of Williams
46 Road and 178th Avenue adjacent to the North Copper Canyon PAD. The subject property is zoned
47 Residential Ranch (RR).

48

49 The applicant proposes four single-family lots for a total density of 1.24 dwelling units per acre. The
50 typical lot proposed is 145 feet x 300 feet. This plat includes a total of 4.95 acres.

51

52 **Attachments:**

53

54 01 Vicinity Map

55 02 Case Map

56 03 Final Plat

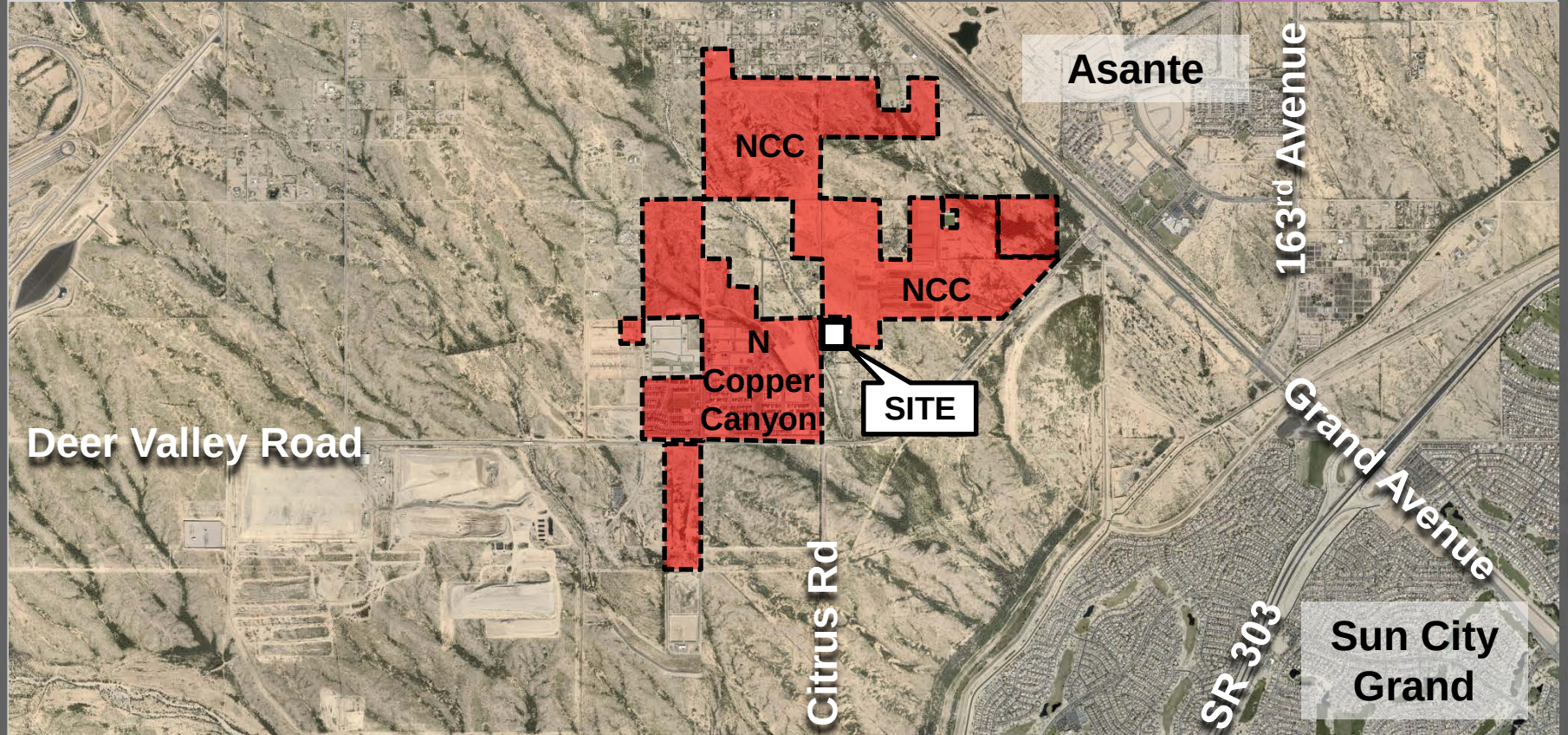
VICINITY MAP

FS20-396
Lingor Estates



CASE MAP

FS20-396
Lingor Estates



DEDICATION

STATE OF ARIZONA
COUNTY OF MARICOPA

KNOW ALL PERSONS BY THESE PRESENTS:

THAT LINCOLN, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, (OWNER) HAS SUBMITTED UNDER THE NAME OF "LINGOR ESTATES" A SUBDIVISION LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AND FOR THE PLAT OF "LINGOR ESTATES", AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GRADE THE EMBANKMENT OF EACH LOT AND EASEMENT CONSTITUTING SAME, AND THAT EACH LOT AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

OWNER HEREBY DEDICATES TO THE CITY OF SURPRISE FEE TITLE TO ALL PUBLIC RIGHTS-OF-WAY AS SHOWN ON THE PLAT.

OWNER HEREBY GRANTS TO THE PUBLIC A PERPETUAL NON-EXCLUSIVE EASEMENT IN, UPON, OVER, UNDER, THROUGH, AND ACROSS THE AREAS DESIGNATED AS PUBLIC UTILITY EASEMENTS AS SHOWN ON THE PLAT FOR THE PURPOSE OF ACCESSING, INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING AND UTILIZING PUBLIC UTILITIES.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL NON-EXCLUSIVE EASEMENT IN, UPON, OVER, UNDER, THROUGH, AND ACROSS THE AREAS DESIGNATED AS RIGHT VISIBILITY TRIANGLES FOR THE PURPOSE OF ENSURING THAT THESE AREAS REMAIN FREE OF RIGHT VISIBILITY OBSTRUCTIONS.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL NON-EXCLUSIVE VEHICLE NON-ACCESS EASEMENT (N/A) IN, UPON, OVER, AND ACROSS THE PARCEL OF LAND SHOWN HEREON, THE PURPOSE OF THE EASEMENT IS TO PROHIBIT VEHICULAR ACCESS.

OWNERS HEREBY GRANTS TO THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE (USAF) AN AVIGATION EASEMENT OVER AND ACROSS THIS PLAT AND EVERY LOT AND PARCEL THEREOF, WHICH EASEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF FLIGHT OF AIRCRAFT OVER THIS PLAT, TOGETHER WITH ITS ATTENDANT NOISE, VIBRATIONS, FUMES, DUST, FUEL, AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT OR ON LINE AIR FORCE BASE AND AUXILIARY FIELD.

ALL IMPROVEMENTS, FOR STREETS AND PUBLIC UTILITIES OWNED AND OPERATED BY THE CITY, INSTALLED OR CONSTRUCTED BY OWNER WITHIN THE PUBLIC RIGHTS-OF-WAY, THE EASEMENTS, OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE SHALL BE DEEMED TO HAVE BEEN DEDICATED BY OWNER TO THE CITY UPON THEIR COMPLETION; HOWEVER, SUCH TRANSFER SHALL NOT OCCUR UNTIL THE CITY COUNCIL FOR THE CITY OF SURPRISE MANIFESTS ITS ACCEPTANCE BY SEPARATE FORMAL COUNCIL ACTION.

THE MAINTENANCE OF LANDSCAPING WITHIN THE OPEN SPACES, LANDSCAPED TRACTS, RETENTION BASINS, AND PARKS SHALL BE THE RESPONSIBILITY OF THE OWNER OR THE HOMEOWNERS ASSOCIATION FORMED BY THE OWNER.

THE MAINTENANCE OF LANDSCAPING WITHIN THE ADJACENT PUBLIC RIGHTS-OF-WAY, INCLUDING LANDSCAPED MEDIAN BETWEEN COLLECTORS AND LOCAL STREETS, AND LANDSCAPED AREAS BETWEEN THE CURB AND THE DETACHED SIDEWALK, SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR THE HOMEOWNERS ASSOCIATION FORMED BY THE ADJACENT PROPERTY.

THE EASEMENTS GRANTED WITHIN THIS DEDICATION ARE PERMANENT AND PERPETUAL, AND SHALL RUN WITH LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR PART THEREOF.

IN WITNESS WHEREOF, LINCOLN, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, HAS HEREIN CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 2020.

LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY

BY: _____

ITS: _____

ACKNOWLEDGMENT

STATE OF ARIZONA
COUNTY OF MARICOPA

ON THIS _____ DAY OF _____, 2020, BEFORE ME THE UNDERSIGNED APPEARED, _____ OF LINCOLN, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, ACKNOWLEDGED THAT HE AS SUCH OFFICER, BEING DULY AUTHORIZED, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE THEREIN CONTAINED BY SIGNED THE NAME OF THE CORPORATION, BY HIMSELF, AS SUCH OFFICER.

IN WITNESS WHEREOF, I HERETO SIGNED MY HAND AND OFFICIAL SEAL.

BY: _____ MY COMMISSION EXPIRES: _____

FLOOD INSURANCE RATE MAP (F.I.R.M.) INFORMATION

FIRM COUNCIL NO.	MAP NO.	SUFFIX	PANEL	FIRM ZONE
040053	04013C1208L	L	1208	X & AE
	10162013			

FIRM ZONE "X" & "AE" - PER LOMR #18-03-0568P, EFFECTIVE 8-21-18

RELEASE OF LIABILITY

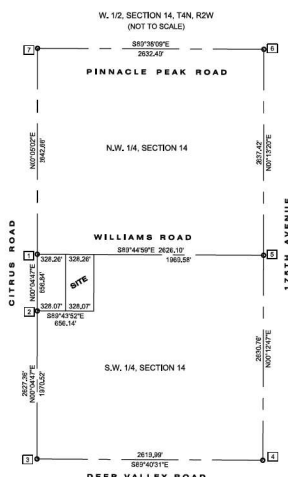
LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY (OWNER) DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, (2) INDORSEMENT, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH AIRCRAFT OVERFLIGHTS FROM AIRCRAFT UTILIZING LINE AIR FORCE BASE, WHETHER SUCH DAMAGE SHALL ORIGINATE FROM NOISE, VIBRATIONS, FUMES, DUST, FUEL, AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT OR ON LINE AIR FORCE BASE AND ITS AUXILIARY FIELDS, THIS INSTRUMENT SHALL RUN WITH THE LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL OR LOT THEREOF, THIS INSTRUMENT DOES NOT RELEASE THE USER FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUMES, DUST, FUEL, AND LUBRICANT PARTICLES.

RELEASE OF LIABILITY

LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY (OWNER) DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, (2) INDORSEMENT, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE NEWLY DEDICATED RIGHT-OF-WAY AS DEPICTED ON THIS PLAT UNTIL SUCH TIME THE RIGHT-OF-WAY IS IMPROVED TO CITY STANDARDS AND THOSE IMPROVEMENTS ARE APPROVED AND ACCEPTED BY THE CITY COUNCIL. THE MAINTENANCE OF THE AREA WITHIN ANY NEWLY DEDICATED RIGHT-OF-WAY AS SHOWN ON THIS PLAT SHALL BE THE RESPONSIBILITY OF THE ADJACENT OWNER OR SUBSEQUENT ADJACENT OWNER OF THE BOUNDARY ON EACH PLAT, WITHIN SUCH TIME THAT THE AREA WITHIN THE RIGHT-OF-WAY IS IMPROVED TO CITY STANDARDS AND ACCEPTED BY THE CITY OF SURPRISE.

"LINGOR ESTATES" - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF
SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST
OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
SURPRISE, MARICOPA COUNTY, ARIZONA



LEGAL DESCRIPTIONS

PARCEL

THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

LOT 1

THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE SOUTH 435.00 FEET;

EXCEPT THE NORTH 40.00 FEET;

EXCEPT THE EAST 27.50 FEET THEREOF;

EXCEPT ALL THE COAL AND OTHER MINERALS, AS RESERVED IN THE PATENT.

LOT 2

THE NORTH 145.00 FEET OF THE SOUTH 435.00 FEET OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE EAST 27.50 FEET THEREOF;

EXCEPT ALL THE COAL AND OTHER MINERALS, AS RESERVED IN THE PATENT.

LOT 3

THE NORTH 145.00 FEET OF THE SOUTH 380.00 FEET OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE EAST 27.50 FEET THEREOF;

EXCEPT ALL THE COAL AND OTHER MINERALS, AS RESERVED IN THE PATENT.

LOT 4

THE SOUTH 145.00 FEET OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE EAST 27.50 FEET THEREOF;

EXCEPT ALL THE COAL AND OTHER MINERALS, AS RESERVED IN THE PATENT.

CITY NOTES

- SPRINKLERS ARE REQUIRED IN ALL ONE AND TWO FAMILY DWELLINGS BUILT IN AREAS WHICH DO NOT HAVE AN ADEQUATE WATER SUPPLY.
- THE PROPERTY OWNERS, OR ANY SUBSEQUENT OWNERS SHALL NOT PROCEED WITH ANY ON SITE GRADING OR EXCAVATION WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
- IN ACCORDANCE WITH AFS 9-481.07, THE CITY OF SURPRISE HAS DETERMINED THAT ALL DEDICATIONS OCCURRING WITH THIS PLAT ARE IN CONFORMANCE WITH THE SURPRISE GENERAL PLAN.
- MARICOPA COUNTY FLOOD CONTROL DISTRICT FLOODPLAIN USE PERMITS ARE REQUIRED FOR ALL LOTS WITHIN A SPECIAL FLOOD HAZARD AREA (SFHA) PRIOR TO THE BEGINNING OF ANY CITY OF SURPRISE GRADING PERMIT.
- NO ON-SITE GRADING OR EXCAVATION SHALL OCCUR WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
- THE PROPERTY IS LOCATED WITHIN AN AREA HAVING FLOOD ZONE "X" AND "AE", BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, ON FLOOD INSURANCE RATE MAP NO. 18041C1208L, WITH A DATE OF IDENTIFICATION OF OCTOBER 16, 2013 FOR COMMUNITY NO. 40053 IN MARICOPA COUNTY, STATE OF ARIZONA, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITUATED.

MONUMENT NOTES:

- W. 1/4 CORNER OF SECTION 14, T. 4 N., R. 2 W., MONUMENT NOT FOUND; ROAD UNDER CONSTRUCTION.
- CALCULATED PER B.C. 1482, P.D. 35, M.C.R.
- MONUMENT NOT FOUND; FALLS IN LARGE WASH
- S.W. CORNER OF SECTION 14, T. 4 N., R. 2 W., FOUND CITY OF SURPRISE BRASS CAP FLUSH
- S. 1/4 CORNER OF SECTION 14, T. 4 N., R. 2 W., FOUND 2" BRASS CAP STAMPED "14 2"
- CENTER OF SECTION 14, T. 4 N., R. 2 W., FOUND CITY OF SURPRISE BRASS CAP FLUSH
- N. 1/4 CORNER OF SECTION 14, T. 4 N., R. 2 W., FOUND CITY OF SURPRISE BRASS CAP FLUSH
- N.W. CORNER OF SECTION 14, T. 4 N., R. 2 W., FOUND MARICOPA COUNTY BRASS CAP FLUSH "LS 3563"

BASIS OF BEARINGS

S00°12'47"ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST AS RECORDED IN BOOK 1482, PAGE 35, M.C.R.

PUBLIC NOTICE

THE LOTS DEPICTED ON THIS PLAT ARE LOCATED WITHIN THE VICINITY OF LINE AIR FORCE BASE AND MAY BE SUBJECT TO OVERFLIGHTS BY JET AIRCRAFT. ALL STRUCTURES WITHIN THIS PLAT SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE SOUND ATTENUATION STANDARDS ADOPTED BY THE CITY OF SURPRISE. A MAP DEPICTING THE MOST CURRENT ADOPTED MAGNETIC CONTOURS IN RELATION TO THIS PLAT SHALL BE DISPLAYED IN ALL SALES OFFICES. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE CITY OF SURPRISE DEVELOPMENT DEPARTMENT.

DEVELOPER/OWNER

LINGOR, L.L.C.,
15115 W. HURON DRIVE
SUN CITY WEST, AZ 85375

SURVEYOR

STARLINK SURVEYING, INC.
CONTACT: STEPHEN J. SHEARROW, R.L.S.
7836 W. ADOLPH DRIVE
GLENDALE, AZ 85308
PHONE: 623-322-1118
FAX: 623-322-4637
EMAIL: STARLINK@STARLINKSURVEYING.COM

CERTIFICATION

THIS IS TO CERTIFY THAT THE SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREON WERE MADE UNDER MY DIRECTION DURING THE MONTH OF AUGUST, 2019, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT THE MONUMENTS SHOWN ACTUALLY EXIST; THAT THEIR POSITIONS ARE CORRECTLY SHOWN; AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACTED.

STEPHEN J. SHEARROW, R.L.S. # 40887



CITY OF SURPRISE COUNCIL APPROVAL

APPROVED BY THE CITY COUNCIL, OF THE CITY OF SURPRISE, ARIZONA

THIS _____ DAY OF _____, 2020

APPROVED _____ MAYOR _____ DATE _____

ATTEST: _____ CITY CLERK _____ DATE _____

CITY OF SURPRISE ENGINEER APPROVAL

DATA ON THIS PLAT REVIEWED AND APPROVED THIS _____ DAY OF _____, 2020.

BY THE CITY ENGINEER OF SURPRISE, ARIZONA.

APPROVED _____ CITY ENGINEER _____ DATE _____

"LINGOR ESTATES" - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 14,
T. 4 N., R. 2 W., OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
SURPRISE, MARICOPA COUNTY, ARIZONA

FIELD NO.	SCALE	JOB NO.	DATE	SHEET
1	1"=40'	15085-1	10/20/19	1 OF 2

Starlink
Surveying, Inc.

7836 W. Adolph Drive
Glendale, AZ 85308
Ph. 623-322-1118 Fax 623-322-4637

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF
SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST
OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
SURPRISE, MARICOPA COUNTY, ARIZONA

WILLIAMS	DEDICATED HEREON	ROAD
	S89°44'59"E	

LEGEND

- LOT WIDTHS**

AREAS

'LINGOR ESTATES' - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 14

FIELD SURV	SCALE	JOB NO.	DATE	SHEET
DRAWING, CMS	1" = 40'	10005-1	10/5/20	2 OF 2
CHECKED SUR				

Starlink
Surveying, Inc.

7836 W. Adobe Drive
 Glendale, AZ 85308
 Ph. 623-322-1116 Fax 623-322-4637

Starlink
Surveying, Inc.

7836 W. Adobe Drive
Glendale, AZ 85308
Ph. 623-322-1116 Fax 623-322-4637



FS20-396

Lingor Estates

Final Plat

City Council – December 15, 2020

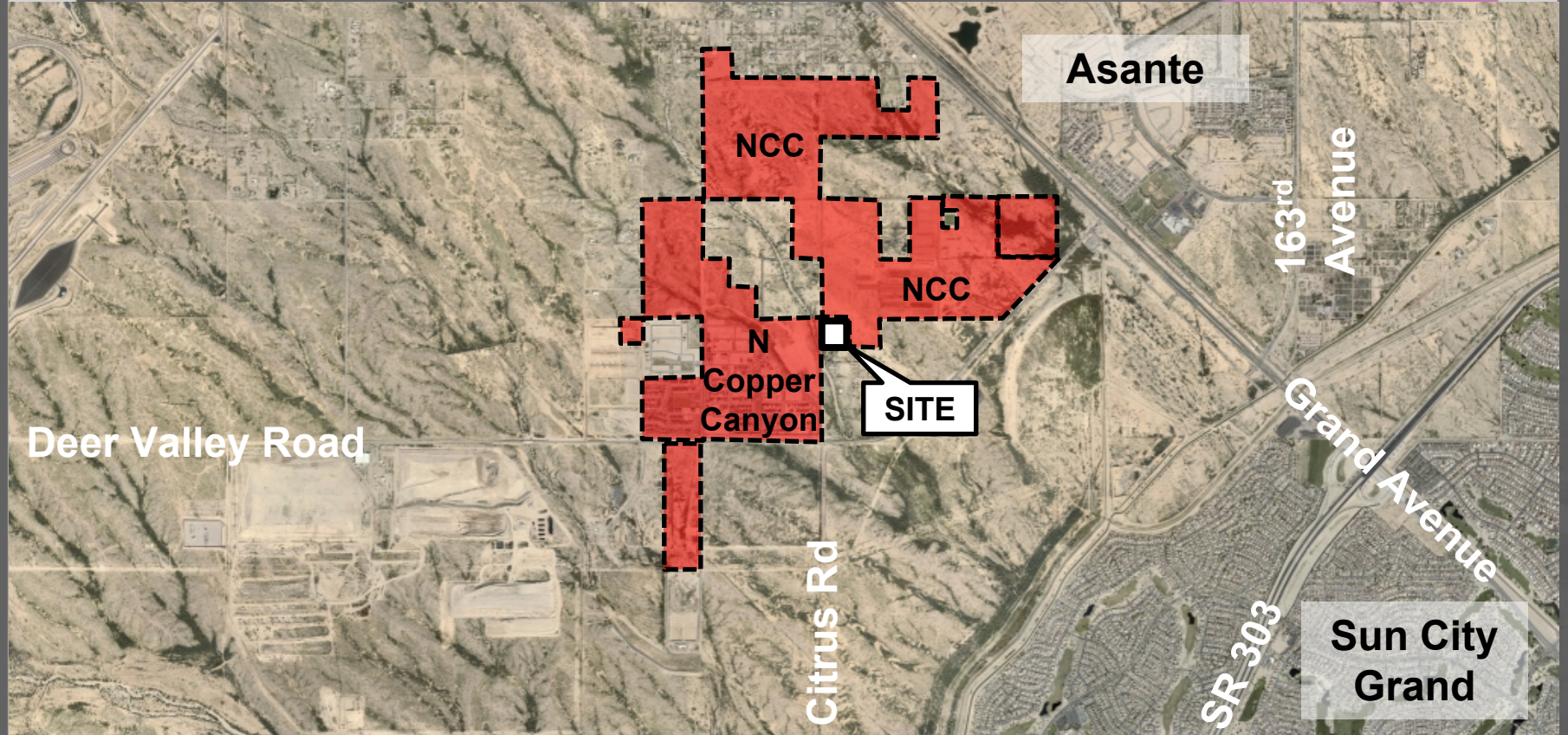
VICINITY MAP

FS20-396
Lingor Estates



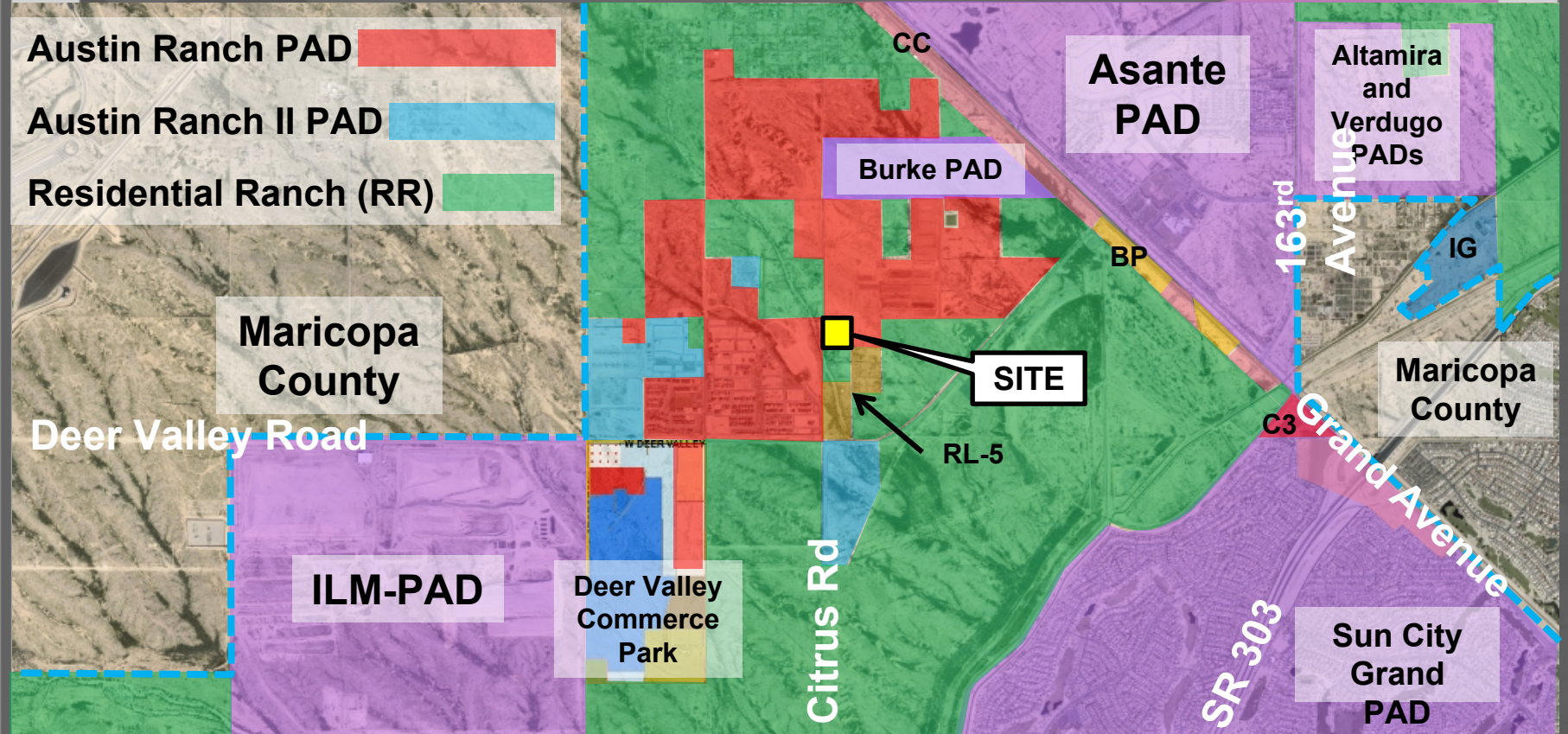
CASE MAP

FS20-396
Lingor Estates



ZONING MAP

FS20-396
Lingor Estates



DEDICATION

STATE OF ARIZONA
COUNTY OF MARICOPA

KNOW ALL PERSONS BY THESE PRESENTS:

THAT LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, FORMERLY HAS SUBDIVIDED UNDER THE NAME OF "LINCOLN ESTATE", A SUBDIVISION LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASINS AND MERIDIAN, MARICOPA COUNTY, ARIZONA, AND HAS HEREBY GRANTED TO THE CITY OF SURPRISE, ARIZONA, AS AND FOR THE PLAT OF "LINGOR ESTATES", AND DECLARES THAT THIS PLAT SET FORTH THE LOCATION AND GIVES THE DIMENSIONS OF EACH LOT AND EASEMENT, AND THAT EACH LOT AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, ABBREVIATION, OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

OWNER HEREBY DEDICATES TO THE CITY OF SURPRISE FREE TITLE TO ALL PUBLIC RIGHTS OF WAY AS SHOWN ON THE PLAT.

OWNER HEREBY GRANTS TO THE PUBLIC A PERPETUAL, NON-EXCLUSIVE EASEMENT IN UPON, OVER, UNDER, THROUGH, AND ACROSS THE AREAS DESIGNATED AS PUBLIC UTILITY EASEMENTS AS SHOWN ON THE PLAT FOR THE PURPOSE OF ACCESSING, INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING AND UTILIZING PUBLIC UTILITIES.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL, NON-EXCLUSIVE EASEMENT IN UPON, OVER, UNDER, THROUGH, AND ACROSS THE AREAS DESIGNATED AS RIGHT VISIBILITY TRIANGLES FOR THE PURPOSE OF ENSURING THAT THESE AREAS REMAIN FREE OF OBSTACLES TO VISIBILITY.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL, NON-EXCLUSIVE VEHICLE NON-ACCESS EASEMENT (V.N.A.E.) UPON, OVER, AND ACROSS THE PARCELS OF LAND SHOWN HEREON, FOR THE PURPOSE OF THE EASEMENT TO PROMOTE BICYCLE ACCESS.

OWNER HEREBY GRANTS TO THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE (USAF) AN AVIATION EASEMENT OVER AND ACROSS THIS PLAT AND EVERY LOT AND PARCEL THEREOF, WHICH EASEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF FLIGHT OF AIRCRAFT OVER THIS PLAT, TOGETHER WITH ACCESS TO FLIGHTS, GATE, FUEL, AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT ON OR OVER LAND AND AIR FORCE BASE AND AIRCRAFT BASE.

ALL IMPROVEMENTS FOR STREETS AND PUBLIC UTILITIES OWNED AND OPERATED BY THE CITY, INSTALLED OR CONSTRUCTED BY OWNER WITHIN THE PUBLIC RIGHTS OF WAY, THE EASEMENTS, OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE SHALL BE DEEMED TO HAVE BEEN DELEGATED BY OWNER TO THE CITY UPON THEIR COMPLETION. HOWEVER, EASE TRANSFER SHALL NOT OCCUR UNTIL THE CITY COUNCIL, FOR THE CITY OF SURPRISE MANIFESTS ITS ACCEPTANCE BY SEPARATE FORMAL COUNCIL ACTION.

THE MAINTENANCE OF LANDSCAPING WITHIN THE OPEN SPACES, LANDSCAPED TRACTS, RETENTION BASINS, AND PAVES SHALL BE THE RESPONSIBILITY OF THE OWNER OR THE HOMEOWNERS ASSOCIATION FORMED BY THE OWNER.

THE MAINTENANCE OF LANDSCAPING WITHIN THE ADJACENT PUBLIC RIGHTS OF WAY, INCLUDING LANDSCAPED MEDIAN, TRAIL, COLLECTORS AND LOCAL STREETS, AND LANDSCAPED AREAS BETWEEN THE CURB AND THE DETACHED SIDEWALK, SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR THE HOMEOWNERS ASSOCIATION FORMED BY THE ADJACENT PROPERTY.

THE EASEMENTS GRANTED WITHIN THIS DEDICATION ARE PERMANENT AND PERPETUAL, SHALL RUN WITH LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF.

IN WITNESS WHEREOF, LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, HAS HEREON CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 2020.

LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY

BY:

ITS:

ACKNOWLEDGMENT

STATE OF ARIZONA
COUNTY OF MARICOPA

ON THIS _____ DAY OF _____, 2020, BEFORE ME THE UNDERSIGNED, A Notary Public in and for the State of Arizona, who acknowledged to me _____ of LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, A SUBDIVISION, BEING DULY AUTHORIZED, EXECUTED THIS INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED BY SIGNING THE NAME OF THE CORPORATION, BY HERSELF, AS SUCH OFFICER.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL.

BY: _____ MY COMMISSION EXPIRES: _____

FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

FIRM COORD. NO.	MAP NO.	SURF.	FIRM ZONE
54083	54083-01A	L	1205 X-A-AE

FIRM ZONE "X-A-AE" - PER LOUW #18-05-000P, EFFECTIVE 5-21-18

RELEASE OF LIABILITY

LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, DOES HEREBY (1) RELEASE AND DISCHARGE THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE (USAF) AND THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF, FROM AND AGAINST ALL CLAIMS FOR ANY AND ALL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE, OVER, OR IN CONNECTION WITH AIRCRAFT OPERATING OVER THIS PLAT, TOGETHER WITH ACCESS TO FLIGHTS, GATE, FUEL, AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT ON OR OVER LAND AND AIR FORCE BASE AND AIRCRAFT BASE, AND THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF. THIS INSTRUMENT DOES NOT RELEASE THE USAF FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUEL, DUST, FUEL, AND LUBRICANT PARTICLES.

RELEASE OF LIABILITY

LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF, FROM AND AGAINST ALL CLAIMS FOR ANY AND ALL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE, OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE PUBLIC RIGHTS OF WAY, THE EASEMENTS, OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF. THIS INSTRUMENT DOES NOT RELEASE THE CITY OF SURPRISE FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUEL, DUST, FUEL, AND LUBRICANT PARTICLES.

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RELEASE OF LIABILITY

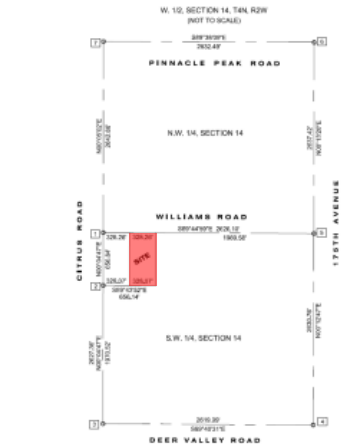
LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF, FROM AND AGAINST ALL CLAIMS FOR ANY AND ALL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE, OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE PUBLIC RIGHTS OF WAY, THE EASEMENTS, OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF. THIS INSTRUMENT DOES NOT RELEASE THE CITY OF SURPRISE FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUEL, DUST, FUEL, AND LUBRICANT PARTICLES.

RELEASE OF LIABILITY

LINGOR, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF, FROM AND AGAINST ALL CLAIMS FOR ANY AND ALL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE, OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE PUBLIC RIGHTS OF WAY, THE EASEMENTS, OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE, AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL, OR LOT THEREOF. THIS INSTRUMENT DOES NOT RELEASE THE CITY OF SURPRISE FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUEL, DUST, FUEL, AND LUBRICANT PARTICLES.

"LINGOR ESTATES" - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF
SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST
OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
SURPRISE, MARICOPA COUNTY, ARIZONA



MONUMENT NOTES:

1. IN THE CORNER OF SECTION 14, T. 4 N., R. 2 W., MONUMENT NOT FOUND: ROAD UNDER CONSTRUCTION
2. CALCULATED FOR BK. 14S, PG. 35, M.C.R.
3. MONUMENT NOT FOUND: FIELDS
4. S.W. CORNER OF SECTION 14, T. 4 N., R. 2 W., FOUND: CITY OF SURPRISE BRASS CAP FLUSH
5. S.E. CORNER OF SECTION 14, T. 4 N., R. 2 W., FOUND: 7\"

BASIS OF BEARINGS

SOUTHWEST ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST AS RECORDED IN BOOK 14S, PAGE 35, M.C.R.

PUBLIC NOTICE

THE LOTS DEPICTED ON THIS PLAT ARE LOCATED WITHIN THE VICINITY OF LINCOLN AIR FORCE BASE AND MAY BE SUBJECT TO OVERSIGHTS BY AIRCRAFT. ALL STRUCTURES WITHIN THIS PLAT SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE SOUND ATTENUATION STANDARDS ADOPTED BY THE CITY OF SURPRISE. A MAP DEPICTING THE MOST CURRENT ADOPTED MAP HOUSE CONTOURS IN RELATION TO THIS PLAT SHALL BE DISPLAYED IN ALL SALES OFFICES. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE CITY OF SURPRISE COMMUNITY DEVELOPMENT DEPARTMENT.

CITY OF SURPRISE COUNCIL APPROVAL

APPROVED BY THE CITY COUNCIL OF THE CITY OF SURPRISE, ARIZONA

THIS _____ DAY OF _____, 2020

APPROVED: _____ MAYOR _____ DATE: _____

ATTEST: _____ CITY CLERK _____ DATE: _____

CITY OF SURPRISE ENGINEER APPROVAL

ON THIS PLAT REVIEWED AND APPROVED THIS _____ DAY OF _____, 2020.

BY THE CITY ENGINEER OF SURPRISE, ARIZONA

APPROVED: _____ CITY ENGINEER _____ DATE: _____



LEGAL DESCRIPTIONS

PARENT PARCEL

THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, EXCEPT ALL THE COAL AND OTHER MINERALS, AS RESERVED IN THE PATENT.

LOT 1

THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, EXCEPT THE SOUTH 43.00 FEET.

LOT 2

THE NORTH 43.00 FEET OF THE SOUTH 43.00 FEET OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, EXCEPT THE EAST 27.00 FEET THEREOF.

LOT 3

THE NORTH 43.00 FEET OF THE SOUTH 43.00 FEET OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, EXCEPT THE EAST 27.00 FEET THEREOF.

LOT 4

THE SOUTH 43.00 FEET OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, EXCEPT ALL THE COAL AND OTHER MINERALS, AS RESERVED IN THE PATENT.

CITY NOTES

1. SPRINKLERS ARE REQUIRED IN ALL ONE AND TWO FAMILY DWELLINGS BUILT IN AREAS WHICH DO NOT HAVE AN ADEQUATE WATER SUPPLY.
2. THE PROPERTY OWNERS, OR ANY SUBSEQUENT OWNERS SHALL NOT PROCEED WITH ANY ON SITE GRADING OR EXCAVATION WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
3. IN ACCORDANCE WITH ARS 18-011, THE CITY OF SURPRISE HAS DETERMINED THAT ALL DEDICATIONS OCCURRING WITH THIS PLAT ARE IN CONFORMANCE WITH THE SURPRISE GENERAL PLAN.
4. MARICOPA COUNTY FLOOD CONTROL DISTRICT FLOODPLAIN PERMITS ARE REQUIRED FOR ALL LOTS WITH AN OFFICIAL FLOOD HAZARD AREA (FHA) PRIOR TO THE GRADING OF ANY CITY OF SURPRISE GRADING PERMIT.
5. NO ON-SITE GRADING OR EXCAVATION SHALL OCCUR WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
6. THE PLAT IS LOCATED WITHIN AN AREA HAVING FLOOD ZONE "X-AE" BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, ON A FLOOD INSURANCE RATE MAP (FIRM) NUMBER 54083-01A, DATED OCTOBER 15, 2015 FOR COMMUNITY NO. 4808 IN MARICOPA COUNTY, STATE OF ARIZONA, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITUATED.

DEVELOPER/OWNER

LINGOR, L.L.C.
SUN CITY WEST, AZ 85375

SURVEYOR

STARLINE SURVEYING, INC.
CONTRACT: STEPHEN J. SHAW, R.L.S.
7830 W. ASHBO DRIVE
CHANDLER, AZ 85226
PHONE: 602-922-1118
FAX: 602-922-4057
EMAIL: STARLINE@STARLINESURVEYING.COM

CERTIFICATION

I, THE SURVEYOR, CERTIFY THAT THE SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREON WERE MADE UNDER MY DIRECT CONTROL DURING THE MONTH OF AUGUST, 2020, THAT THE SURVEY IS TRUE AND CORRECTLY SHOWS THAT THE MONUMENTS SHOWN ACTUALLY EXIST, THAT THE POSITIONS ARE CORRECTLY SHOWN, AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE REPRODUCED.

STEPHEN J. SHAW, R.L.S. & ASSOC.



"LINGOR ESTATES" - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 14, T. 4 N., R. 2 W. OF THE GILA AND SALT RIVER BASE AND MERIDIAN, SURPRISE, MARICOPA COUNTY, ARIZONA

DATE OF PREPARATION	SCALE	ASR NO.	DATE	SHEET
10/15/2020	1"=40'	15085-1	10/30/20	1 OF 2

Starline Surveying, Inc.
7830 W. Ashbo Drive
Chandler, AZ 85226
Ph. 602-922-886 Fax 602-922-4057

"LINGOR ESTATES" - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF
SECTION 14, TOWNSHIP 4 NORTH, RANGE 2 WEST
OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
SURPRISE, MARICOPA COUNTY, ARIZONA



APN 503-73-036
UNDER CONSTRUCTION
FUTURE AUSTIN RANCH SUBDIVISION
OWNER: COURTLAND HOMES, INC.

300' 4" 1/2"

300' 4" 1/2"

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

APN 503-73-034
UNDER DEVELOPMENT
OWNER: LOT ANVISTONE, L.L.C.

APN 503-73-035
UNDER CONSTRUCTION
FUTURE AUSTIN RANCH SUBDIVISION
OWNER: COURTLAND HOMES, INC.

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

SET 10' REBAR
IN ALUM. CAP. L.S. #80007

300' 4" 1/2"

300' 4" 1/2"

APN 503-73-031
UNDER DEVELOPMENT
OWNER: LOT ANVISTONE, L.L.C.

LEGEND

- PROPERTY LINE
- OWNER LINE
- - - EASEMENT LINE
- - - FLOODPLAIN LIMIT
- M.C.R. MARICOPA COUNTY RECORDER
- IND. FOUND
- ACCP. ACCEPTED
- P.U.E. PUBLIC UTILITY EASEMENT
- S.V.E. SIGHT VISIBILITY EASEMENT
- F.C.D.M.C. FLOOD CONTROL DISTRICT OF MARICOPA COUNTY
- 0 FOUND MONUMENT (AS NOTED)
- 1 SET 10' REBAR IN ALUM. CAP. L.S. #80007 (AS NOTED)
- 2 MONUMENT DESCRIPTION D.

LOT WIDTHS

LOT 1: MINIMUM: 181.89'
AVERAGE: 181.89'
LOTS 2 - 4: MINIMUM: 145.00'
AVERAGE: 145.00'

AREAS

LOT 1: 54,730 SQ. FT. OR 1.26 ACRES
LOT 2: 43,888 SQ. FT. OR 1.00 ACRES
LOT 3: 43,888 SQ. FT. OR 1.00 ACRES
LOT 4: 43,888 SQ. FT. OR 1.00 ACRES
TOTAL: 216,896 SQ. FT. OR 4.88 ACRES

CASE # P200-196

"LINGOR ESTATES" - FINAL PLAT

PARCEL NO. 503-73-033F
LOCATED WITHIN THE SOUTHWEST QUARTER OF SECTION 14,
T. 4 N., R. 2 W. OF THE GILA AND SALT RIVER BASE AND MERIDIAN,
SURPRISE, MARICOPA COUNTY, ARIZONA

PLAT SIZE	300' 4" 1/2"	200' 0"	200' 0"	200' 0"
SECTION	17" 40"	19585-1	55520	2 OF 2

Starlink
Surveying, Inc. 7836 W. Adobe Drive
Chandler, AZ 85209
Ph: 602-822-886 Fax: 602-822-4637

FINAL PLAT



QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Sergio Angulo
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Final Plat entitled, “Asante Well Site No. 1” dated October 1, 2020, an approximately .478 acre property generally located south of Jomax Road and east of the 171st Avenue alignment; Case FS20-412.

Motion:

I move to approve the Final Plat entitled, “Asante Well Site No. 1” dated October 1, 2020.

Background:

Lennar Arizona Construction, Inc., on behalf of HE Capital Asante LLC, seeks approval of a Final Plat to create a new lot for a new water well site in Asante.

Objective Analysis:

Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Policy Compliant:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which supports the proposed Final Plat.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staffing levels.

ATTACHMENTS:

1. 00 - FS20-412 - Staff Report
2. 01 - FS20-412 - Vicinity Map

3. 02 - FS20-412 - Final Plat
 4. FS20-412 - PowerPoint
-

Case: FS20-412

Project Name: Asante Well Site No. 1 Final Plat

Council District: 1

City Council Date: December 15, 2020

Planner: Sergio Angulo, Planner II

Owner: HE Capital Asante LLC.

Applicant: Lennar Arizona Construction, Inc.

Request: Final Plat for a new water well site in Asante.

Site Location: Generally east of the 171st Avenue alignment and south of Jomax Rd.

Site Size: 0.478 acres (approx.)

Density: N/A

Findings:

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the Asante PAD.
- The proposed Final Plat is consistent with the Surprise Unified Development Code.

Alternative Actions: **Approve** – Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Deny – Denial of the requested Final Plat will prevent the applicant from subdividing the property as proposed.

Additional Information:

Lennar Arizona Construction Inc., on behalf of HE Capital Asante LLC, requests approval of the Final Plat for Asante Well Site No. 1. The subject property is approximately 0.478 acres and it is located south of the existing Desert Oasis Water Storage Facility, south of Jomax Road and east of the 171st Avenue alignment. The subject property is zoned PAD. The applicant proposes a well pump that will be powered by a generator placed on site. The site also provides area for a future well in the event the City needs another water source.

This final plat establishes the property lines for Lot 1, the subject property, and creates an access easement to allow access to this site from the existing Desert Oasis Water Storage Facility site. This final plat also dedicates the subject property to the City, therefore, if approved, the subject property will be owned by the City. The proposed final plat complies with the Asante PAD and the SUDC.

Attachments:

- 01 Vicinity Map
- 02 Final Plat

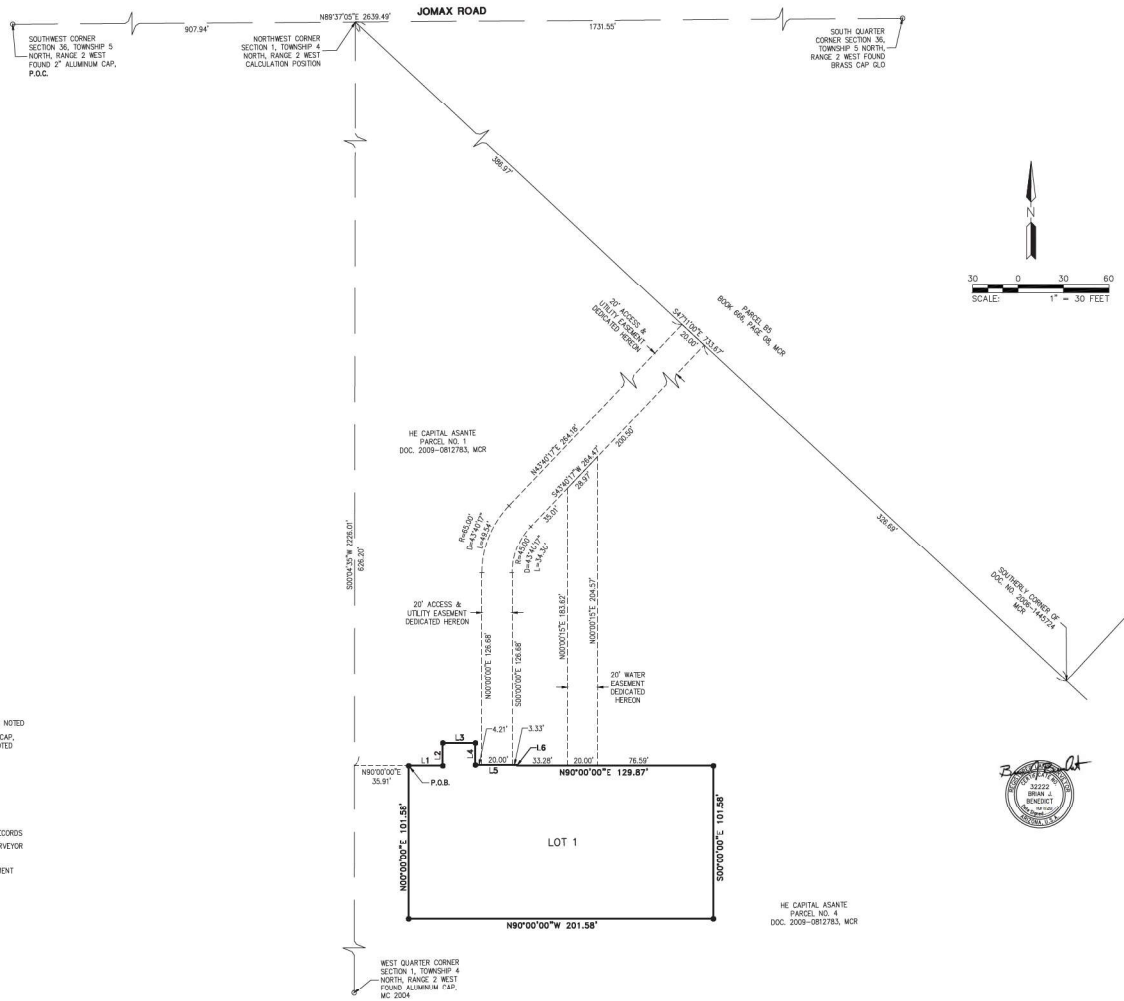


VICINITY MAP

LINE NO.	DIRECTION	LENGTH
L1	N90°00'00"E	22.56'
L2	N00°00'00"E	15.00'
L3	N90°00'00"E	21.56'
L4	S20°00'00"E	14.46'
L5	N90°00'00"E	27.54'
L6	S00°00'00"E	0.54'

LEGEND

- FOUND MONUMENT AS NOTED
- SET 1/2" REBAR W/ CAP, RLS 32222 OR AS NOTED
- BOUNDARY LINE
- SECTION LINE
- CENTER LINE
- RIGHT OF WAY
- PARCEL LINE
- EASEMENT LINE
- MOR MARICOPA COUNTY RECORDS
- RLS REGISTERED LAND SURVEYOR
- P.B.R. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT



HILGARTWILSON
ENGINEERS & PLANNERS
2145 W. WILSON AVE., SUITE 200
PHOENIX, AZ 85021

ASANTE WELL SITE NO. 1
SURPRISE, ARIZONA
FINAL PLAN

PROJECT NO. 1909
DATE: OCT 2020
SCALE: AS SHOWN
DRAWN: GS
APPROVED: BJB

DWG. NO.
FP02
SHT. 2 OF 2



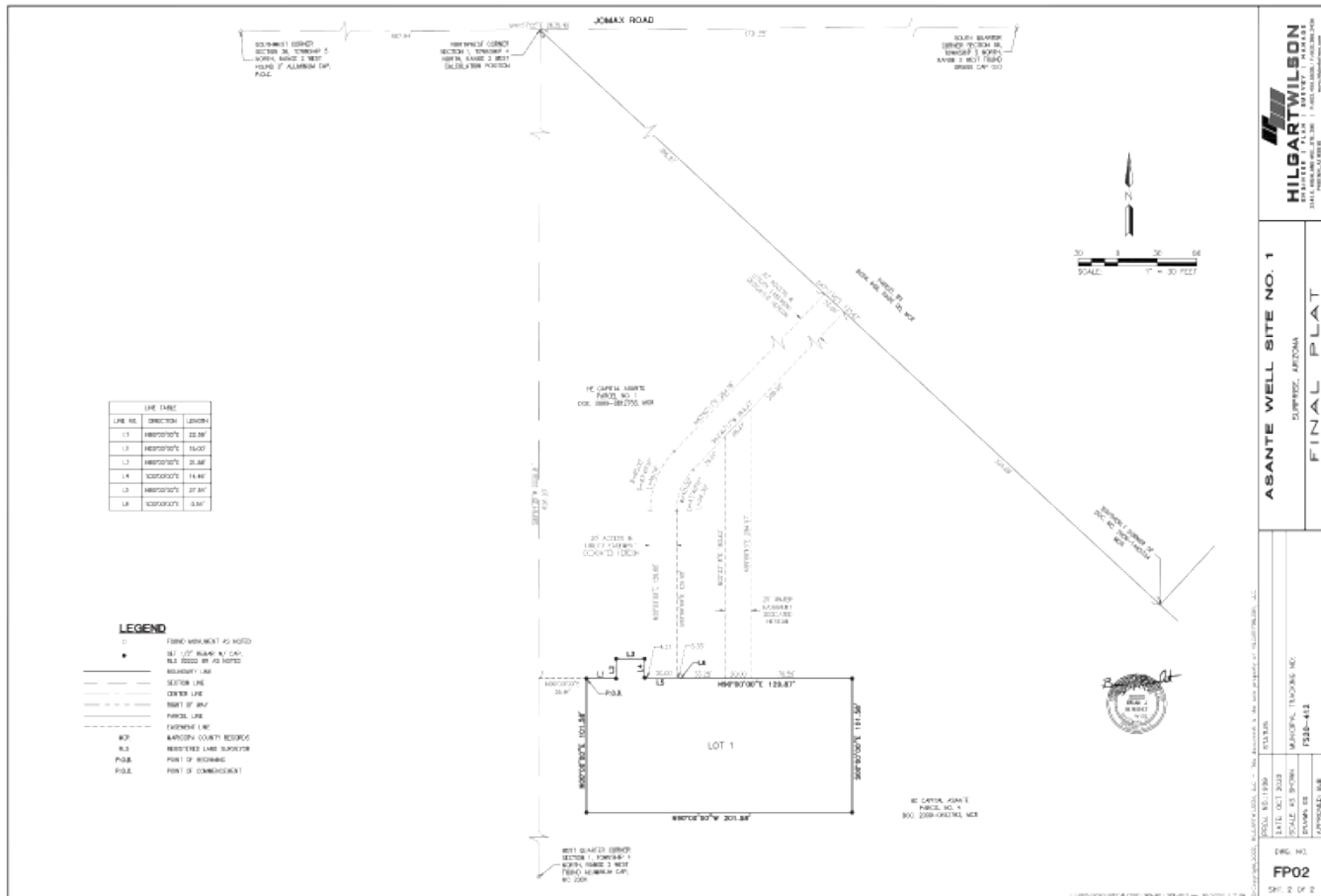
Asante Well For Site 1 Final Plat FS20-412

City Council
December 15, 2020



VICINITY MAP

FINAL PLAT





QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Sergio Angulo
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Final Plat entitled, “Heritage Asante – Parcel 6 Phase 1” an approximately 18.396 acre property generally located west of 163rd Avenue and north of Grand Avenue; Case FS20-416.

Motion:

I move to approve the Final Plat entitled, “Heritage Asante – Parcel 6 Phase 1”

Background:

Hilgart Wilson, LLC., on behalf of Lennar Arizona Construction, Inc., seeks approval of a Final Plat for a 35-lot single-family residential subdivision in Parcel 6 of the Heritage at Asante Development.

Objective Analysis:

Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Policy Compliant:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which supports the proposed Final Plat.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staffing levels.

ATTACHMENTS:

1. 00-20.12.01 EVR Heritage Asante Parcel 6 Phase 1 FP Staff Report
2. 01 - FS20-416 - Vicinity Map

3. 20.12.03 02 - FS20-416 - Final Plat - FINAL
 4. FS20-416 - PowerPoint
-

Case: FS20-416

Project Name: Heritage Asante Parcel 6 – Phase 1

Council District: 1

City Council Date: December 15, 2020

Planner: Sergio Angulo, Planner II

Owner: Lennar Arizona Construction Inc.

Applicant: Diego Ortiz with Hilgart Wilson, LLC

Request: Final Plat for a 35-lot, single-family subdivision in Parcel 6 of the Heritage Asante Planned Unit Development.

Site Location: Generally west of 163rd Avenue and north of Grand Avenue

Site Size: 18.396 acres (approx.)

Density: 1.9 DU/Ac

Findings:

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the Paradiso Asante PUD as amended under case FS18-078.
- The Final Plat is consistent with the Preliminary Plat approved under case FS19-854.

Alternative Actions: **Approve** – Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Deny – Denial of the requested Final Plat will prevent the applicant from subdividing the property as proposed.

Additional Information:

40 Hilgart Wilson, LLC, on behalf of Lennar Arizona Construction Inc., requests approval of the Final Plat
41 of Heritage Asante – Parcel 6 Phase 1. The subject property is approximately 18.396 acres and it is
42 located generally west of 163rd Avenue and north of Grand Avenue. The subject property is zoned
43 RM-6 with a PUD Overlay.

44

45 The applicant proposes 35 single-family lots for a total density of 5.3 dwelling units per acre. The
46 typical lot size proposed in this subdivision is 70' x 120'. This development dedicates approximately
47 8.369 acres (45.49%) for open space, which includes the public linear park along Grand Avenue and
48 internal pedestrian trails that connect to adjacent parcels and lead to the community clubhouse and
49 amenity parcel to the east. Additional landscape and retention basins also contribute to the total
50 open space. The proposed Final Plat is in compliance with the latest amendment to the Paradiso
51 Asante PUD (case FS18-078) and the Preliminary Plat approved under case FS19-854.

52

53 **Attachments:**

54

55 01 Vicinity Map

56 02 Final Plat

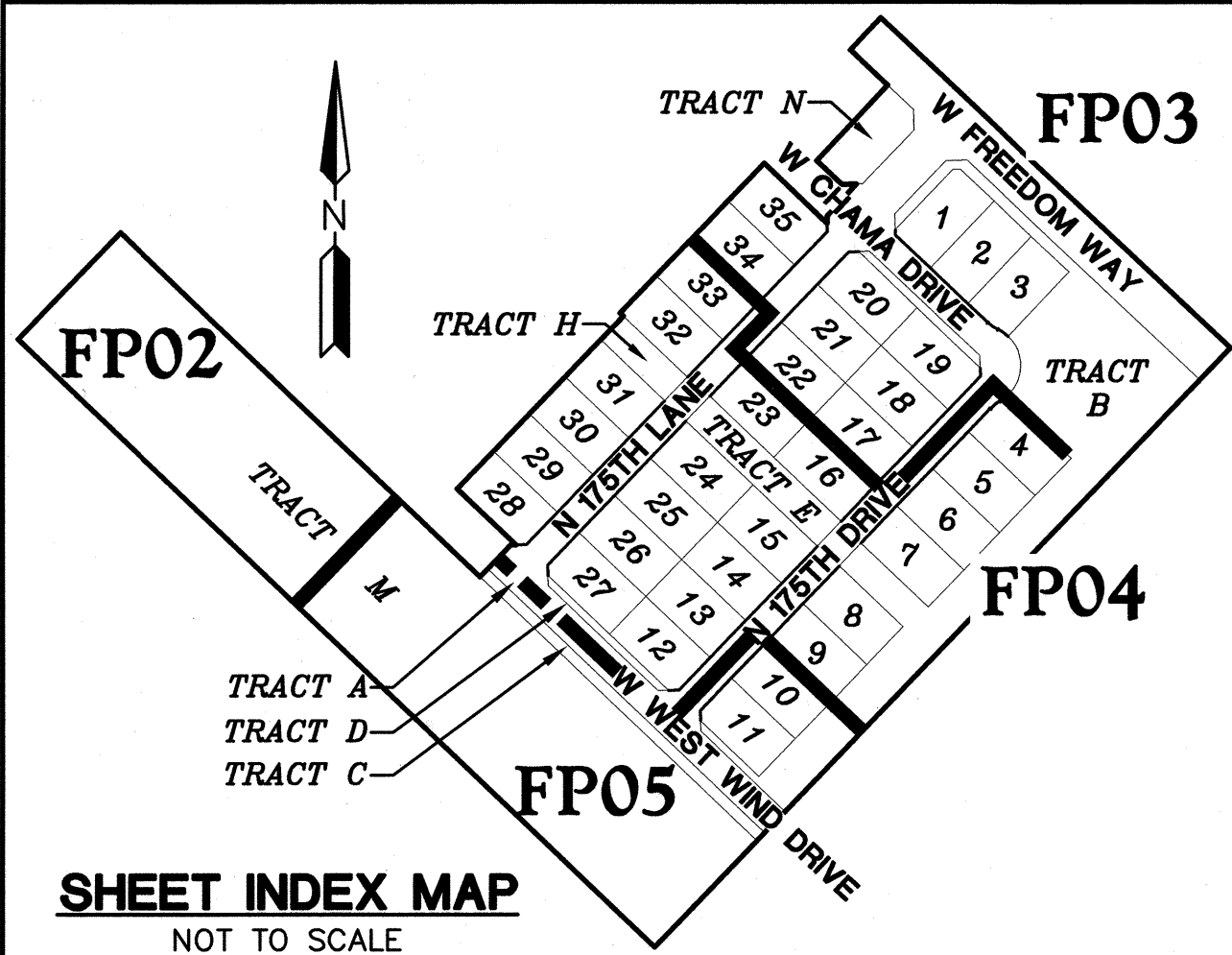


VICINITY MAP

SURPRISE, ARIZONA
BEING WITHIN A PORTION OF THE SOUTHWEST
QUARTER OF SECTION 2, AND A PORTION OF THE NORTH
HALF OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2
WEST OF THE GILA AND SALT RIVER MERIDIAN,
MARICOPA COUNTY, ARIZONA

MY COMMISSION EXPIRES

SHT. 1 OF 5



LEGEND

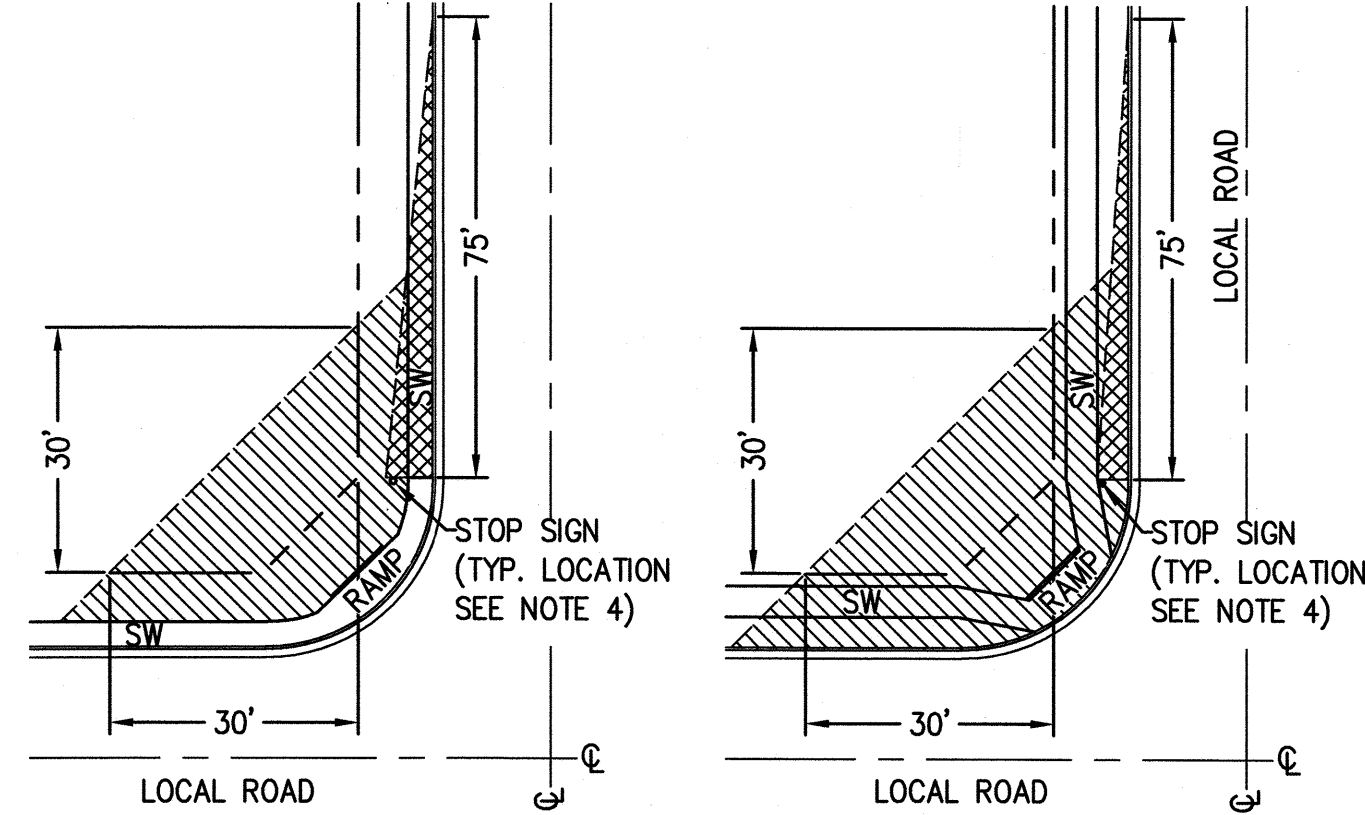
○	FOUND MONUMENT AS NOTED
⊠	FOUND BRASS CAP IN HAND HOLE
⊙	FOUND BRASS CAP FLUSH
●	SET 1/2" REBAR W/ CAP, RLS 32222 OR AS NOTED
⊙	CENTERLINE MONUMENT
---	BOUNDARY LINE
---	SECTION LINE
---	CENTER LINE
---	RIGHT OF WAY
---	EASEMENT
---	PARCEL LINE
R/W	RIGHT-OF-WAY
PUE	PUBLIC UTILITY EASEMENT
SVT	SIGHT VISIBILITY TRIANGLE
VNAE	VEHICLE NON-ACCESS EASEMENT
MCR	MARICOPA COUNTY RECORDS
RLS	REGISTERED LAND SURVEYOR
APN	ASSESSOR PARCEL NUMBER

NOTES

- NO PERMANENT STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED ON, OVER OR PLACED WITHIN EASEMENTS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF SURPRISE SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTIONS OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION, OR RECONSTRUCTION OF CITY UTILITIES.
- ALL NEW OR RELOCATED UTILITIES WILL BE PLACED UNDERGROUND.
- ALL STRUCTURES AND LANDSCAPING WITHIN THE 30'x30' VISIBILITY TRIANGLE ALONG THE PROPERTY LINES AT LOT CORNERS SHALL BE MAINTAINED AT A MAXIMUM HEIGHT OF 30" ABOVE GROUND LEVEL. (SEE DETAIL THIS SHEET)
- ALL EXTERIOR SUBDIVISION BOUNDARY CORNERS ARE AS SHOWN PER THIS PLAT IN CONFORMANCE WITH ARIZONA STATUTE. ALL INTERIOR CORNERS AND MONUMENTS ARE TO BE SET BY THE SURVEYOR RESPONSIBLE FOR THE CONSTRUCTION SURVEY AND STAKING OF THIS PROJECT AND MUST BE IN CONFORMANCE WITH SAID ARIZONA STATUTORY REQUIREMENTS.
- PROVISIONS SHALL BE MADE FOR DEVELOPMENT AND MAINTENANCE OF STREET LIGHTS THROUGH EITHER THE ASSOCIATION OR THROUGH THE CREATION OF A STREET LIGHT IMPROVEMENT DISTRICT (S.L.I.D.).
- NO ON-SITE GRADING OR EXCAVATION SHALL OCCUR WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
- IN ACCORDANCE WITH ARS § 9-461.07, THE CITY OF SURPRISE HAS DETERMINED THAT ALL DEDICATIONS OCCURRING WITH THIS PLAT ARE IN CONFORMANCE WITH THE SURPRISE GENERAL PLAN.
- PURSUANT TO A.R.S. § 42-1102, THE CITY OF SURPRISE, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, IS EXEMPT FROM ALL TAXES AND ASSESSMENTS BASED ON ASSESSED VALUE EXCEPT FOR SPECIAL DISTRICTS # 14751 AND 14710, WHEN APPLICABLE.
- THE ROADS DESIGNATED AS "PRIVATE" AND ANY APPURTENANCES INCLUDING BUT NOT LIMITED TO ROAD SIGNS, STRIPING, CURB AND GUTTER, AND SIDEWALKS ARE PRIVATE; SUCH ROADS AND APPURTENANCES ARE OWNED, MAINTAINED AND REPAIRED BY OWNER OR HOMEOWNER'S ASSOCIATION FORMED BY OWNER. THE CITY OF SURPRISE SHALL NOT MAINTAIN OR REPAIR ANY ROAD DESIGNATED AS "PRIVATE."
- THE MAINTENANCE OF LANDSCAPING WITHIN THE OPEN SPACES, LANDSCAPED TRACTS, RETENTION BASINS, AND PARKS SHALL BE THE RESPONSIBILITY OF THE OWNER OR THE HOMEOWNERS' ASSOCIATION FORMED BY THE OWNER.
- THE MAINTENANCE OF LANDSCAPING WITHIN THE ADJACENT PUBLIC RIGHTS-OF-WAY, INCLUDING LANDSCAPED MEDIANS WITHIN COLLECTORS AND LOCAL STREETS, AND LANDSCAPED AREAS BETWEEN THE CURB AND THE DETACHED SIDEWALK, SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR THE HOMEOWNERS' ASSOCIATION FORMED BY THE ADJACENT PROPERTY.
- LANDSCAPING MAINTENANCE OF THE MEDIANS WITHIN THE PUBLIC RIGHT-OF-WAY WITHIN ANY ARTERIAL OR PARKWAY STREET CLASSIFICATION SHALL BE RESPONSIBILITY OF THE CITY OF SURPRISE AFTER ACCEPTANCE.
- TOTAL NUMBER OF LOTS = 35
- DEVELOPMENT STANDARDS ARE PER THE CITY OF SURPRISE ZONING CASE FS18-078 OR AS SUBSEQUENTLY AMENDED.
- THIS FINAL PLAT IS IN SUBSTANTIAL CONFORMANCE WITH THE PRELIMINARY PLAT APPROVED BY THE CITY OF SURPRISE UNDER CASE FS19-854

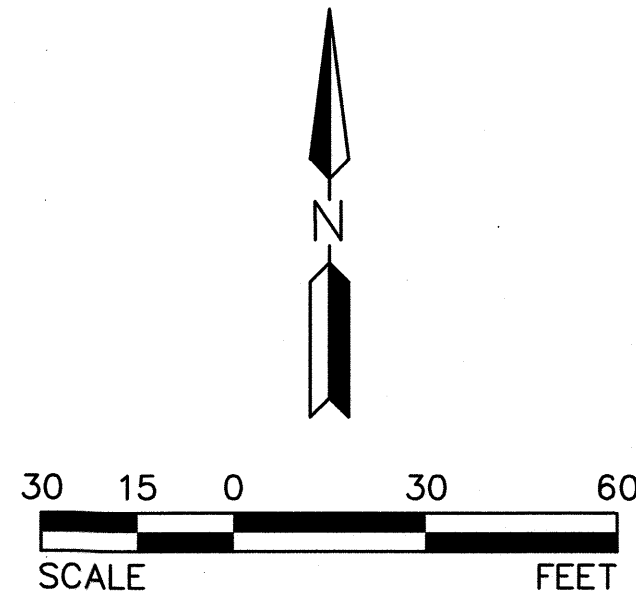
TRACT TABLE		
TRACT	AREA (ACRES)	USE
TRACT A	3.0869	PRIVATE ACCESSWAY
TRACT B	2.0049	COMMON AREA & DRAINAGE
TRACT C	0.1787	COMMON AREA
TRACT D	0.0496	COMMON AREA
TRACT E	0.2633	COMMON AREA
TRACT F	0.0554	COMMON AREA
TRACT H	0.1219	COMMON AREA
TRACT M	5.4867	COMMON AREA, DRAINAGE LINEAR PARK, PUBLIC RECREATION/TRAIL EASEMENT
TRACT N	0.2085	COMMON AREA

- COMMON AREAS MAY INCLUDE OPEN SPACE, LANDSCAPING, PEDESTRIAN PATHS AND/OR AMENITIES.
- SPECIFIC EASEMENTS THAT ARE BEING DEDICATED AS PART OF THIS PLAT ARE FULLY DELINEATED ON THE FOLLOWING SHEETS. THE USES SHOWN IN THE TRACT TABLE ABOVE DO NOT INTEND TO GRANT EASEMENTS THAT ARE BLANKET IN NATURE OVER THE ENTIRE TRACT.
-



LOCAL STREET
SIGHT VISIBILITY TRIANGLES

CITY OF SURPRISE SUPPLEMENTAL ENGINEERING DEVELOPMENT STANDARDS
DETAILS FOR PUBLIC CONSTRUCTION: DETAIL NO. 4-02
SEE DETAIL NO. 4-01 SIGHT DISTANCE REQUIREMENTS FOR ARTERIAL & COLLECTOR STREETS



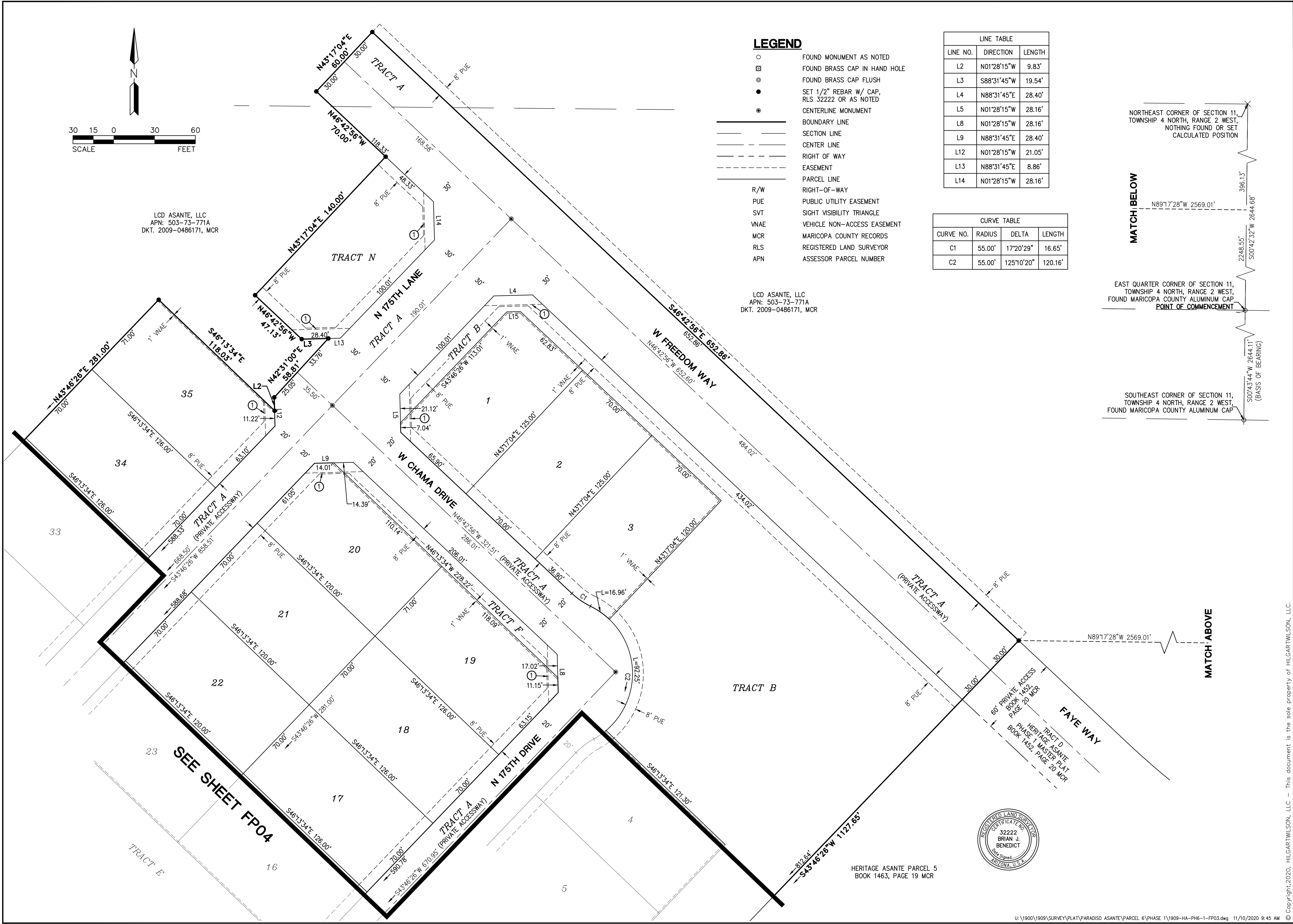
LOT TABLE		
LOT NO.	AREA (SQ.FT)	AREA (ACRES)
LOT : 1	8758	0.2011
LOT : 2	8750	0.2009
LOT : 3	8666	0.1990
LOT : 4	8766	0.2012
LOT : 5	8820	0.2025
LOT : 6	8820	0.2025
LOT : 7	8820	0.2025
LOT : 8	8520	0.1956
LOT : 9	8400	0.1928
LOT : 10	8400	0.1928
LOT : 11	8470	0.1944
LOT : 12	8470	0.1944
LOT : 13	8400	0.1928
LOT : 14	8400	0.1928
LOT : 15	8400	0.1928
LOT : 16	8820	0.2025
LOT : 17	8820	0.2025
LOT : 18	8820	0.2025

LOT TABLE		
LOT NO.	AREA (SQ.FT)	AREA (ACRES)
LOT : 19	8915	0.2047
LOT : 20	8471	0.1945
LOT : 21	8400	0.1928
LOT : 22	8400	0.1928
LOT : 23	8400	0.1928
LOT : 24	8820	0.2025
LOT : 25	8820	0.2025
LOT : 26	8820	0.2025
LOT : 27	8896	0.2042
LOT : 28	8470	0.1944
LOT : 29	8400	0.1928
LOT : 30	8400	0.1928
LOT : 31	8400	0.1928
LOT : 32	8820	0.2025
LOT : 33	8820	0.2025
LOT : 34	8820	0.2025
LOT : 35	8915	0.2046

AREAS

TRACT A AREA =	134,464 SQ. FT.	3.0869 ACRES
TRACTS B-F, H, M, & N AREA =	364,550 SQ. FT.	8.3689 ACRES
LOT AREA =	302,307 SQ. FT.	6.9400 ACRES
GROSS AREA =	801,322 SQ. FT.	18.3958 ACRES
NET AREA =	666,858 SQ. FT.	15.3089 ACRES
DENSITY (GROSS) =	1.9 D.U. / ACRE	
DENSITY (NET) =	2.3 D.U. / ACRE	





HERITAGE ASANTE - PARCEL 6 PHASE 1

ASANTE BOULEVARD & 163RD AVENUE

SURPRISE, ARIZONA

FINAL PLAT

PROJ. NO.: 1909

DATE: NOV 2020

SCALE: AS SHOWN

DRAWN: JHYD

APPROVED: BJB

STATUS:

MUNICIPAL TRACKING NO:

FS20-416

DWG. NO.

FP03

SHT. 3 OF 5

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HILGARTWILSON

ENGINEER | PLAN | SURVEY | MANAGE

2141 E. HIGHLAND AVE., STE. 250 | P: 602.490.0535 / F: 602.368.2436

PHOENIX, AZ 85016

www.hilgartwilson.com

Page 61 of 1138

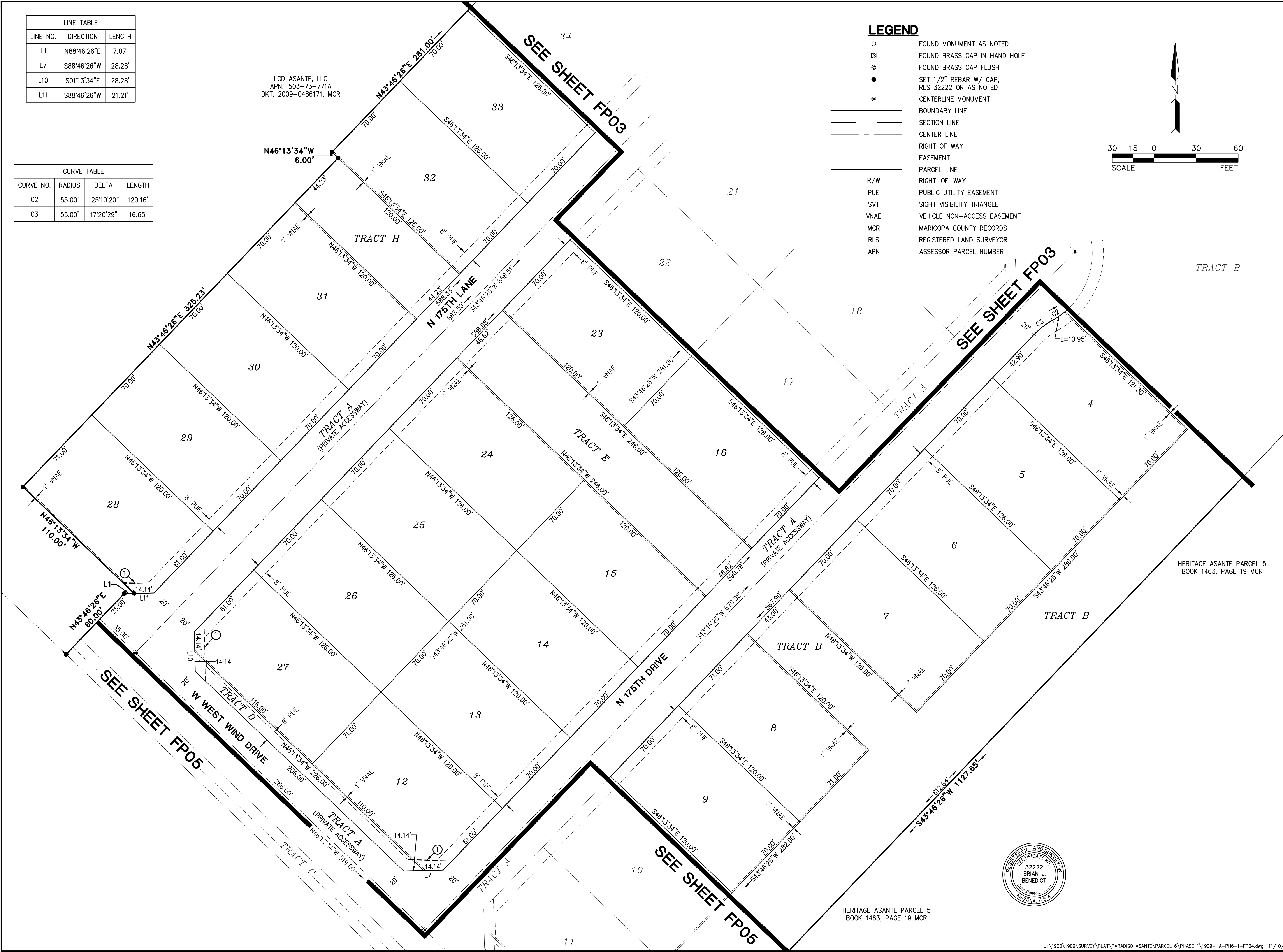
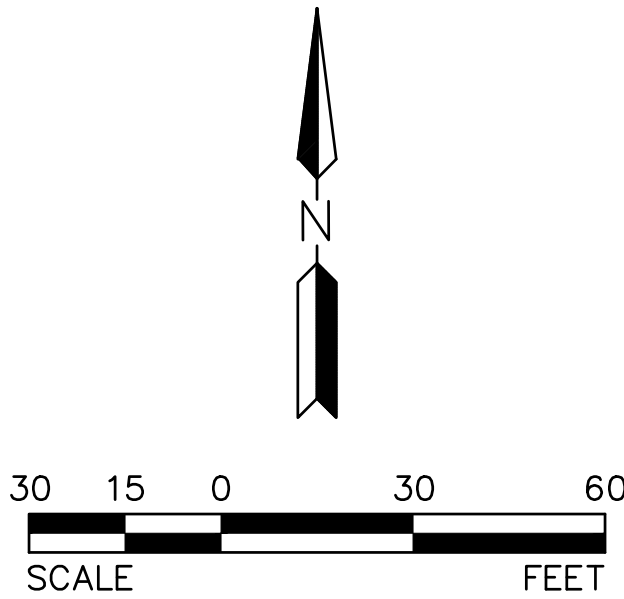
LINE TABLE		
LINE NO.	DIRECTION	LENGTH
L1	N88°46'26"E	7.07'
L7	S88°46'26"W	28.28'
L10	S01°13'34"E	28.28'
L11	S88°46'26"W	21.21'

LCD ASANTE, LLC
APN: 503-73-771A
DKT. 2009-0486171, MCR

CURVE TABLE			
CURVE NO.	RADIUS	DELTA	LENGTH
C2	55.00'	125°10'20"	120.16'
C3	55.00'	17°20'29"	16.65'

LEGEND

- FOUND MONUMENT AS NOTED
- ⊗ FOUND BRASS CAP IN HAND HOLE
- FOUND BRASS CAP FLUSH
- SET 1/2" REBAR W/ CAP, RLS 32222 OR AS NOTED
- CENTERLINE MONUMENT
- BOUNDARY LINE
- SECTION LINE
- CENTER LINE
- - - RIGHT OF WAY
- - - EASEMENT
- - - PARCEL LINE
- R/W RIGHT-OF-WAY
- PUE PUBLIC UTILITY EASEMENT
- SVT SIGHT VISIBILITY TRIANGLE
- VNAE VEHICLE NON-ACCESS EASEMENT
- MCR MARICOPA COUNTY RECORDS
- RLS REGISTERED LAND SURVEYOR
- APN ASSESSOR PARCEL NUMBER



HILGARTWILSON

ENGINEER | PLAN | SURVEY | MANAGE

2141 E. HIGHLAND AVE., STE. 250 | P: 602.490.0535 / F: 602.368.2436

PHOENIX, AZ 85016

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HERITAGE ASANTE - PARCEL 6 PHASE 1

ASANTE BOULEVARD & 163RD AVENUE

SURPRISE, ARIZONA

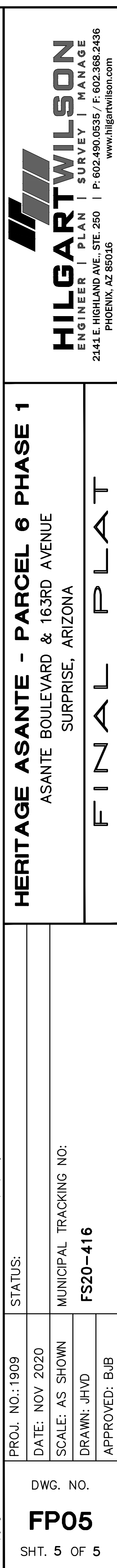
FINAL PLAT

PROJ. NO.: 1909	STATUS:
DATE: NOV 2020	
SCALE: AS SHOWN	MUNICIPAL TRACKING NO:
DRAWN: JHYD	FS20-416
APPROVED: BJB	

DWG. NO.

FP04

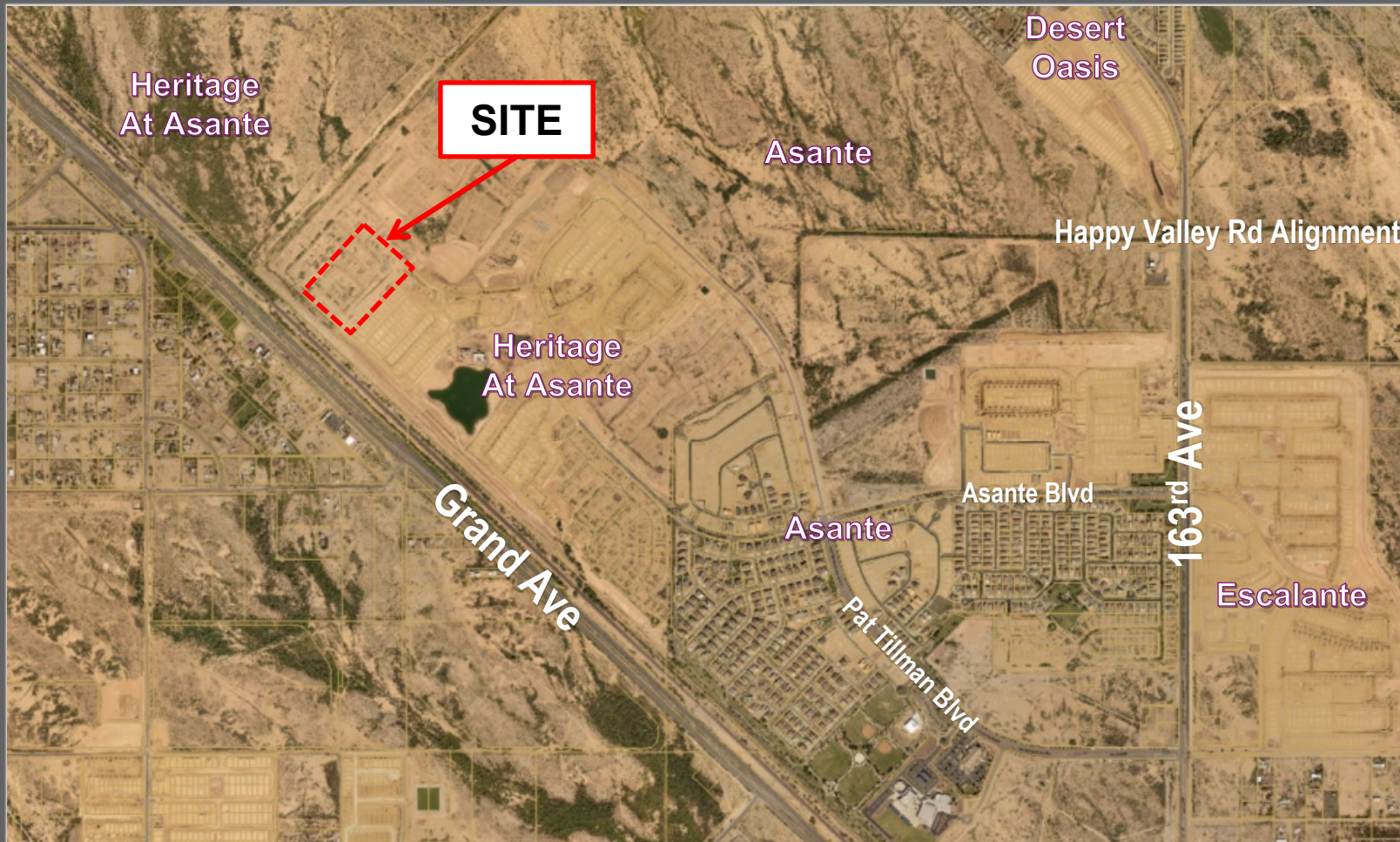
SHT. 4 OF 5





Heritage Asante Parcel 6 Ph. 1 Final Plat FS20-416

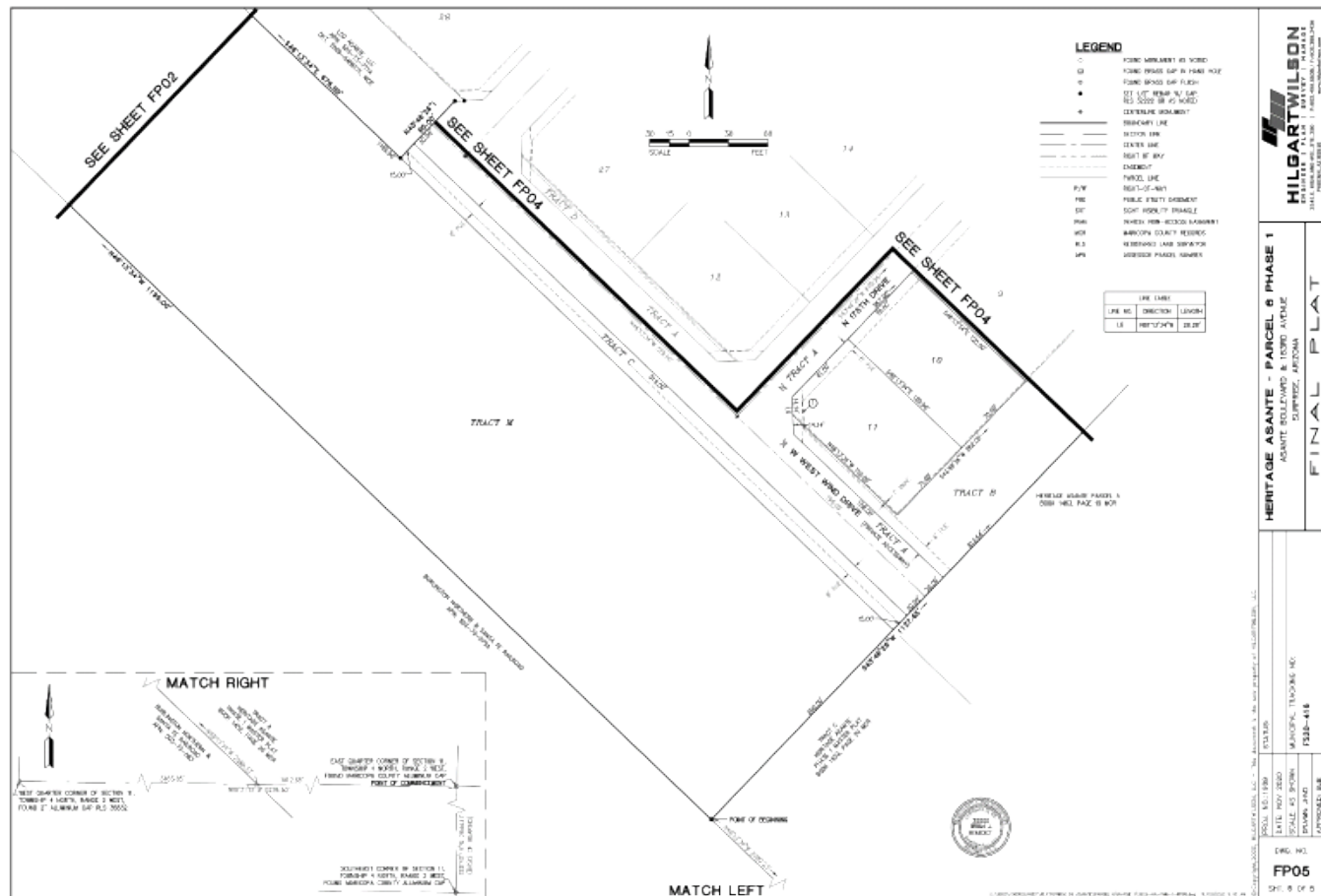
City Council
December 15, 2020



VICINITY MAP



FINAL PLAT





QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: Water Resource
Management
Staff Recommendations: None

Contact Person: Lee Lambert
District: District 1

Consent: Yes	Regular: No	Public Hearing: No	Report/Discussion: No
--------------	-------------	--------------------	-----------------------

Agenda Wording:

Consideration and action pertaining to approval of the Amended and Restated Asante Water Development Agreement to include construction costs for the expansion related to the City's obligation for the Desert Oasis arsenic treatment plant capacity; Resolution # 2020-69.

Motion:

I move to approve Resolution #2020-69.

Background:

The City of Surprise, in partnership with Lennar and three other SPA 2 developers, has engaged in expanding the arsenic treatment plant capacity at the Desert Oasis Water Supply Facility. This amended and restated development agreement will memorialize the capacity and cost allocations for the expansion of the water supply facility.

The Desert Oasis Water Supply Facility currently utilizes a temporary arsenic treatment plant that is owned and maintained by Lennar, the Asante developer. This project will be constructing the permanent arsenic treatment solution to serve the SPA 2 region. In addition, this project will also be providing a redundant water reservoir providing operational security and flexibility for the region.

The financial contribution to this project has been planned and programed as part of Project P71020-Desert Oasis Water Supply Facility Phase 2. The total cost of the water plant expansion is \$6,713,914.67 and the City's portion of this is 21.05%, or \$1,413,454.

Objective Analysis:

This amended and restated development agreement will authorize the City to fund its contribution to the water supply facility expansion which will provide the capacity needed to sustain water service in the SPA 2 region.

Policy Compliant:

This item is policy compliant as it relates to the financial policies adopted by Mayor and Council as part

of the annual budget process.

Financial Impact:

The operational and maintenance costs associated with the restatement of the Asante Water Development agreement have been anticipated in the Fiscal Year 2021 Water Resource Management budget.

Budget Impact:

Project P71020: Desert Oasis WSF-Phase 2 associated the Asante Water Development Agreement is budgeted in the the Fiscal Year 2021 Capital Improvement Plan at \$2,234,100. With the restatement of the Asante Water Development Agreement, the City's contribution will be \$1,413,454.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. 20.06.03 EVR Res 2020-69 Amended Asante
 2. amended and restated asante water dev agree signed lcd hec
 3. Empire West Title Agency Signature page
-

RESOLUTION # 2020-69

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING THE AMENDED AND RESTATED ASANTE WATER DEVELOPMENT AGREEMENT RELATED TO WATER INFRASTRUCTURE TO INCLUDE CONSTRUCTION COSTS FOR THE EXPANSION RELATED TO THE CITY'S OBLIGATION FOR DESERT OASIS ARSENIC TREATMENT CAPACITY.

WHEREAS, in 2008, the City and Asante LH, LLC, a Delaware limited liability company ("Asante LH"), entered into the Arsenic Treatment Development Agreement for the design and construction of water infrastructure and arsenic treatment related to the Asante development.

WHEREAS, the City and the successors to Asante LH, LCD Asante, LLC, a Delaware limited liability company ("LCD Asante") and HE Capital Asante, LLC, a Delaware limited liability company ("HEC Asante"), wish to enter into the Amended and Restated Asante Water Development Agreement to achieve efficiencies related to the construction of the arsenic treatment facility as it relates to servicing other developments that will be using the system.

WHEREAS, this Resolution repeals Resolution 2018-127;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. The Mayor and Council hereby approve the Amended and Restated Asante Water Development Agreement between the City of Surprise and LCD Asante and HEC Asante attached hereto as ***Exhibit "A"***, which is incorporated by reference.

Section 2. The Mayor, the City Manager, the City Clerk, and the City Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of the Agreement and this Resolution.

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

Resolution #2020-69
RFLS # 7290
06/2020

Exhibit A:
Amended and Restated Asante Water Development Agreement

After recording, return to:

City Clerk
CITY OF SURPRISE
16000 N. Civic Center Drive
Surprise, AZ 85374

**AMENDED AND RESTATED
ASANTE WATER DEVELOPMENT AGREEMENT**

DATE: _____, 2020 (the “**Execution Date**”)

PARTIES City of Surprise, an Arizona municipal corporation (the “**City**”)

 LCD Asante, LLC, a Delaware limited liability company (“**LCD Asante**”)

 HE Capital Asante, LLC, a Delaware limited liability company (“**HEC Asante**”)

For the purposes of this Agreement, City, LCD Asante, and HEC Asante shall be individually referred to as a “**Party**” and collectively referred to as the “**Parties**”. Also, LCD Asante and HEC Asante may sometimes be referred to herein individually as an “**Asante Party**”, or collectively as the “**Asante Parties**”.

ESCROW AGENT Empire West Title Agency LLC, an Arizona limited liability company,
 D/B/A Thomas Title & Escrow (“**Escrow Agent**”)

RECITALS

A. LCD Asante and HEC Asante are developing a master planned community known as Asante (“**Asante**”) within the City as more particularly described in that certain Asante Development Agreement, dated November 3, 2005, among Lennar Communities Development, Inc., a Delaware corporation (“**Lennar**”), the City and BMY Happy Valley Investment, LLC, an Arizona limited liability company, recorded on November 18, 2005, at *Instrument No. 2005-1750101*, as amended by that certain First Amendment to Asante Development Agreement, dated September 26, 2006, recorded on October 6, 2006, at *Instrument No. 2006-1328209* (the “**Asante Development Agreement**”). Lennar assigned its rights and obligations in the Asante Development Agreement (and other Asante rights and obligations) to Asante LH, LLC, a Delaware limited liability company (“**Asante LH**”), and Asante LH assumed such obligations. As described more fully below, Asante LH later assigned its rights and obligations in the Asante

Development Agreement (and other Asante rights and obligations) to its members, LCD Asante and HEC Asante, and LCD Asante and HEC Asante assumed such obligations.

B. The City and Asante LH entered into that certain Arsenic Treatment Development Agreement (the “**Original Arsenic Agreement**”) dated February 28, 2008 and recorded April 1, 2008 as *Instrument No. 2008-0287165* in the Official Records of the Maricopa County Recorder’s Office (“**Maricopa County Records**”) to, among other things, construct the first phase of a multi-phase arsenic treatment facility to provide potable water to Asante and adjacent planned communities, and to provide for the treatment of water to the City’s drinking water standards for fluoride and arsenic.

C. The Original Arsenic Agreement was amended by that certain First Amendment to Asante Arsenic Treatment Development Agreement by and between City and Asante LH dated August 6, 2008, and recorded August 12, 2008, as *Instrument No. 2008-0701139* of Maricopa County Records (the “**First Amendment**”).

D. Following Asante LH’s filing of a Certificate of Cancellation with the Secretary of State of the State of Delaware and with the Arizona Corporation Commission and the assignment and assumption of Asante LH’s obligations under the Original Arsenic Agreement, as amended, to its members, LCD Asante and HEC Asante (which assumption was accomplished pursuant to the “Asante JDA” described below), the Original Arsenic Agreement was further modified by that certain Second Amendment to Asante Arsenic Treatment Development Agreement by and between City, LCD Asante, and HEC Asante dated November 12, 2009, and recorded November 23, 2009, as *Instrument No. 2009-1077305* of Maricopa County Records (the “**Second Amendment**”).

E. Collectively, the Original Arsenic Agreement as modified by the First Amendment and the Second Amendment are referred to as the “**Prior Arsenic Agreement**”.

F. LCD Asante and HEC Asante have collectively assumed all obligations of Asante LH, LLC under the Prior Arsenic Agreement pursuant to that certain Joint Development, Cost Sharing and Escrow Agreement dated May 29, 2009, among and between HEC Asante, LCD Asante, Lennar Communities Development, Inc., a Delaware corporation, and North American Title Company, an Arizona corporation (the “**Asante JDA**”), a Memorandum of which was recorded on May 29, 2009, at *Instrument No. 2009-0486170*. The obligations of North American Title Company as escrow agent therein were subsequently assigned to, and assumed by, Empire West Title Agency LLC, an Arizona limited liability company, D/B/A Thomas Title & Escrow.

G. Pursuant to the Asante Development Agreement and/or the Prior Arsenic Agreement, LCD Asante and HEC Asante (or their predecessors in interest) have constructed

and LCD Asante and HEC Asante will, as necessary continue to construct as required by the Asante Development Agreement and this Restated Agreement (as defined in **Paragraph 1** below), among other things, potable water infrastructure improvements, including, but not limited to, drinking water wells, water storage tanks, distribution lines, electrical buildings, booster pumps, and disinfection and supplemental water treatment systems for Asante. Some of those facilities have been (or will be) situated on the real property owned by the City of Surprise within the Desert Oasis Water Supply Facility (“**DO WSF**”), legally described on **Exhibit “A”** attached hereto and incorporated herein by reference, and graphically depicted on **Exhibit “A-1”** attached hereto and incorporated herein by reference. Other facilities have been (or will be) situated on the real property owned by HEC Asante legally described on **Exhibit “B”** attached hereto and incorporated herein by reference, and depicted on the site plan attached hereto as **Exhibit “B-1”** and by reference incorporated herein (the “**Asante Water Facility Parcel**”). As land is dedicated to the City for use in water treatment and delivery, these lands shall be incorporated in the DO WSF.

H. City, LCD Asante and HEC Asante have received and reviewed the results of an updated water master plan for Asante dated July 14, 2016 (the “**Updated Asante Master Water Plan**”), which, among other things, identifies (i) the capability of the existing Temporary Arsenic Improvements (defined in **Paragraph 3** below) to effectively continue to remove arsenic from City water to comply with current acceptable safe drinking water standards, (ii) other means of providing needed, timely arsenic remediation, and (iii) a cost-benefit analysis of alternatives to such treatment. City, LCD Asante, and HEC Asante desire to memorialize such results of such review by the execution of this Restated Agreement.

I. Prior to the Execution Date, and pursuant to the certain Cost Sharing Agreement for Arsenic Treatment System Design dated July 1, 2016 (the “**Design Cost Sharing Agreement**”) by and among LCD Asante, 371 ON 163, L.L.C., an Arizona limited liability company (“**371**”), Metro Oasis, LLLP, an Arizona limited liability limited partnership (“**Metro Oasis**”), Verdugo Land, LLC, an Arizona limited liability company (“**Verdugo**”), Sandbox Development Consultants, Inc., an Arizona corporation (“**Sandbox**”), LCD Asante, 371, Metro Oasis and Verdugo, through Sandbox, have designed and engineered, only, an arsenic treatment system that has sufficient capacity to treat 3,800 gallons per minute (“**GPM**”) for the benefit of the properties described therein (the “**Arsenic Treatment System**”), which design of the Arsenic Treatment System will be approved by City prior to execution of this agreement.

J. LCD Asante, acting on its own behalf, acting on behalf of HEC Asante, and acting on behalf of Lennar as Construction Manager pursuant to the terms of the Asante JDA, and with the consent and approval of HEC Asante, has entered into a Joint Development, Cost Sharing, Reimbursement and Escrow Agreement (Arsenic Treatment Plant) dated July 1, 2019, with Metro Oasis and Fulton Homes Corporation, an Arizona corporation (“**Fulton**”), relating to

the construction by LCD Asante, on behalf of Asante and the Asante Parties, of the Arsenic Treatment System in accordance with the plans and specifications described in such July 1, 2019, joint development agreement. The July 1, 2019, joint development agreement was subsequently amended by a First Amendment to Joint Development, Cost Sharing, Reimbursement and Escrow Agreement (Arsenic Treatment Plant) dated April 14, 2020 and a Second Amendment to Joint Development, Cost Sharing, Reimbursement and Escrow Agreement (Arsenic Treatment Plant) dated May 6, 2020. Such July 1, 2019, joint development agreement, as subsequently amended, is referred to as the “**2019 Arsenic JDA**”. Following execution of the initial July 1, 2019 joint development agreement, a memorandum of said agreement was recorded in the official records of the Maricopa County Recorder’s office on July 2, 2019, as *Instrument No. 2019-0502986*, and re-recorded on August 18, 2020, at 2020-0757396. A copy of such re-recorded memorandum is attached hereto and incorporated herein by reference as **Exhibit “C”**. As more particularly set forth in the 2019 Arsenic JDA, Fulton is the successor in interest to Verdugo with respect to the Verdugo Property described on Exhibit “C” to the 2019 Arsenic JDA (the “**Verdugo Property**”), and is also the successor in interest to 371 with respect to the Altamira Property described on Exhibit “D” to the 2019 Arsenic JDA (the “**Altamira Property**”). City has reviewed the 2019 Arsenic JDA and shall be deemed as an original “Participating Owner” thereof (as defined in the 2019 Arsenic JDA).

K. In light of changed economic and other circumstances, the City, LCD Asante and HEC Asante wish to amend and restate the Prior Arsenic Agreement and memorialize a new agreement in which, among other things, LCD Asante, HEC Asante, and the City will continue operation and maintenance of the “Temporary Arsenic Improvements” (defined in **Paragraph 3** below) to provide treated, potable water to Asante and adjacent properties until the Arsenic Treatment System is completed.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, conditions and covenants contained herein, the City, LCD Asante and HEC Asante mutually agree that the Prior Arsenic Agreement is amended as follows:

1. **Restated Agreement**. This Amended and Restated Asante Water Development Agreement (this “**Restated Agreement**”), amends and restates in its entirety the Prior Arsenic Agreement. The provisions of the Prior Arsenic Agreement are of no further force or effect, and all relevant provisions thereof that continue to be applicable are set forth herein. This Restated Agreement continues to be the subject of the “Escrow” hereinafter defined in **Paragraph 5** below, which Escrow was established under the Prior Arsenic Agreement. This Restated Agreement represents the entire and integrated agreement between the City and the Asante Parties and shall supersede all drinking water related agreements. This Restated Agreement amends the Prior Arsenic Agreement effective as of the date first set forth above.

2. **Recitals.** The Recitals set forth in the beginning of this Restated Agreement are acknowledged to be true and correct, are incorporated by reference into the body of this Restated Agreement, and are acknowledged to be an integral component of this Restated Agreement.

3. **Temporary Arsenic Improvements.** The Asante Parties have caused Layne Christensen Company to install and maintain a temporary arsenic treatment facility (the “**Temporary Arsenic Improvements**”). The Temporary Arsenic Improvements are owned by Layne Christensen Company, have been constructed and installed in accordance with all requirements of City, and are fully approved by City. The City shall continue to operate and the Asante Parties will, at their sole cost and expense, cause the Temporary Arsenic Improvements to continue to be maintained by Layne Christensen Company pursuant to its lease with the Asante Parties until the completion of the Arsenic Treatment System, including dedication of thereof to the City and the City’s acceptance thereof, which acceptance shall not be unreasonably withheld, delayed, or conditioned.

4. **Arsenic Treatment System.**

a. **Arsenic Treatment System.** Pursuant to the attached 2019 Arsenic JDA the Asante Parties will construct the 3800 GPM Arsenic Treatment System. The Asante Parties and City will cause the Arsenic Treatment System to be completed in accordance with the provisions of the 2019 Arsenic JDA on or before the one (1) year anniversary of the issuance of the permit for the construction thereof (the “**ATS Completion Date**”).

b. **Procurement.** The Asante Parties have demonstrated that they have followed an approved public procurement process, in accordance with the City and State public bidding regulations, and have utilized the Construction Manager at Risk (CM@R) delivery method for this project. Felix Construction, Inc. (“**Felix**”) was selected and has provided preconstruction services throughout the design of the Arsenic Facility. Where possible, the Asante Parties and the CM@R will consult with and obtain City approval of the selected subcontractors and/or equipment vendors prior to sub-award.

c. **Cost of Construction.** The City and the Asante Parties have agreed that the current budgeted costs provided by Felix (based on a 90% design plan) for the construction of the 3800 GPM Arsenic Treatment System plus the value of equipment being donated by the Asante Parties is \$6,713,914.67. This includes all labor, material, equipment, taxes, permits, fees, and contingencies to construct this project.

d. **Reimbursement.** Without limitation, City agrees to timely pay LCD Asante, on behalf of the Asante Parties, all amounts that are due in accordance with the terms of

the 2019 Arsenic JDA with respect to a Participating Owner with a 21.0526% (or 800 GPM) “Stipulated Pro Rata Share” (as defined in said 2019 Arsenic JDA) of the Arsenic Treatment System. The City shall, without limitation, utilize funding for its share of this project from capital improvement project (CIP) #P71020 – Desert Oasis WSF – Phase II. LCD Asante, acting as construction manager for the project, will invoice the City monthly for its Stipulated Pro Rata share of work completed during the invoice period. The monthly invoices will include all relevant supporting documentation including CM@R and subcontractor pay applications. The City shall pay such monthly invoices within 30 days.

e. Completion. Upon completion and acceptance of the 3800 GPM Arsenic Treatment System, City will assume all operation and maintenance obligations. Construction shall be warranted for 2 years from the date of Final Completion (as defined in the 2019 Arsenic JDA). All contractor and subcontractor warranties shall be made to the City in addition to the CM@R.

f. Capacity Rights. Pursuant to the 2019 Arsenic JDA, City acknowledges that (i) the Asante Parties will have the right to 1589 GPM of capacity in the Arsenic Treatment System (“**Asante Parties’ ATS Capacity**”), (ii) City will have the right to 800 GPM of capacity in the Arsenic Treatment System (“**City’s ATS Capacity**”), and, (iii) to the extent they are “Participating Owners” under the 2019 Arsenic JDA and have timely paid their respective “Stipulated Pro Rata Shares” and all other charges and expenses contemplated in the 2019 Arsenic JDA, all in accordance with the 2019 Arsenic JDA, Fulton will have the right to up to 600 GPM of such capacity in connection with its ownership of the Altamira Property, Fulton will have an additional right to up to 600 GPM of such capacity with respect to its ownership of the Verdugo Property, and Metro Oasis will have the right to up to 211 GPM of such capacity. Collectively, such 1411 GPM of capacity in the Arsenic Treatment System (600 GPM + 600 GPM + 211 GPM) potentially allocable to Fulton and Metro Oasis, respectively, is referred to as the “**Fulton/Metro Oasis ATS Capacity**”). Notwithstanding the foregoing, however, if any of Fulton (with respect to either or both the Altamira Property or the Verdugo Property), or Metro Oasis are not “Participating Owners” under such 2019 Arsenic JDA who have paid their full allotted “Stipulated Pro Rata Share” together with all other fees and expenses contemplated therein, then LCD Asante will have the right (acting on its own behalf and on behalf of HEC Asante) to permit other property owners to become “Non-Participating Owners” (as defined in the 2019 Arsenic JDA) and be entitled to a portion of the Fulton/Metro Oasis ATS Capacity upon payment by such other property owner of the amounts set forth or referenced in the 2019 Arsenic JDA. Upon payment in full either into the escrow established in the 2019 Arsenic JDA, or to LCD Asante, as applicable under the 2019 Arsenic JDA, LCD Asante will provide written notice, which will include the amount of capacity sold and purchase price, to City confirming the capacity of the Arsenic Treatment System to which Fulton, Metro Oasis, LCD Asante (or HEC

Asante), or any other “Non-Participating Owners” (as defined in the 2019 Arsenic JDA) is entitled (the “**Notice of Confirmed Capacity Allotment**”).

g. City Obligation. At any time, the City may allocate City’s ATS Capacity (800 GPM in the Arsenic Treatment System) to any user on a permanent or interim basis. After City has allocated all of City’s ATS Capacity, the City may allocate other available capacity in the Arsenic Treatment System to any user on an interim basis upon approval of Asante. City will take all measures required to provide the corresponding amount of treatment capacity to Asante (3000 GPM unless reduced due to the 2019 Arsenic JDA or future capacity sales contemplated in the 2019 Arsenic JDA) when and as required by the Asante Parties in accordance with the Updated Asante Master Water Plan, and will not, in any manner, adversely affect or delay any requested development of Asante, including without limitation, preliminary plat approval, final plat approval, site plan approval, the issuance of building permits, or imposing any impact or other fee or moratorium relating to water treatment capacity.

The City agrees to not approve any final plat or site plan, or issue any building permits for Participating Owners (as defined in the 2019 Arsenic JDA) or any other future development parcels outside of Asante but connecting to the Arsenic Treatment System unless the applicant’s development is entirely included within City’s ATS Capacity or the applicant shows proof of purchase of a sufficient amount of capacity in the Arsenic Treatment System from the Asante Parties to meet the needs of such development (beyond City’s ATS Capacity allocated to such development) and City has received a Notice of Confirmed Capacity Allotment from LCD Asante with respect to such needed capacity in the Arsenic Treatment System over and above City’s ATS Capacity allocated to such development. Any remaining capacity required for said developments beyond City’s allocation of City’s ATS Capacity shall either be purchased from the Asante Parties, the City, or constructed at the sole cost of such applicant(s).

Notwithstanding the above provisions, pursuant to the 2019 Arsenic JDA, in addition to reserving for the Asante Parties the Asante Parties’ ATS Capacity (1589 GPM of capacity in the Arsenic Treatment System), the City covenants and agrees to reserve for each other Participating Owner listed below the following amounts of treatment capacity for a period of three (3) years after the “Substantial Completion Date” (as defined in the 2019 Arsenic JDA) of the 3800 GPM Arsenic System:

PARCEL	GPM	RATIO (%)
Altamira (Fulton)	600	15.7895
Verdugo (Fulton)	600	15.7895
Sunrise Ranch (Metro Oasis)	211	5.5526

During the 3 year period following “Substantial Completion” (as described in the 2019 Arsenic JDA) of the Arsenic Treatment System, the City agrees to not approve any final plat or site plan, or issue any building permits within the identified Parcels in the above table (which Parcels are more fully described in the 2019 Arsenic JDA) until the applicant shows proof of purchase of their entire respective Stipulated Pro Rata Share of capacity from the Asante Parties and City has received a Notice of Confirmed Capacity Allotment from LCD Asante with respect to such needed capacity in the Arsenic Treatment System over and above City’s ATS Capacity allocated to such development.

5. **Financial Assurance For Temporary Arsenic Improvements.** City acknowledges that, pursuant to an April 23, 2020 Appointment of Replacement Escrow Agent Under Asante Arsenic Treatment Development Agreement, Escrow Agent currently holds under its Escrow No. 5552TAZ (the “**Escrow**”), One Hundred Thousand Dollars (\$100,000) in the form of cash and Two Hundred Thousand Dollars (\$200,000) in the form of one or more letter(s) of credit as a financial assurance (“**Financial Assurance**”) for the Asante Parties’ obligation to lease and maintain the Temporary Arsenic Improvements. Upon the completion of Arsenic Treatment System pursuant to **Paragraph 4** of this Restated Agreement, including City’s acceptance of the Arsenic Treatment System and dedication thereof to City, the Financial Assurance, whether in the form of cash or letter(s) of credit (including without limitation, any replacement letter(s) of credit), shall be released from the Escrow and returned to the applicable Asante Party that provided such Financial Assurance, and upon the request of any Asante Party, City shall execute and deliver to the applicable Asante Party, or authorize and instruct Escrow Agent to execute and deliver, a written release to the issuer of any letter(s) of credit or replacement letter(s) of credit.

6. **Dedication to City of a Portion of the Asante Water Facility Parcel.** City currently owns and operates a water treatment facility, the DO WSF, serving, among other properties, the Desert Oasis subdivision. The DO WSF is legally described on **Exhibit “A”** attached hereto and incorporated herein by reference. City desires that the size of the DO WSF be increased to include the area on which the Temporary Arsenic Improvements and the two water tanks owned by the Asante Parties are located. City requires that a portion of the Asante Water Facility Parcel be dedicated to City to enhance the efficient operation of the DO WSF and to accommodate Asante (the “**Addition to the DO WSF**”). In connection therewith, HEC Asante will dedicate that portion of the Asante Water Facility Parcel depicted on the site plan attached hereto as **Exhibit “D”** and incorporated herein by reference to City free and clear of monetary liens for the City’s ownership, operation and maintenance promptly following approval and acceptance, as required, by Maricopa County, the City, the Federal Environmental Protection Agency, the Arizona Department of Water Resources and/or all other governmental or regulatory bodies or public or private utility entities with jurisdiction over the acquisition, treatment and distribution of drinking water within Asante, Desert Oasis or the properties described in the 2019

Arsenic JDA (the “**Approving Authorities**”) of any improvements thereon. Following its approval of the size and configuration of the Addition to the DO WSF, HEC Asante will dedicate such property to City free and clear of monetary liens, and the City shall accept such dedication, in accordance with the City’s customary practice for the dedication and acceptance similar properties; provided, however, HEC Asante shall make no representation or warranty with respect thereto other than as expressly set forth in this Restated Agreement. At the time of dedication, the Asante Parties shall provide the City with documentation identifying the costs of construction or the value of the assets being dedicated to the City.

7. **Potable Water and Water Master Plan.**

a. **Potable Water Reservoir.** City acknowledges that the Asante Parties have, in accordance with City’s requirements, constructed a 1.89 million gallon potable water reservoir (the “**1.89 MG Reservoir**”) on the Asante Water Facility Parcel. The Asante Parties will connect the 1.89 MG Reservoir to water treatment facilities on the DO WSF in connection with the completion of construction of the Arsenic Treatment System. Asante Parties will dedicate the 1.89 MG Reservoir to the City at completion of the 3800 GPM Arsenic Treatment System, and City will and accept the 1.89 MG Reservoir for operation and maintenance.

b. **Water Master Plan.** The Asante Parties have caused Wilson Engineers to prepare the Updated Asante Water Master Plan. The Updated Asante Water Master Plan has been approved by City and confirmed to be consistent with City’s Integrated Water Master Plan.

8. **Enclosure of the Addition to the DO WSF.** Following the dedication of the Addition to the DO WSF to City by HEC Asante, the Asante Parties will construct a perimeter fence along the portion of the exterior boundary of such property that is not contiguous to the DO WSF, as identified in **Exhibit “D”**. This fence may be chain link type fencing. Following the completion and dedication of the first Asante Drinking Well, Asante Parties shall construct a permanent perimeter fence around the entire former Asante Water Facility Parcel. This fence will be constructed in accordance with the City’s security master plans.

9. **Initial Asante Drinking Well.** Prior to the completion of the 500th dwelling unit in the Asante development, the Asante Parties will, in compliance with all applicable laws, rules and regulations of required Approving Authorities, complete construction of the first potable water well within Asante, together with above ground well equipment. The Asante Parties will also connect such well to City’s water treatment facilities on the DO WSF. Upon such completion and connection, such well together with the connection lines will be dedicated to City free and clear of monetary liens and City will then assume the maintenance and operation thereof. The Asante Parties will dedicate said improvements and the City shall accept such dedication in accordance with the City’s customary practice for the dedication and acceptance of water system improvements; provided, however, the Asante Parties shall make no representation

or warranty with respect to any improvements other than as expressly set forth in this Restated Agreement.

10. **Future Water System Expansion.** Future expansion of the Arsenic Treatment System will be based on projected demand in accordance with the approved Updated Asante Master Water Plan. Future potable wells, reservoirs, and (to the extent required for Asante Development arsenic treatment facilities after Asante has been allocated arsenic treatment capacity equal to the difference between 3000 GPM [the original 3800 GPM capacity less City's ATS Capacity] and ATS Capacity Purchased from Asante Parties) arsenic treatment facilities will be provided by the Asante Parties in accordance with City drinking water standards and as required by the Updated Asante Master Water Plan. If warranted by the water quality of subsequent potable water wells in light of then current City drinking water standards, the Asante Parties will construct cost effective fluoride treatment of water serving Asante, which treatment protocol will be subject to City's approval, not to be unreasonably denied, withheld, or delayed.

11. **Asante Parties Obligations Vis a Vis City and One Another.** Nothing set forth in the Prior Arsenic Agreement or this Restated Agreement shall, solely between LCD Asante and HEC Asante, in any way, expand, diminish, modify or affect the rights or obligations of LCD Asante and HEC Asante as set forth in the Asante JDA. LCD Asante and HEC Asante agree that the Asante JDA shall, solely between themselves, continue to govern their respective rights and obligations under this Restated Agreement, regardless of any contrary interpretation contained in this Restated Agreement. HEC Asante for and on behalf of itself and its successors and assigns, and with respect all of the land within Asante fee title to which is vested in HEC Asante as of the Execution Date, hereby consents to, ratifies, confirms, approves and assumes that certain 2019 Arsenic JDA and the re-recorded memorandum thereof.

12. **Assignment.** The provisions of this Restated Agreement are binding upon and shall inure to the benefit of the Asante Parties and City, and all of their successors in interest and assigns; provided; however, that the Asante Parties' rights and obligations hereunder may be assigned, in whole or in part, only to a person or entity that has acquired title to Asante, or a portion thereof, and only by a written instrument delivered to City, expressly assigning such rights and obligations by either LCD Asante or HEC Asante. In the event of a complete or partial assignment by either or both of the parties comprising the Asante Parties, all or a portion of such party's or parties' rights and obligations hereunder shall terminate effective upon the assumption by the assignee of such rights and obligations and the execution of an addendum that recognizes the assignment with respect to the portion of Asante transferred or conveyed. The applicable Asante Party, or its successor, shall submit each addendum on the form attached hereto and incorporated herein by reference as **Exhibit "E"**, and when such addendum has been approved and countersigned by the City Manager, it shall be incorporated into and become a part of this Restated Agreement.

13. **Escrow Agent.** Escrow Agent shall have the following rights and obligations:

a. **Acceptance of Duties.** Escrow Agent will maintain the Escrow for the retention of the Financial Assurance defined in **Paragraph 5** above. Escrow Agent shall retain the Financial Assurance deposited into Escrow and disburse the same from the Escrow from time to time in accordance with the terms and conditions of this Restated Agreement

b. All sums shall be deposited into as many accounts as may be necessary to be assured that the funds (including any interest earned thereon) in each account is fully insured to the extent feasible. Escrow Agent hereby accepts the duties imposed upon it by this Restated Agreement and represents that it is fully empowered under any applicable laws and regulations to accept such duties, and agrees to perform such duties, but only upon and subject to the express terms and conditions set forth in this Restated Agreement.

c. **No Implied Covenants.** No implied covenants or implied obligations shall be read into this Restated Agreement against Escrow Agent.

d. **Reimbursement of Escrow Agent.** Escrow Agent shall be entitled to advice of counsel of its choosing concerning any dispute or controversy between the parties which may arise hereunder and may pay reasonable compensation to all attorneys retained by it in such matters. Escrow Agent shall be entitled to reimbursement from the parties in accordance with the terms of **Paragraph 13.m** below for reasonable attorneys' fees paid in connection with the foregoing, which fees shall be payable by the non-prevailing party in such dispute. Escrow Agent shall not be responsible for any loss or damage resulting from any action taken in good faith in reliance upon the opinion or advice of counsel.

e. **Reliance.** Escrow Agent shall incur no liability in acting upon any notice, request, consent, waiver, certificate, statement, opinion or other document which it shall reasonably believe to be genuine and to have been signed by the proper person and to have been prepared and furnished in connection with any of the provisions of this Restated Agreement, and Escrow Agent shall be under no duty to make any investigation or inquiry as to any statement contained or matters referred to in any such instrument, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements.

f. Handling of Funds. All monies held by Escrow Agent pursuant to this Restated Agreement shall, until applied as herein provided, be held in trust for the purposes for which they were received and shall be segregated from other funds. The parties shall provide such documentation as may reasonably be requested by Escrow Agent to authorize the investment of funds held by Escrow Agent pursuant to this Restated Agreement.

g. Performance. Escrow Agent shall perform such duties and only such duties as are specifically set forth in this Restated Agreement.

h. Escrow Agent Responsibility. No provision of this Restated Agreement shall be construed to relieve Escrow Agent from liability for its own negligent action, its own negligent failure to act, its own willful misconduct, or its breach of this Restated Agreement.

i. Escrow Agent's Funds. No provision of this Restated Agreement shall require Escrow Agent to expend or risk its own funds in the performance of any of its duties or the exercise of any of its rights or powers.

j. Conflicting Demands. If conflicting demands are made upon Escrow Agent to any monies or letters of credit at any time held by it hereunder, then Escrow Agent may hold the monies, letters of credit, or any documents pertaining thereto pending receipt of mutual instructions, until the rights of the parties are determined by an appropriate court of law, or Escrow Agent may interplead any and all documents held by it hereunder (other than a letter of credit), pending the outcome of the litigation, in which event, Escrow Agent shall be relieved of any and all liability to the parties hereunder.

k. Interest. Upon Escrow Agent's receipt of its required "Investment Instructions", Escrow Agent shall invest all cash funds delivered and retained by Escrow Agent in separate money market account(s) for the individual party making such deposit, subject to immediate withdrawal without penalty, with one or more federally insured banks with offices in the metropolitan Phoenix area satisfactory to the depositing party and Escrow Agent. All costs and expenses of such account and all interest earned on such sums shall belong to the individual party depositing such cash funds.

l. Requests of Accounting. Upon request of any party, a copy of Escrow Agent's record of accounting for funds received and disbursed, on Escrow Agent's form, shall be furnished in writing to the requesting party at such party's cost.

m. Indemnification. In the event of a dispute, the parties hereby indemnify and promise to save harmless Escrow Agent for, from and against all costs, damages, attorneys' fees, expenses and liabilities which it may incur or sustain in connection with these provisions, except as otherwise described in **Paragraph 13.h**, and will pay the same upon demand provided they are the non-prevailing party in such dispute. Except to the extent Escrow Agent is obligated to indemnify the parties as expressly set forth in this Restated Agreement, the parties hereby fully release and relieve Escrow Agent from any and all claims and liability that may arise as a result of Escrow Agent's good faith performance of its obligations under the terms and conditions of this Restated Agreement.

n. Escrow Agent's Fees. Escrow Agent shall be entitled to compensation from the Asante Parties for its services under this Restated Agreement. Escrow Agent shall be entitled to receive its usual and customary fees and charges in conformity with the fee schedule of the Escrow Agent then in effect and as may be amended from time to time, without notice.

o. Limitation of Liability. Notwithstanding any other provision of this Restated Agreement, Escrow Agent has no responsibility or liability hereunder, except to the extent that Escrow Agent may fail properly to perform or disburse money pursuant to this Restated Agreement.

14. Notices. All notices required or permitted by this Restated Agreement shall be in writing. Such notices may be delivered in person (by hand delivery or professional messenger service) to either party or may be sent by registered or certified mail, with postage prepaid, return receipt requested or delivered by Federal Express or any other courier service guaranteeing overnight delivery, charges prepaid, or may be transmitted by facsimile or electronic mail transmission and addressed as follows:

If to LCD Asante:

LCD Asante, LLC
c/o Lennar Communities Development,
Inc.
Attn: Alan M. Jones and Jeffery
Gunderson
1665 W. Alameda Dr., Suite 130
Gilbert, AZ 85282-3200
Fax: 480-777-4696
Email: alan.m.jones@lennar.com and
jeff.gunderson@lennar.com

With a Required Copy to:

LCD Asante, LLC
Legal Dept. / Attn: Melanie M. Houk
25 Enterprise
Aliso Viejo, California 92656-2601
Fax: 949-349-8037

If to HEC Asante:

HE Capital Asante, LLC
Attn: Matt McGraner
300 Crescent Ct #700
Dallas, TX 75201
Fax: N/A
Email:
mmcgraner@highlandcapital.com

HE Capital Asante, LLC
Attn: Cody Morton
300 Crescent Ct #700
Dallas, TX 75201
Fax: N/A
Email: CMorton@HighlandCapital.com

HE Capital Asante, LLC
Attn: D.C. Sauter
300 Crescent Ct #700
Dallas, TX 75201
Fax: N/A
Email: Dsauter@nexpointadvisors.com

If to City

Attn: Community Development Director
Attn: Lloyd Abrams
16000 North Civic Center Drive
Surprise, Arizona 85374
Fax: 623 222-3001
Email: Lloyd.Abrams@surpriseaz.gov

With a Required Copy to:

City of Surprise
Attn: City Attorney, Robert Wingo
16000 North Civic Center Drive
Surprise, Arizona 85374
Fax: 623-222-1101
Email: Robert.wingo@surpriseaz.gov

**And if Notice or Delivery to the Project
Engineer is Required Pursuant to this
Agreement, to:**

Water Works Engineers
Attn: John Matta
7500 N. Dobson Rd.
Suite 200
Scottsdale, AZ 85256
Fax: (480) 661-1743
Email: johnm@wwengineers.com

15. **Cooperation.** City and the Asante Parties agree to cooperate in connection with the development of Asante and the improvements described in this Restated Agreement. The City and the Asante Parties shall promptly on written request execute, acknowledge and deliver to the appropriate party any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions of this Restated Agreement.

16. **Default and Remedies.**

a. **Default by the City.** Notwithstanding anything to the contrary contained in this Restated Agreement, City shall not be in default hereunder and the Asante Parties shall not be entitled to exercise any remedies hereunder (such as City's failure to pay its "Stipulated Pro Rata Share" of "Project Costs" and all other fees and expenses payable by City under the 2019 Arsenic JDA), unless the defaulting party fails to cure such default within ten (10) days after receipt of written notice specifying a monetary breach and within thirty (30) days after receipt of written notice specifying a non-monetary breach; provided however, that if a non-monetary breach cannot reasonably be cured within such thirty (30) day period, the defaulting party shall have an additional reasonable period of time within which to effect such cure on condition that the defaulting party has begun such cure within said thirty (30) day period and thereafter works diligently to complete the cure within such reasonable time. If the defaulting party fails to cure such default by the expiration of the cure period provided above, the Asante Parties shall have the right, but not the obligation, in addition to all other remedies available under this Restated Agreement or at law or in equity, to expend such reasonable sums of money as are necessary to cure the default. Any such sum paid by any of the Asante Parties shall be immediately due and payable from the defaulting party to the applicable Asante Party. In the event the defaulting party fails to pay all or any portion of any sum due and payable to the applicable Asante Party within ten (10) days after receipt of a statement therefor, such unpaid amount shall bear interest at the rate of ten percent (10%) per annum from the date such amount was due and payable until such amount is paid in full.

b. **Default by the Asante Parties.** Notwithstanding anything to the contrary contained in this Restated Agreement, the Asante Parties shall not be in default hereunder and the City shall not be entitled to exercise any remedies hereunder unless the Asante Parties fails to cure the breach within ten (10) days after the Asante Parties' receipt of written notice specifying a monetary breach and within thirty (30) days after the Asante Parties' receipt of written notice specifying a non-monetary breach; provided however, that if the breach is a non-monetary breach which cannot reasonably be cured within such thirty (30) day period, the Asante Parties shall have an additional reasonable period of time within which to effect such cure on condition that the Asante Parties have begun such non-monetary cure within said thirty (30) day period and thereafter works diligently to complete the cure within such reasonable time. If the Asante Parties fail to cure such default by the expiration of the cure period provided above, City shall have the right, but not the obligation, in addition to all other remedies available under this Restated Agreement or at law or in equity, to expend such reasonable sums of money as are necessary to cure the default. Any such sum paid by City shall be immediately due and payable from the Asante Parties to City. In the event the Asante Parties fail to pay all or any portion of any sum due and payable to City within ten (10) days after receipt of a statement therefor, such

unpaid amount shall bear interest at the rate of ten percent (10%) per annum from the date such amount was due and payable until such amount is paid in full.

c. Limitation on Monetary Damages. In no event shall any Party hereunder be liable for any general, special, consequential or punitive damages arising from its failure to perform in accordance with this Restated Agreement.

17. Waiver of Trial by Jury. The Asante Parties and the City hereby expressly covenant and agree to **waive the right to trial by jury** in connection with any litigation or judicial proceeding relating to, directly or indirectly, or concerning this Restated Agreement or the conduct, omission, action, obligation, duty, right, benefit, privilege or liability of a party hereunder to the full extent permitted by law. This **waiver of right to trial by jury** is separately given and is knowingly, intentionally and voluntarily made with and upon the advice of competent counsel. This waiver is intended to and does encompass each instance and each issue as to which the right to a jury trial would otherwise accrue. The Asante Parties and the City further certify and represent to each other that no party, representative or agent of the Asante Parties or the City (including, but not limited to, their respective counsel) has represented, expressly or otherwise, to any the Asante Party or the City or to any agent or representative thereof (including, but not limited to, their respective counsel) that they will not seek to enforce this waiver of right to jury trial. This waiver shall apply to any future amendments, supplements or modifications of the Restated Agreement. The venue for any dispute shall be in Maricopa County, Arizona, and each party waives the right to object to venue in Maricopa County for any reason.

18. Partnership. Nothing herein does nor shall be construed to create a partnership or joint venture among any of the Asante Parties and/or the City with respect to Asante, the improvements to be constructed pursuant to the provisions of this Restated Agreement or the development thereof.

19. Good Standing; Authority. The parties hereby respectively represent and warrant to one another as follows: (i) the representing party is duly formed and validly existing under the laws of its state of organization; and (ii) the individuals executing this Restated Agreement on behalf of the representing party are authorized and empowered to so sign by the party on whose behalf each such individual is signing.

20. Time. Time is of the essence with respect to each provision of this Restated Agreement. If under this Restated Agreement the time for performance or other action falls on a Saturday, Sunday or legal public holiday observed by the City, the performance or other act shall be due on the next day that is not a Saturday, Sunday or legal public holiday (a "**business day**").

21. **Attorneys' Fees.** In the event arbitration or other dispute resolution measures are required by either party to enforce the terms and provisions hereof, or to recover damages for the breach of this Restated Agreement, the prevailing party shall be entitled to recover from the other party all costs, expenses and reasonable attorneys' fees incurred in connection with the exercise by the prevailing party of its rights and remedies hereunder. For purposes of this paragraph, the term "prevailing party" shall mean, in the case of the claimant, one who is successful in obtaining substantially all of the relief sought, and in the case of the defendant, one who is successful in denying substantially all of the relief sought by the claimant. Any award of attorneys' fees shall be set by the arbitrator or judge, but in no event by a jury.

22. **Miscellaneous.** Headings in this Restated Agreement are for convenience only and shall not define or limit the provisions hereof. This Restated Agreement shall be construed according to its plain meaning and shall not be strictly construed for or against any party hereto. This Restated Agreement shall be governed by the laws of the State of Arizona. All the terms, covenants and conditions herein contained shall inure to the benefit of and be binding on the parties hereto, their successors and assigns. Any modification or waiver of any term of this Restated agreement, including a modification of this term, must be in writing signed by the party or parties against which enforcement of the modification or waiver is sought. This Restated Agreement constitutes the entire agreement of the parties pertaining to the subject matter hereof and all other prior and contemporaneous agreements, representations and understandings, written or oral, are hereby superseded and merged into this Restated Agreement. Should any term, provision, covenant or condition of this Restated Agreement be void, invalid or inoperative, the same shall not affect any other term, provision, covenant or condition of this Restated Agreement, but the remainder thereof shall be effective as though such void, invalid or inoperative term, provision, covenant or condition had not been contained herein. This Restated Agreement may be executed in counterpart and each such counterpart, when taken together with all other counterparts, shall be deemed one and the same original document. The Asante Development Agreement is an independent agreement and is not merged herein or amended by this Restated Agreement.

23. **Expedited Resolution Process.** In the event that any objection(s) or disagreement is to be resolved by the Expedited Resolution Process, the matter shall be resolved in the following manner: (A) the City and the Asante Parties shall each promptly (and in no event later than five (5) business days after conclusion of the meet and confer process or receipt of written notice identifying a matter pursuant to this Restated Agreement to be resolved by this Expedited Resolution Process) select an engineer licensed in Arizona or other land use professional to represent it in the resolution process. (B) The two engineers and/or land use professionals so selected shall thereupon promptly (but in no event later than five (5) business days after the two are selected) select a third independent qualified engineer licensed in Arizona and/or land use professional. The three engineers and/or land use professionals so selected shall

form a panel who shall thereupon arbitrate between the parties. (C) Each party shall within seven (7) days after receipt of notice of the selection of the third engineer and/or land use professional submit to the panel in writing its proposed solution to the dispute. (D) The panel may (but shall not be so obligated) require both parties to attend a hearing at which each party can present its position. The panel shall determine the rules of the arbitration and/or hearing process with a preference for whatever will help resolve the issue(s) in the most expedient manner. (E) Within ten (10) days after expiration of the period within which to submit written materials the panel shall meet, review the written materials presented, confer, and by majority vote render a decision selecting one of the two alternatives proposed by the parties and rejecting the other of them. (F) The decision of the panel shall be final and binding and the non-prevailing party shall pay the costs and expenses of the arbitrators. (G) The decision of the panel shall constitute approval of the position taken by the party in whose favor the panel shall have ruled. The foregoing process is hereinafter called the **“Expedited Resolution Process”**.

24. **Recordation.** The City shall cause this Restated Agreement to be recorded in the office of the County Recorder of Maricopa County, Arizona, within ten (10) days after the date the City enters into this Restated Agreement.

25. **Conflict of Interest.** This Agreement is subject to the terms of A.R.S. § 38-511.

26. **Excess Well Capacity.** The parties mutually acknowledge that the combined capacity generated or to be generated by Asante Well No. 4, Asante Well No. 3, Asante Well No. 2 and Asante Well No. 1 exceeds the water capacity requirements for Asante South. City agrees that all such excess capacity generated at any time shall be applied to satisfy the water capacity requirements of Asante North. Further, except as provided in the 2019 Arsenic JDA, to the extent that any water treatment capacity paid for by any Asante Party in connection with Asante South exceeds the requirements of Asante South, City agrees that such excess water treatment capacity shall be applied to satisfy the water treatment capacity requirements of Asante North. If such excess water capacity or water treatment capacity is more than sufficient to meet the water requirements of Asante North, then, except as set forth in the 2019 Arsenic JDA, City is free to use all additional capacity for any City purposes.

27. **Termination.**

a. **General.** Except as set forth in the next succeeding sentence, this Restated Agreement shall terminate on the twenty fifth (25th) anniversary of the date of the recordation of this Restated Agreement in the official records of the Maricopa County Recorder’s office, and the parties shall have no further obligations to one another hereunder following such date. Notwithstanding the foregoing, both the (i) obligations of the parties hereto pursuant to **Paragraph 26** hereof, and (ii) City’s agreement to prevent others from tying into or

otherwise benefitting from the Arsenic Treatment System except upon confirmation from LCD Asante that they qualify as Participating Owners or Non-Participating Owners under the 2019 Arsenic JDA, and LCD Asante's right (on behalf of itself and HEC Asante) to recover the costs of constructing the Arsenic Treatment System pursuant to, and as stated in, the 2019 Arsenic JDA, shall continue to be enforceable beyond said twenty fifth (25th) anniversary.

b. **Sale of Residential Lots.** Except as otherwise provided herein, the parties hereby acknowledge and agree that this Restated Agreement is not intended to, and shall not create conditions or exceptions to title or covenants running with any single family or dual family residential lot within Asante or Asante North which has been finally subdivided and individually sold to the end purchaser or user ("**Residential Lot**") and any tracts or land intended to be dedicated or conveyed to the City, any utility provider, any homeowners association or any school district. Therefore, in order to alleviate any concern as to the effect of this Restated Agreement on the status of title to any such property, so long as not prohibited by law, this Restated Agreement shall terminate without the execution or recordation of any further document or installment as to any Residential Lot and any tracts or land dedicated or conveyed to the City, any utility provider, any homeowners association or any school district, and thereupon such Residential Lot and any tracts or land dedicated or conveyed to the City, any utility provider, any homeowners association or any school district shall be released from and no longer be subject to or burdened by the provisions of this Restated Agreement.

28. **Exhibits.** The following Exhibits are attached to this Restated Agreement:

Exhibit "A"	Legal Description of DO WSF
Exhibit "A-1"	Graphic Depiction of DO WSF
Exhibit "B"	Legal Description of Asante Water Facility Parcel
Exhibit "B-1"	Site Plan Depiction of Asante Water Facility Parcel
Exhibit "C"	Copy of Re-Recorded Memorandum of 2019 Arsenic JDA
Exhibit "D"	Site Plan - Addition to the DO Water Facility Parcel
Exhibit "E"	Addendum (Regarding Assignment - Restated Agreement)

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Asante Arsenic Treatment Development Agreement as of the day and year first written above.

See Following Pages For Signatures

***Signature Page To
Amended and Restated Asante Arsenic Treatment Development Agreement***

CITY OF SURPRISE, an Arizona municipal corporation

By: _____
Name: Skip Hall
Its: Mayor

APPROVED AS TO FORM:

By: _____
Robert Wingo
City Attorney

ATTESTED:

By: _____
City Clerk

STATE OF ARIZONA)
) SS.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, known by me as the Mayor of the CITY OF SURPRISE, an Arizona municipal corporation.

Notary Public

My Commission Expires:

For City Internal Use only:

Signature for Scope/Content approval:

Signature for Procurement/Budget approval:

*Continued Signature Page To
Amended and Restated Asante Arsenic Treatment Development Agreement*

LCD ASANTE, LLC, a Delaware limited liability company

By: Lennar Communities Development, Inc., a Delaware corporation
Its: Manager

By: 

Name: Jeff Gunderson
Vice President

Its: _____

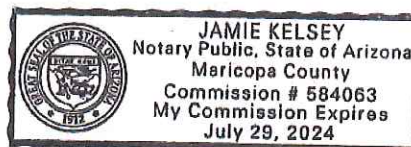
STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 22 day of October, 2020, by Jeff Gunderson, the Vice President of Lennar Communities Development, Inc., a Delaware corporation, the Manager of LCD ASANTE, LLC, a Delaware limited liability company, for and on behalf of the company.



Notary Public

My Commission expires:
July 29, 2024



*Continued Signature Page To
Amended and Restated Asante Arsenic Treatment Development Agreement*

HE CAPITAL ASANTE, LLC,
a Delaware limited liability company

By: [Signature]
Name: JAMES P. SEERY, JR. (NYS ID XXX XXX 038)
Its: Authorized Signatory

STATE OF ~~TEXAS~~ ^{NEW YORK})
County of NEW YORK) SS.

The foregoing instrument was acknowledged before me this 30th day of October, 2020, by JAMES P. SEERY, JR. the Authorized Signatory of HE CAPITAL ASANTE, LLC, a Delaware limited liability company, on behalf of the Company.

[Signature]
Notary Public (pursuant to Executive Order 20.2.7)

My Commission Expires:

11/28/20

GREGORY VINCENT DEMO
Notary Public, State of New York
Reg. No. 02DE6351135
Qualified in New York County
My Commission Expires Nov. 28, 2020

*Continued Signature Page To
Amended and Restated Asante Arsenic Treatment Development Agreement*

ESCROW AGENT

EMPIRE WEST TITLE AGENCY LLC, an Arizona limited liability company, D/B/A
Thomas Title & Escrow

By: _____

Name: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____,
2020, by _____, the _____
of EMPIRE WEST TITLE AGENCY LLC, an Arizona limited liability company, for and on
behalf of the company.

Notary Public

My Commission expires:

**LENDER'S ACKNOWLEDGMENT, CONSENT AND SUBORDINATION TO THE
AMENDED AND RESTATED ASANTE WATER DEVELOPMENT AGREEMENT**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, **NexBank**, a Texas state-chartered bank, formerly known NexBank SSB ("**Lender**"), acknowledges, consents and agrees for and on behalf of itself and its successors and assigns, as follows:

1. Lender is the Beneficiary under that certain Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (Arizona), dated June 25, 2009, recorded on June 26, 2009, at *Instrument No. 2009-0589313*, and re-recorded on August 31, 2009, at *Instrument No. 2009-0812784* in the official records of Maricopa County, Arizona (the "**Deed of Trust**"), which constitutes a lien on the property legally described in such Deed of Trust.

2. Lender consents to and approves the Amended and Restated Asante Water Development Agreement entered into between the **City of Surprise**, an Arizona municipal corporation, **LCD Asante, LLC**, a Delaware limited liability company, and **HE Capital Asante, LLC**, a Delaware limited liability company, to which this document is attached (the "**2020 Amendment**") amending and restating that certain Arsenic Treatment Development Agreement, dated February 28, 2008, between the City of Surprise and Asante LH, LLC, a Delaware limited liability company, recorded on April 1, 2008, at *Instrument No. 2008-0287165* in the official records of Maricopa County, Arizona, as amended by that certain First Amendment to Asante Arsenic Treatment Development Agreement, dated August 6, 2006, recorded on August 12, 2008, at *Instrument No. 2008-0701139*, and by that certain Second Amendment to Asante Arsenic Treatment Development Agreement, dated November 12, 2009, among the City of Surprise, LCD Asante LLC, and HE Capital Asante LLC recorded on November 23, 2009, at *Instrument No. 2009-1077305* (collectively, with the 2020 Amendment, the "**Development Agreement**"), and agrees that Lender's lien and all rights it may have with respect to the property described in the Deed of Trust are and remain subject and subordinate to the Development Agreement; provided, however, that this consent and approval shall not constitute (i) a subordination of the lien of the Deed of Trust to any lien or charge created or arising pursuant to the terms of the Development Agreement or (ii) a waiver or relinquishment of any of the undersigned Lender's rights or remedies under the terms and provisions of the Deed of Trust.

Dated as of _____, 2020.

SIGNATURE PAGE FOLLOWS

NEXBANK, a Texas state-chartered bank

By _____

Its _____

STATE OF TEXAS)
) ss.
County of Dallas)

 The foregoing instrument was acknowledged before me this _____ day of
_____, 2020, by _____ the _____
_____ of NEXBANK, on behalf of the thereof.

Notary Public

My Commission Expires:

EXHIBIT "A"

Legal Description of City's DO WSF

**LEGAL DESCRIPTION
FOR
WATER TREATMENT FACILITY**

THAT PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA AND ALSO BEING PART OF THE BAER PARCEL MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 8, M.C.R. BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 1;
THENCE SOUTH 47°10'41" EAST, ALONG THE WEST LINE OF SAID MAP OF DEDICATION, A DISTANCE OF 94.97 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING SOUTH 47°10'41" EAST, ALONG SAID WEST LINE, A DISTANCE OF 638.69 FEET;
THENCE DEPARTING SAID WEST LINE, NORTH 42°49'19" EAST, A DISTANCE OF 572.09 FEET;
THENCE NORTH 00°21'58" WEST, A DISTANCE OF 20.00 FEET TO A POINT ON A LONE WHICH IS PARALLEL WITH AND 65.00 FEET SOUTHERLY, AS MEASURED AT RIGHT ANGLES FROM THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1;
THENCE SOUTH 89°38'02 WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 857.22 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 191,269 SQUARE FEET OR 4.39 ACRES MORE OR LESS.

EXHIBIT "A-1"

Graphic Depiction of City's DO WSF

See Following Page

EXHIBIT "B"

Legal Description of Asante Water Facility Parcel

See Following Pages

(Asante North Phase 1 Water Campus)

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, BEING A 1 INCH IRON PIPE, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 1, BEING A 3/4 INCH IRON PIPE, BEARS SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, A DISTANCE OF 2,226.42 FEET;

THENCE SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, ALONG SAID LINE, A DISTANCE OF 100.00 FEET, TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 89 DEGREES 37 MINUTES 54 SECONDS EAST, A DISTANCE OF 107.38 FEET TO THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 389.05 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, DEPARTING THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 579.16 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 1;

THENCE NORTH 00 DEGREES 46 MINUTES 43 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 688.62 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED.

(Asante Phase 3 Water Campus)

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, BEING A 1 INCH IRON PIPE, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 1, BEING A 3/4 INCH IRON PIPE, BEARS SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, A DISTANCE OF 2,226.42 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 535.26 FEET, TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, CONTINUING ALONG SAID LINE, A DISTANCE OF 441.71 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, DEPARTING THE SOUTHWESTERN BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORD OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 333.98 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 28.99 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 112.00 FEET;

THENCE SOUTH 80 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 56.50 FEET;

THENCE NORTH 71 DEGREES 58 MINUTES 39 SECONDS WEST, A DISTANCE OF 42.31 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 58.17 FEET;

THENCE NORTH 23 DEGREES 27 MINUTES 34 SECONDS WEST, A DISTANCE OF 44.67 FEET;

THENCE NORTH 01 DEGREES 13 MINUTES 39 SECONDS WEST, A DISTANCE OF 37.10 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 192.54 FEET;

THENCE NORTH 89 DEGREES 37 MINUTES 36 SECONDS WEST, A DISTANCE OF 110.43 FEET;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 541.03 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

EXHIBIT “B-1”

Site Plan Depiction of Asante Water Facility Parcel

See Following Page

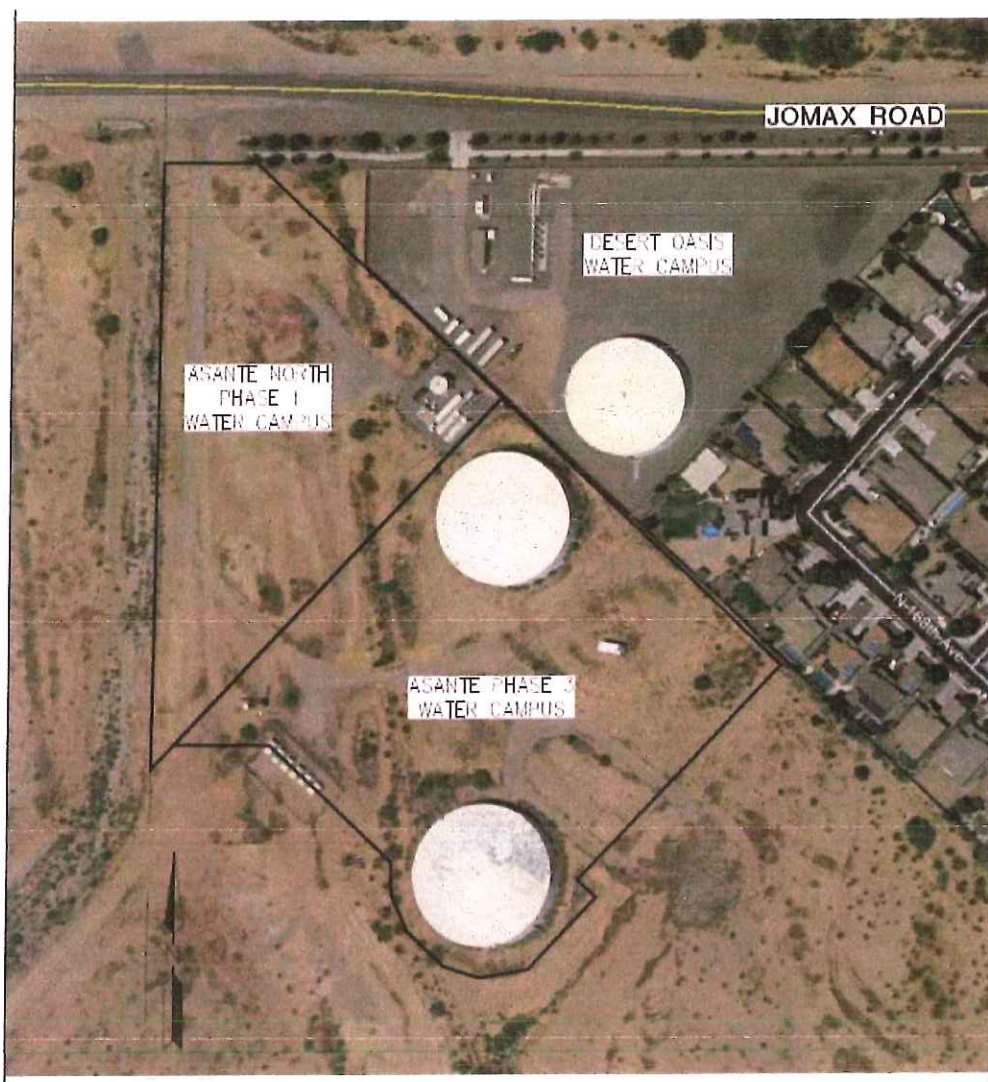


EXHIBIT "C"

Copy of Re-Recorded Memorandum of 2019 Arsenic JDA

See Following Pages

1597775097341-50-1-1--
lopezr

When Recorded, Mail To:

Azim Q. Hameed
Sherman & Howard L.L.C.
7033 E. Greenway Parkway, Suite 250
Scottsdale, AZ 85254

RE-RECORDING COVER SHEET

CAPTION HEADING:

MEMORANDUM OF JOINT DEVELOPMENT, COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT

This Re-Recording Cover Sheet is attached to a certified copy of the **Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement**, dated July 1, 2019, recorded in the office of the County Recorder of Maricopa County, Arizona, on July 2, 2019, at Instrument No. 2019-0502986.

THIS DOCUMENT IS BEING RE-RECORDED FOR THE SOLE PURPOSE OF CORRECTING THE LEGAL DESCRIPTION IN EXHIBIT "A" OF THE DOCUMENT.

The incorrect legal description of the Asante Property was erroneously attached as **Exhibit "A"** to the Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement. Therefore, **Exhibit "A"** of the Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement has been corrected by striking through the incorrect pages of such **Exhibit "A"** which strike-outs evidence their deletion from **Exhibit "A"** of the Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement. The incorrect pages of **Exhibit "A"** hereby deleted are MCR page numbers 26 through 43 of the certified copy of the Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement.

**DO NOT REMOVE THIS PAGE FROM THE ORIGINAL DOCUMENT.
THIS COVER SHEET IS PART OF THE ORIGINAL DOCUMENT REFERENCED IN
THE CAPTION HEADING ABOVE.**

20200757396

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190502986 07/02/2019 10:56
ELECTRONIC RECORDING

3955808-48-1-1--
Yorkm

When Recorded, Return to:

Gammage & Burnham, P.L.C.
Attn: Thomas J. McDonald
2 N. Central Avenue, 15th Floor
Phoenix, AZ 85004

North American Title

21800-18-04365

MEMORANDUM OF JOINT DEVELOPMENT, COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT

DATE: *JULY*
June 1, 2019

PARTIES: LCD ASANTE, LLC, a Delaware limited liability company
("LCD Asante")

METRO OASIS, LLLP, an Arizona limited liability limited partnership
("Metro Oasis")

FULTON HOMES CORPORATION, an Arizona corporation ("Fulton")

ESCROW AGENT: NORTH AMERICAN TITLE COMPANY, an Arizona corporation ("Escrow
Agent"), as escrow agent under Escrow No. 21800-18-04365

RECITALS:

A. LCD Asante owns that certain real property situated in the City of Surprise, (the
"City"), and described on Exhibit "A" attached hereto and by reference incorporated herein
("Asante Property").

B. Metro Oasis owns that certain real property situated in the City and described on
Exhibit "B" attached hereto and by reference incorporated herein ("Sunrise Ranch
Property").

C. Fulton owns that certain real property situated in the City and described on
Exhibit "C" and Exhibit "D" attached hereto and by reference incorporated herein ("Verdugo
Property" and "Altamira Property" respectively and, together with the Asante Property, and
the Sunrise Ranch Property, the "Properties").

D. The parties hereto have entered into that certain Joint Development, Cost
Sharing, Reimbursement and Escrow Agreement, dated June __, 2019 (the "Joint
Development Agreement"), wherein the parties have set forth their rights and obligations with
respect to, among other things, the duty of the Construction Manager (as defined in the Joint
Development Agreement) to manage the planning and construction of certain improvements
that will benefit the Property as a whole and the duty of Owners within the Property to share the
cost of the construction.

3969.63.1121087.9

MCR 1 of 49

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?rid=240425> [20190502986] 49 Pages

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NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purposes set forth in the foregoing recitals which are incorporated herein and acknowledged to be true and correct, the parties hereby give notice of their rights and responsibilities under the Joint Development, Cost Sharing, Reimbursement and Escrow Agreement by recordation of this Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement (the "Memorandum") in the office of the County Recorder of Maricopa County, Arizona.

LCD Asante, Metro Oasis, Fulton, and Escrow Agent are in possession of a copy of the Joint Development Agreement. Their addresses for notices follow:

If to LCD Asante:

c/o Lennar Arizona, Inc.
Attention: Alan M. Jones and Jeff Gunderson
1665 W. Alameda Dr., Suite 130
Tempe, Arizona 85282-3200
Fax No.: (480) 897-2974

If to Metro Oasis:

Metro Oasis, LLLP
17700 N. Pacesetter Way, Suite 100
Scottsdale, AZ 85255
Attention: Tim Brislin
Facsimile: 480-348-8976

If to Fulton:

Fulton Homes Corporation
9140 S. Kyrene Road, Suite 202
Tempe, Arizona 85284
Attention: Norman L. Nicholls
Facsimile: 480-753-5554

If to Escrow Agent:

North American Title Company
3200 East Camelback Road, Suite 200
Phoenix, Arizona 85018
Attn: Sally Hevier and Kim Peru
Fax No.: (866) 488-1907

The parties hereto hereby agree to execute, acknowledge and record a release of this Memorandum upon the full satisfaction by Owners of their duties and obligations under the Joint Development Agreement with respect to the payment of Project Costs but the Joint Development Agreement and the other rights and obligations to be performed under the Joint Development Agreement after the payment of Project Costs shall continue in effect among the Parties notwithstanding that the Property has been released from the Memorandum. Notwithstanding anything to the contrary, in all events the Joint Development Agreement, this Memorandum shall be deemed automatically released as to a lot established by a recorded subdivision plat, without the need for any further action, upon the issuance of a certificate of

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occupancy with respect to the residential dwelling unit constructed on such lot and the conveyance of such lot to a retail purchaser. Any title insurer may rely on this paragraph when issuing any commitment to insure or when issuing a title insurance policy in connection with the retail sale of any such single-family lot within the Property to a retail purchaser and, accordingly, not show the Joint Development Agreement or this Memorandum as an exception to title.

No engineer, contractor, subcontractor, supplier, vendor, lender, lienholder or other person or entity that is not an express party to the Joint Development Agreement is intended to be a third party beneficiary of the Joint Development Agreement or this Memorandum.

Any term not expressly defined in this Memorandum shall have the definition contained in the Joint Development Agreement. This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and each such counterpart shall, when combined with all other such counterparts, constitute one agreement binding on the parties hereto. Any party hereto or North American Title Company, as Escrow Agent, may, for purposes of recording a single document with all signature and notary pages attached, remove the signature and notary pages from duplicate counterpart copies hereof and attach said pages to the counterpart copy hereof signed by another party. All of the provisions of the Joint Development Agreement and this Memorandum constitute covenants running with the land.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date set forth above.

SIGNATURE PAGES FOLLOW:

[http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425\[20190502986\]](http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425[20190502986]) 49 Pages

20200757396

20190502986

**SIGNATURE PAGE TO MEMORANDUM OF JOINT DEVELOPMENT,
COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement as of the date set forth above.

LCD ASANTE:

LCD ASANTE, LLC, a Delaware limited liability company

By: Lennar Communities Development, Inc.,
a Delaware corporation, its Member

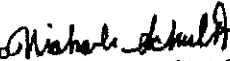
By: 
Name: Jeff Gunderson
Its: Vice President

STATE OF ARIZONA

County of Maricopa

} ss.

This Instrument was acknowledged before me this 24th day of JUNE, 2019 by JEFF GUNDERSON, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity; and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Notary Public 
My Commission Expires: MARCH 23, 2020



<http://recorder.maricopa.gov/recdoddata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

**SIGNATURE PAGE TO MEMORANDUM OF JOINT DEVELOPMENT,
COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement as of the date set forth above.

METRO OASIS:

METRO OASIS, LLLP, an Arizona limited liability limited partnership

By: Desert Oasis Ventures, LLLP, an Arizona limited liability partnership, its General Partner

By: Harvard Ventures, Inc., a Nevada corporation, its General Partner

By: [Signature]

Name: Timothy P. Brislin

Its: Vice President

STATE OF ARIZONA

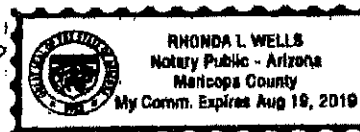
County of Maricopa

) ss.

This instrument was acknowledged before me this 1st day of July, 2019 by Timothy P. Brislin, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity; and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Notary Public

My Commission Expires: 8-19-19



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5

MCR 5 of 49

http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425 [20190502986] 49 Pages

20200757396

20190502986

**SIGNATURE PAGE TO MEMORANDUM OF JOINT DEVELOPMENT,
COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Joint Development, Cost Sharing, Reimbursement and escrow agreement as of the date set forth above.

METRO OASIS:

METRO OASIS, LLLP, an Arizona limited liability limited partners

By: Desert Oasis Ventures, LLLP, an Arizona limited liability partnership, its General Partner

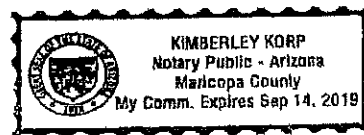
By: Harvard Ventures, Inc., a Nevada corporation, its General Partner

By: [Signature]
Name: Katherine L. Astron
Its: Treasurer

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this 1st day of July, 2019 by Katherine L. Astron, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity; and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Notary Public [Signature]
My Commission Expires: 9/14/2019



Second Signature Page for
Metro Oasis, LLLP

5 A

MCR 6 of 49

<http://recorder.maricopa.gov/recododata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

**SIGNATURE PAGE TO MEMORANDUM OF JOINT DEVELOPMENT,
COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement as of the date set forth above.

FULTON:

**FULTON HOMES CORPORATION, an
Arizona corporation**

By: *Norman Lee Nichols*

Name: NORMAN NICHOLS

Its: PRESIDENT

STATE OF ARIZONA

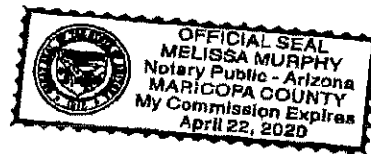
} ss.

County of Maricopa

This instrument was acknowledged before me this 18th day of June, 2019 by Norm Lee Nichols personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity; and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Notary Public

My Commission Expires: 4-22-2020



<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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20190502986

**SIGNATURE PAGE TO MEMORANDUM OF JOINT DEVELOPMENT,
COST SHARING, REIMBURSEMENT AND ESCROW AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Joint Development, Cost Sharing, Reimbursement and Escrow Agreement as of the date set forth above.

ESCROW AGENT:

NORTH AMERICAN TITLE COMPANY, an
Arizona corporation

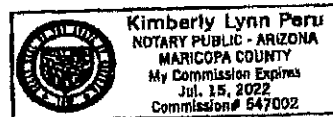
By: Sally S. Hevier
Name: SALLY S. HEVIER
Its: BRANCH MANAGER

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this 2nd day of July, 2019 by Sally S. Hevier personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity; and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Notary Public
My Commission Expires:

K.P.
7/15/2022



<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

EXHIBIT "A"

Legal Description of the Asante Property

[see attached]

<http://recorder.maricopa.gov/recdata/verifycert.aspx?rid=240425> [20190502986] 49 Pages

3969.63.1121087.9

8

MCR 9 of 49

20200757396

20190502986

Parcel No. 1 (Asante North Phase 2)

**LEGAL DESCRIPTION
ASANTE NORTH - PHASE 2 (A.K.A. PARCEL A) LESS PARCEL 63**

A PARCEL OF LAND LOCATED WITHIN SECTIONS 2, 3 AND 11, TOWNSHIP 4 NORTH, RANGE 2 WEST, AND WITHIN THE SOUTH HALF OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A REFERENCE MONUMENT FOR THE SOUTHWEST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP FLUSH, FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP FLUSH, BEARS NORTH 01 DEGREES 53 MINUTES 43 SECONDS EAST, A DISTANCE OF 4783.13 FEET;

THENCE NORTH 01 DEGREES 53 MINUTES 43 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 625.76 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE NORTH 48 DEGREES 13 MINUTES 34 SECONDS WEST, DEPARTING SAID LINE AND ALONG THE NORTH RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY, A DISTANCE OF 7,524.11 FEET;

THENCE NORTH 43 DEGREES 54 MINUTES 32 SECONDS EAST, DEPARTING SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 170.46 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1,420.00 FEET;

THENCE EASTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90 DEGREES 27 MINUTES 40 SECONDS, A DISTANCE OF 2,241.96 FEET;

THENCE SOUTH 45 DEGREES 37 MINUTES 49 SECONDS EAST, A DISTANCE OF 2,372.44 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1,900.00 FEET;

THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 32 DEGREES 12 MINUTES 28 SECONDS, A DISTANCE OF 1,068.05 FEET;

THENCE SOUTH 12 DEGREES 09 MINUTES 44 SECONDS WEST, A DISTANCE OF 200.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, THE RADIUS OF WHICH BEARS NORTH 12 DEGREES 09 MINUTES 44 SECONDS EAST, A DISTANCE OF 2,100.00 FEET;

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20190502986

THENCE EASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 22 DEGREES 59 MINUTES 11 SECONDS, A DISTANCE OF 842.49 FEET;

THENCE NORTH 79 DEGREES 10 MINUTES 33 SECONDS EAST, A DISTANCE OF 56.66 FEET;

THENCE SOUTH 55 DEGREES 49 MINUTES 27 SECONDS EAST, A DISTANCE OF 42.43 FEET;

THENCE SOUTH 10 DEGREES 49 MINUTES 27 SECONDS EAST, A DISTANCE OF 128.24 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1,518.00 FEET;

THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 69 DEGREES 14 MINUTES 56 SECONDS, A DISTANCE OF 1,834.69 FEET;

THENCE SOUTH 80 DEGREES 04 MINUTES 23 SECONDS EAST, A DISTANCE OF 488.17 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1,382.00 FEET;

THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 33 DEGREES 35 MINUTES 44 SECONDS, A DISTANCE OF 810.34 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 511.74 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 2,709.63 FEET TO THE NORTH RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY;

THENCE NORTH 46 DEGREES 13 MINUTES 34 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 1,611.67 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

EXCEPT ALL COAL AND OTHER MINERALS AS RESERVED IN THE PATENTS RECORDED IN DOCKET 758, PAGE 542 AND BOOK 314 OF DEEDS, PAGE 213.

AND ALSO EXCEPTING:

A PARCEL OF LAND LOCATED WITHIN THE SOUTH HALF OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 2 WEST, AND WITHIN THE NORTH HALF OF SECTION 3, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 34, BEING A GLO BRASS CAP FLUSH, FROM WHICH THE SOUTHWEST CORNER OF SECTION 34, BEING A MARICOPA COUNTY BRASS CAP IN A HANDHOLE WITH LAND SURVEYOR NUMBER

http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425120190502986149 Pages

20200757396

20190502986

25070, BEARS SOUTH 89 DEGREES 43 MINUTES 03 SECONDS WEST, A DISTANCE OF 2,689.07 FEET;

THENCE SOUTH 89 DEGREES 42 MINUTES 25 SECONDS EAST, A DISTANCE OF 16.37 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED, SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY, OF WHICH THE RADIUS POINT BEARS SOUTH 69 DEGREES 01 MINUTES 39 SECONDS EAST, A DISTANCE OF 770.00 FEET;

THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 46 DEGREES 31 MINUTES 04 SECONDS, A DISTANCE OF 625.16 FEET;

THENCE SOUTH 43 DEGREES 46 MINUTES 26 SECONDS WEST, A DISTANCE OF 249.82 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE ATCHISON, TOPEKA & SANTA FE RAILWAY PER NOD-55917&55918, RECORDS OF MARICOPA COUNTY;

THENCE NORTH 46 DEGREES 13 MINUTES 34 SECONDS WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2,433.30 FEET;

THENCE NORTH 43 DEGREES 54 MINUTES 32 SECONDS EAST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 169.99 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1,220.00 FEET;

THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90 DEGREES 27 MINUTES 40 SECONDS, A DISTANCE OF 1,926.19 FEET;

THENCE SOUTH 45 DEGREES 37 MINUTES 49 SECONDS EAST, A DISTANCE OF 672.18 FEET;

THENCE SOUTH 00 DEGREES 55 MINUTES 41 SECONDS EAST, A DISTANCE OF 42.65 FEET;

THENCE SOUTH 43 DEGREES 46 MINUTES 26 SECONDS WEST, A DISTANCE OF 379.75 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 770.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 22 DEGREES 48 MINUTES 05 SECONDS, A DISTANCE OF 306.43 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 2 (Asante North Phase 2 Wastewater Treatment Plant Property;
aka Asante North Phase 2 Parcel B)

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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3

MCR 12 of 49

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

BEGINNING AT THE NORTHWEST CORNER OF SECTION 28, BEING A BRASS CAP FLUSH, FROM WHICH THE NORTHEAST CORNER OF SAID SECTION 28, BEING A GLO BRASS CAP, BEARS SOUTH 89 DEGREES 14 MINUTES 38 SECONDS EAST, A DISTANCE OF 5,281.73 FEET;

THENCE SOUTH 89 DEGREES 14 MINUTES 38 SECONDS EAST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 28, A DISTANCE OF 2,457.12 FEET TO AN ALUMINUM CAP;

THENCE SOUTH 00 DEGREES 20 MINUTES 41 SECONDS WEST, DEPARTING SAID NORTH LINE, A DISTANCE OF 262.20 FEET TO A FOUND ALUMINUM CAP;

THENCE SOUTH 64 DEGREES 39 MINUTES 37 SECONDS WEST, A DISTANCE OF 2,736.04 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 28 AND AN ALUMINUM CAP;

THENCE NORTH 00 DEGREES 40 MINUTES 59 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 1,465.70 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 3 (Asante Phase 2)

**LEGAL DESCRIPTION
FOR
ASANTE PHASE TWO**

PARCEL 1

A PARCEL OF LAND LOCATED WITHIN THE SOUTH HALF OF SECTION 2, AND WITHIN THE NORTH HALF AND THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A REFERENCE MONUMENT FOR THE SOUTHWEST CORNER OF SECTION 2, BEING AN ALUMINUM CAP, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION, BEING AN ALUMINUM CAP, BEARS SOUTH 88 DEGREES 58 MINUTES 47 SECONDS EAST 5,358.04 FEET;

THENCE SOUTH 88 DEGREES 58 MINUTES 47 SECONDS EAST, A DISTANCE OF 1,622.21 FEET, TO A POINT ON A LINE COMMON TO THE PROPERTIES DESCRIBED IN DEED #2007-1325043 AND #2008-0061743, RECORDS OF MARICOPA COUNTY, ARIZONA AND THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST ALONG SAID LINE, A DISTANCE OF 2,074.81 FEET TO THE SOUTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425 [20190502986] 49 Pages

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4

MCR 13 of 49

20200757396

20190502986

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 5 COURSES; SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 144.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2,267.50 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18 DEGREES 43 MINUTES 45 SECONDS, A DISTANCE OF 741.21 FEET;

THENCE SOUTH 65 DEGREES 12 MINUTES 24 SECONDS EAST, A DISTANCE OF 350.58 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2,132.50 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 18 DEGREES 43 MINUTES 45 SECONDS, A DISTANCE OF 697.08 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 6.17 FEET;

THENCE SOUTH 01 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 42.43 FEET TO THE WESTERN RIGHT OF WAY OF WEST ASANTE BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 4 COURSES; SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 784.54 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 635.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 55 DEGREES 53 MINUTES 11 SECONDS, A DISTANCE OF 619.38 FEET;

THENCE SOUTH 12 DEGREES 21 MINUTES 51 SECONDS EAST, A DISTANCE OF 489.04 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88 DEGREES 58 MINUTES 58 SECONDS, A DISTANCE OF 23.30 FEET TO THE NORTHERN RIGHT OF WAY OF CAPITAL REEF ROAD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 4 COURSES; SOUTH 76 DEGREES 37 MINUTES 07 SECONDS WEST, A DISTANCE OF 345.66 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 53 DEGREES 58 MINUTES 05 SECONDS, A DISTANCE OF 14.13

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 70.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 24 DEGREES 16 MINUTES 40 SECONDS, A DISTANCE OF 29.66 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 66 DEGREES 30 MINUTES 13 SECONDS, A DISTANCE OF 17.41 FEET TO THE NORTHERN RIGHT OF WAY OF CABRIN ROAD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA AND THE BEGINNING OF A COMPOUND CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 375.00 FEET;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 3 COURSES; NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 11 DEGREES 32 MINUTES 24 SECONDS, A DISTANCE OF 75.53 FEET;

THENCE NORTH 85 DEGREES 38 MINUTES 51 SECONDS WEST, A DISTANCE OF 50.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE EASTERLY, THE RADIUS OF WHICH BEARS SOUTH 85 DEGREES 38 MINUTES 51 SECONDS EAST, A DISTANCE OF 425.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 12 DEGREES 23 MINUTES 19 SECONDS, A DISTANCE OF 91.89 FEET TO THE NORTHERN RIGHT OF WAY OF CAPITAL REEF ROAD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA AND THE BEGINNING OF A REVERSE CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 6 COURSES; SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 58 DEGREES 02 MINUTES 03 SECONDS, A DISTANCE OF 15.19 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 70.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 25 DEGREES 24 MINUTES 18 SECONDS, A DISTANCE OF 31.04 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 57 DEGREES 41 MINUTES 12 SECONDS, A DISTANCE OF 15.10 FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 486.85 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 51 DEGREES 29 MINUTES 38 SECONDS, A DISTANCE OF 437.55 FEET;

<http://recorder.maricopa.gov/reccoddata/verifycert.aspx?id=240425120190502986> 49 Pages

20200757396

20190502986

THENCE NORTH 46 DEGREES 13 MINUTES 34 SECONDS WEST, A DISTANCE OF 328.62 FEET;

THENCE SOUTH 43 DEGREES 46 MINUTES 26 SECONDS WEST, A DISTANCE OF 50.00 FEET TO THE SOUTHERN RIGHT OF WAY OF CAPITAL REEF ROAD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 11 COURSES; SOUTH 46 DEGREES 13 MINUTES 34 SECONDS EAST, A DISTANCE OF 365.33 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 513.15 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 51 DEGREES 43 MINUTES 44 SECONDS, A DISTANCE OF 463.29 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 50 DEGREES 29 MINUTES 27 SECONDS, A DISTANCE OF 13.22 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 70.00 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 27 DEGREES 50 MINUTES 41 SECONDS, A DISTANCE OF 34.02 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 61 DEGREES 55 MINUTES 39 SECONDS, A DISTANCE OF 16.21 FEET;

THENCE NORTH 76 DEGREES 37 MINUTES 07 SECONDS EAST, A DISTANCE OF 50.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE EASTERLY, THE RADIUS OF WHICH BEARS NORTH 76 DEGREES 37 MINUTES 07 SECONDS EAST, A DISTANCE OF 15.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 61 DEGREES 55 MINUTES 39 SECONDS, A DISTANCE OF 16.21 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 70.00 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 25 DEGREES 53 MINUTES 44 SECONDS, A DISTANCE OF 31.64 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 53 DEGREES 58 MINUTES 05 SECONDS, A DISTANCE OF 14.13 FEET;

http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425 [20190502986] 49 Pages

20200757396

20190502986

THENCE NORTH 76 DEGREES 37 MINUTES 07 SECONDS EAST, A DISTANCE OF 345.69 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88 DEGREES 40 MINUTES 03 SECONDS, A DISTANCE OF 23.21 FEET TO THE SOUTHERN RIGHT OF WAY OF WEST ASANTE BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA AND THE BEGINNING OF A REVERSE CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 2,135.00 FEET;

THENCE SOUTHERLY ALONG SAID RIGHT OF WAY AND THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 13 DEGREES 38 MINUTES 13 SECONDS, A DISTANCE OF 508.15 FEET, TO THE WEST LINE OF ASANTE PHASE ONE UNIT 6 AS DESCRIBED IN THE FINAL PLAT RECORDED IN BOOK 888 OF MAPS, PAGE 22, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID LINE THE FOLLOWING 10 COURSES; SOUTH 13 DEGREES 27 MINUTES 06 SECONDS WEST, A DISTANCE OF 185.40 FEET;

THENCE SOUTH 36 DEGREES 35 MINUTES 31 SECONDS WEST, A DISTANCE OF 148.21 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 107.48 FEET;

THENCE SOUTH 37 DEGREES 01 MINUTES 17 SECONDS EAST, A DISTANCE OF 137.39 FEET;

THENCE SOUTH 09 DEGREES 12 MINUTES 02 SECONDS EAST, A DISTANCE OF 141.79 FEET;

THENCE SOUTH 21 DEGREES 59 MINUTES 17 SECONDS WEST, A DISTANCE OF 115.66 FEET;

THENCE SOUTH 00 DEGREES 18 MINUTES 03 SECONDS EAST, A DISTANCE OF 167.79 FEET;

THENCE SOUTH 46 DEGREES 13 MINUTES 34 SECONDS EAST, A DISTANCE OF 118.00 FEET;

THENCE SOUTH 08 DEGREES 23 MINUTES 45 SECONDS EAST, A DISTANCE OF 201.45 FEET;

THENCE SOUTH 01 DEGREES 00 MINUTES 28 SECONDS EAST, A DISTANCE OF 217.68 FEET TO THE WEST LINE OF THE "PARK" PARCEL AS DESCRIBED IN THE SUBDIVISION PLAT FOR ASANTE PHASE ONE RECORDED IN BOOK 938 OF MAPS, PAGE 32, RECORDS OF MARICOPA COUNTY, ARIZONA;

<http://recorder.maricopa.gov/recdocdata/verify/cert.aspx?id=240425> [20190502986] 49 Pages

20200757396

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THENCE SOUTH 43 DEGREES 46 MINUTES 26 SECONDS WEST, ALONG THE WEST LINE OF THE "PARK" PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHERN RIGHT OF WAY OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY;

THENCE NORTH 46 DEGREES 13 MINUTES 34 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 4,155.32 FEET TO A POINT ON A LINE COMMON TO THE PROPERTIES DESCRIBED IN DEED #2007-1325043 AND #2008-0061743, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, ALONG SAID COMMON LINE, A DISTANCE OF 635.33 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

TOGETHER WITH:
PARCEL 2

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 2, AND WITHIN THE EAST HALF OF SECTION 11, AND WITHIN THE WEST HALF OF SECTION 12, TOWNSHIP 4 NORTH,

RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 11, AN ALUMINUM CAP, FROM WHICH A REFERENCE POINT TO THE NORTHWEST CORNER OF SECTION 11, BEING AN ALUMINUM CAP, BEARS NORTH 88 DEGREES 58 MINUTES 47 MINUTES WEST 5,358.04 FEET;

THENCE NORTH 88 DEGREES 58 MINUTES 47 MINUTES WEST, A DISTANCE OF 153.88 FEET, TO THE SOUTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 1,082.82 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2,132.50 FEET;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 23 DEGREES 00 MINUTES 34 SECONDS, A DISTANCE OF 856.39 FEET TO THE WESTERN BOUNDARY OF "TRACT O" AS DESCRIBED IN THE FINAL PLAT FOR ASANTE PHASE ONE UNIT 5, RECORDED IN BOOK 888 OF MAPS, PAGE 20, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID BOUNDARY THE FOLLOWING 3 COURSES; SOUTH 68 DEGREES 31 MINUTES 54 SECONDS WEST, A DISTANCE OF 198.42 FEET;

THENCE SOUTH 61 DEGREES 17 MINUTES 19 SECONDS WEST, A DISTANCE OF 1,017.55 FEET;

http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425 [20190502986] 49 Pages

20200757396

20190502986

THENCE SOUTH 00 DEGREES 42 MINUTES 32 SECONDS WEST, A DISTANCE OF 800.44 FEET, TO THE NORTHERN RIGHT OF WAY OF WEST ASANTE BOULEVARD, AKA "COLLECTOR 'B'" AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, AND THE NORTHERN RIGHT OF WAY OF WEST ASANTE BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 6 COURSES; NORTH 46 DEGREES 24 MINUTES 18 SECONDS WEST, A DISTANCE OF 916.72 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2,085.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 34 DEGREES 02 MINUTES 27 SECONDS, A DISTANCE OF 1,226.87 FEET;

THENCE NORTH 12 DEGREES 21 MINUTES 51 SECONDS WEST, A DISTANCE OF 480.87 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 565.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 55 DEGREES 53 MINUTES 11 SECONDS, A DISTANCE OF 551.10 FEET;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 784.54 FEET;

THENCE NORTH 88 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 42.43 FEET TO THE SOUTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 616.17 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL;

WELL SITE #2

A PARCEL OF LAND LOCATED WITHIN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A REFERENCE MONUMENT FOR THE SOUTHWEST CORNER OF SECTION 2, BEING AN ALUMINUM CAP, FROM WHICH THE SOUTHEAST CORNER OF

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10

MCR 19 of 49

http://recorder.maricopa.gov/recedocdata/verifycert.aspx?id=240425 [20190502986] 49 Pages

20200757396

20190502986

SAID SECTION, BEING AN ALUMINUM CAP, BEARS SOUTH 88 DEGREES 58 MINUTES 47 SECONDS EAST 5,358.04 FEET;

THENCE SOUTH 88 DEGREES 58 MINUTES 47 SECONDS EAST, A DISTANCE OF 1,622.21 FEET, TO A POINT ON A LINE COMMON TO THE PROPERTIES DESCRIBED IN DEED #2007-1325043 AND #2008-0061743, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST ALONG SAID LINE, A DISTANCE OF 2,074.81 FEET TO THE SOUTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED IN THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46 RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 MINUTES EAST, CONTINUING ALONG THE RIGHT OF WAY OF PAT TILLMAN BOULEVARD, A DISTANCE OF 94.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2,267.50 FEET;

THENCE SOUTHEASTERLY, ALONG SAID RIGHT OF WAY AND ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 01 DEGREES 12 MINUTES 08 SECONDS, A DISTANCE OF 47.56 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE SOUTHERLY, DEPARTING THE RIGHT OF WAY OF WEST PAT TILLMAN BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88 DEGREES 59 MINUTES 45 SECONDS, A DISTANCE OF 23.30 FEET;

THENCE SOUTH 41 DEGREES 19 MINUTES 00 SECONDS WEST, A DISTANCE OF 72.06 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 475.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 07 DEGREES 44 MINUTES 17 SECONDS, A DISTANCE OF 64.15 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 157.77 FEET;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 4 (Asante Phase 4 Unit 406)

A PARCEL OF LAND LOCATED WITHIN THE NORTH EAST QUARTER OF SECTION 12, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN,

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MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 12, BEING A BRASS CAP IN A HANDHOLE, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 12, BEING A BRASS CAP IN A HANDHOLE, BEARS SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 2634.20 FEET;

THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION, A DISTANCE OF 1368.92 FEET;

THENCE NORTH 89 DEGREES 14 MINUTES 56 SECONDS WEST, A DISTANCE OF 67.50 FEET, TO THE WEST RIGHT OF WAY OF 163RD AVENUE AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, MARICOPA COUNTY RECORDS AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 909.44 FEET TO A POINT ON THE NORTH LINE OF TRACT C AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 938 OF MAPS, PAGE 32, MARICOPA COUNTY RECORDS;

THENCE DEPARTING THE WEST RIGHT OF WAY OF 163RD AVENUE AND ALONG THE NORTHERN AND WESTERN LINES OF SAID TRACT THE FOLLOWING 4 COURSES NORTH 89 DEGREES 14 MINUTES 56 SECONDS WEST, A DISTANCE OF 150.00 FEET;

THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 150.00 FEET;

THENCE NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 349.50 FEET;

THENCE SOUTH 00 DEGREES 58 MINUTES 23 SECONDS WEST, A DISTANCE OF 150.00 FEET, TO THE NORTH RIGHT OF WAY OF ASANTE BOULEVARD, AKA "COLLECTOR 'B'" AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, MARICOPA COUNTY RECORDS;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 4 COURSES; NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 199.71 FEET;

THENCE SOUTH 88 DEGREES 06 MINUTES 38 SECONDS WEST, A DISTANCE OF 400.50 FEET;

THENCE NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 1,054.26 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 2,035.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 02 DEGREES 41 MINUTES 49 SECONDS, A DISTANCE OF 95.79 FEET;

http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425 [20190502986] 49 Pages

20200757396

20190502986

THENCE NORTH 44 DEGREES 28 MINUTES 22 SECONDS EAST, DEPARTING SAID RIGHT OF WAY, A DISTANCE OF 43.00 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 551.26 FEET;

THENCE NORTH 01 DEGREES 23 MINUTES 23 SECONDS WEST, A DISTANCE OF 70.03 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 113.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 205.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 42 SECONDS, A DISTANCE OF 27.35 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 20.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 42 SECONDS, A DISTANCE OF 2.67 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 382.74 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 1,040.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 03 DEGREES 02 MINUTES 37 SECONDS, A DISTANCE OF 55.25 FEET;

THENCE SOUTH 86 DEGREES 42 MINUTES 34 SECONDS EAST, A DISTANCE OF 80.00 FEET;

THENCE SOUTH 89 DEGREES 45 MINUTES 11 SECONDS EAST, A DISTANCE OF 1,030.89 FEET;

THENCE SOUTH 85 DEGREES 30 MINUTES 48 SECONDS EAST, A DISTANCE OF 338.15 FEET;

THENCE SOUTH 89 DEGREES 45 MINUTES 11 SECONDS EAST, A DISTANCE OF 781.08 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 5 (Lennar Wastewater Treatment Plant Property)

A PARCEL OF LAND LOCATED WITHIN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 18, BEING AN IRON PIPE, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 18, BEING AN IRON PIPE, BEARS NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, A DISTANCE OF 2634.93 FEET;

THENCE NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, ALONG SAID NORTH SECTION LINE, A DISTANCE OF 173.98 FEET TO THE SOUTH LINE OF THE BEARDSLEY CANAL PER BOOK 584 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 56 DEGREES 28 MINUTES 15 SECONDS WEST, DEPARTING SAID NORTH SECTION LINE AND ALONG SOUTH LINE OF SAID PARCEL, A DISTANCE OF 805.45 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 33 DEGREES 33 MINUTES 45 SECONDS EAST, A DISTANCE OF 212.00 FEET;

THENCE SOUTH 58 DEGREES 28 MINUTES 15 SECONDS WEST, A DISTANCE OF 135.48 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, THE RADIUS OF WHICH BEARS SOUTH 33 DEGREES 33 MINUTES 46 SECONDS EAST, A DISTANCE OF 903.54 FEET;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 14 DEGREES 43 MINUTES 10 SECONDS, A DISTANCE OF 232.12 FEET;

THENCE SOUTH 41 DEGREES 43 MINUTES 12 SECONDS WEST, A DISTANCE OF 191.42 FEET;

THENCE SOUTH 39 DEGREES 43 MINUTES 44 SECONDS EAST, A DISTANCE OF 114.09 FEET;

THENCE NORTH 50 DEGREES 18 MINUTES 16 SECONDS EAST, A DISTANCE OF 270.47 FEET;

THENCE SOUTH 39 DEGREES 18 MINUTES 26 SECONDS EAST, A DISTANCE OF 281.46 FEET;

THENCE SOUTH 50 DEGREES 41 MINUTES 34 SECONDS WEST, A DISTANCE OF 514.69 FEET;

THENCE NORTH 00 DEGREES 23 MINUTES 27 SECONDS EAST, A DISTANCE OF 29.33 FEET;

THENCE NORTH 39 DEGREES 18 MINUTES 26 SECONDS WEST, A DISTANCE OF 148.76 FEET;

THENCE NORTH 89 DEGREES 12 MINUTES 33 SECONDS WEST, A DISTANCE OF 524.77 FEET TO THE SOUTH LINE OF THE BEARDSLEY CANAL PER BOOK 584 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA;

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

THENCE NORTH 41 DEGREES 43 MINUTES 12 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 791.78 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, THE RADIUS OF WHICH BEARS SOUTH 48 DEGREES 16 MINUTES 55 SECONDS EAST, A DISTANCE OF 1,115.51 FEET;

THENCE NORTHEASTERLY, CONTINUING ALONG SAID SOUTH LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 14 DEGREES 43 MINUTES 10 SECONDS, A DISTANCE OF 286.58 FEET;

THENCE NORTH 56 DEGREES 26 MINUTES 15 SECONDS EAST, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 135.48 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 6 **(Well Site No. 2)**

A PARCEL OF LAND LOCATED WITHIN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 2, BEING A 5/8 INCH IRON PIPE, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP, BEARS SOUTH 00 DEGREES 46 MINUTES 22 SECONDS WEST, A DISTANCE OF 2619.91 FEET;

THENCE SOUTH 00 DEGREES 46 MINUTES 22 SECONDS EAST, ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2, A DISTANCE OF 1114.12 FEET;

THENCE NORTH 89 DEGREES 13 MINUTES 38 SECONDS WEST, DEPARTING SAID EAST LINE, A DISTANCE OF 2290.70 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF PAT TILLMAN BOULEVARD AS SHOWN IN BOOK 857 OF MAPS, PAGE 17 IN THE OFFICE OF THE MARICOPA COUNTY RECORDER, AND THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 94.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2,267.50 FEET;

THENCE SOUTHEASTERLY, ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 01 DEGREES 12 MINUTES 06 SECONDS, A DISTANCE OF 47.56 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE SOUTHERLY, DEPARTING SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88 DEGREES 59 MINUTES 45 SECONDS, A DISTANCE OF 23.30 FEET;

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?rid=240425> [20190502986] 49 Pages

20200757396

20190502986

THENCE SOUTH 41 DEGREES 19 MINUTES 00 SECONDS WEST, A DISTANCE OF 72.06 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 475.00 FEET;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 07 DEGREES 44 MINUTES 17 SECONDS, A DISTANCE OF 64.15 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 157.77 FEET;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 7 (Well Site No. 3)

Tract K of **ASANTE PHASE ONE UNIT FIVE**, according to the plat recorded in Book 886 of Maps at Page 20 of the records of the County Recorder of Maricopa County, Arizona.

Parcel No. 8 (Well Site No. 4)

Tract E of **A PORTION OF ASANTE PHASE ONE**, according to the plat recorded in Book 936 of Maps at Page 32 of the records of the County Recorder of Maricopa County, Arizona.

[END OF LEGAL DESCRIPTION]

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

EXHIBIT B TO

MEMORANDUM OF JOINT DEVELOPMENT, COST SHARING AND ESCROW AGREEMENT
AND NOTICE OF EASEMENT

LEGAL DESCRIPTION FOR HEC REAL PROPERTY

Parcel No. 1 (Asante North Phase 1, Excluding Water Campus)

LEGAL DESCRIPTION
ASANTE NORTH - PARCEL 1
OVERALL LESS COMM 39, MOD AND WATER CAMPUS

A PARCEL OF LAND LOCATED WITHIN SECTION 2, WITHIN THE NORTHEAST QUARTER OF SECTION 3, AND WITHIN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, AND WITHIN THE SOUTHEAST QUARTER OF SECTION 34, AND WITHIN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 2, BEING A 1 INCH IRON PIPE, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP, BEARS NORTH 00 DEGREES 46 MINUTES 32 SECONDS EAST, A DISTANCE OF 4,846.33 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 535.26 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 4,008.63 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 511.74 FEET, TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1,382.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 33 DEGREES 35 MINUTES 44 SECONDS, A DISTANCE OF 810.34 FEET;

THENCE NORTH 80 DEGREES 04 MINUTES 23 SECONDS WEST, A DISTANCE OF 488.17 FEET, TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1,518.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 69 DEGREES 14 MINUTES 58 SECONDS, A DISTANCE

<http://recorder.maricopa.gov/reco/docdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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20200757396

20190502986

THENCE NORTH 55 DEGREES 49 MINUTES 27 SECONDS WEST, A DISTANCE OF 120.43 FEET;

THENCE NORTH 55 DEGREES 49 MINUTES 27 SECONDS WEST, A DISTANCE OF 42.43 FEET;

THENCE SOUTH 79 DEGREES 10 MINUTES 33 SECONDS WEST, A DISTANCE OF 56.66 FEET, TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 2,100.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 22 DEGREES 59 MINUTES 11 SECONDS, A DISTANCE OF 842.49 FEET;

THENCE NORTH 12 DEGREES 09 MINUTES 44 SECONDS EAST, A DISTANCE OF 200.00 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, WHOSE RADIUS BEARS NORTH 12 DEGREES 09 MINUTES 44 SECONDS EAST, A DISTANCE OF 1,900.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 05 DEGREES 44 MINUTES 16 SECONDS, A DISTANCE OF 190.45 FEET;

THENCE NORTH 15 DEGREES 50 MINUTES 14 SECONDS WEST, A DISTANCE OF 421.07 FEET;

THENCE NORTH 08 DEGREES 04 MINUTES 03 SECONDS EAST, A DISTANCE OF 181.22 FEET;

THENCE NORTH 12 DEGREES 28 MINUTES 18 SECONDS WEST, A DISTANCE OF 401.85 FEET;

THENCE NORTH 38 DEGREES 17 MINUTES 07 SECONDS EAST, A DISTANCE OF 21.51 FEET;

THENCE NORTH 79 DEGREES 10 MINUTES 33 SECONDS EAST, A DISTANCE OF 1,699.91 FEET;

THENCE SOUTH 44 DEGREES 30 MINUTES 32 SECONDS EAST, A DISTANCE OF 580.73 FEET TO A POINT ON THE NORTH LINE OF SECTION 2;

THENCE SOUTH 89 DEGREES 41 MINUTES 53 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 786.16 FEET TO THE SOUTH QUARTER CORNER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 2 WEST;

THENCE SOUTH 89 DEGREES 42 MINUTES 40 SECONDS EAST, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 2,653.20 FEET TO THE SOUTHEAST CORNER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 2 WEST;

<http://recorder.maticopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

474163.1 \xf1j01 \056772-032

20200757396

20190502986

SAID NORTH LINE, A DISTANCE OF 907.37 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

EXCEPTING THEREFROM;

ROADWAY AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 918 OF MAPS, PAGE 8, MARICOPA COUNTY RECORDS;

AND ALSO EXCEPTING;

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 2, BEING AN ALUMINUM CAP FLUSH, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION, BEING AN ALUMINUM CAP FLUSH, BEARS SOUTH 01 DEGREES 53 MINUTES 43 SECONDS WEST, A DISTANCE OF 4783.13 FEET;

THENCE SOUTH 01 DEGREES 53 MINUTES 43 SECONDS WEST, A DISTANCE OF 1,140.35 FEET;

THENCE SOUTH 88 DEGREES 06 MINUTES 17 SECONDS EAST, A DISTANCE OF 244.88 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

THENCE NORTH 34 DEGREES 10 MINUTES 33 SECONDS EAST, A DISTANCE OF 42.43 FEET;

THENCE NORTH 79 DEGREES 10 MINUTES 33 SECONDS EAST, A DISTANCE OF 132.85 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1,550.00 FEET;

THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 27 DEGREES 25 MINUTES 31 SECONDS, A DISTANCE OF 741.92 FEET;

THENCE NORTH 51 DEGREES 45 MINUTES 03 SECONDS EAST, A DISTANCE OF 144.24 FEET;

THENCE SOUTH 21 DEGREES 25 MINUTES 46 SECONDS EAST, A DISTANCE OF 614.47 FEET;

THENCE SOUTH 20 DEGREES 27 MINUTES 08 SECONDS WEST, A DISTANCE OF 398.89 FEET;

THENCE SOUTH 62 DEGREES 19 MINUTES 57 SECONDS WEST, A DISTANCE OF 717.78

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<http://recorder.maricopa.gov/recdocdata/verifycent.aspx?id=240425> [20190502986] 49 Pages

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20190502986

THENCE NORTH 10 DEGREES 49 MINUTES 27 SECONDS WEST, A DISTANCE OF 128.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 33 DEGREES 03 MINUTES 53 SECONDS, A DISTANCE OF 797.54 FEET;

THENCE NORTH 10 DEGREES 49 MINUTES 27 SECONDS WEST, A DISTANCE OF 128.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.

AND FURTHER EXCEPTING;

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, BEING A 1 INCH IRON PIPE, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 1, BEING A 3/4 INCH IRON PIPE, BEARS SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, A DISTANCE OF 2,226.42 FEET;

THENCE SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, ALONG SAID LINE, A DISTANCE OF 100.00 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 89 DEGREES 37 MINUTES 54 SECONDS EAST, A DISTANCE OF 107.38 FEET TO THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 46 DEGREES 25 MINUTES 39 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 389.05 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, DEPARTING THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 579.16 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 1;

THENCE NORTH 00 DEGREES 46 MINUTES 43 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 388.62 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 2 (Asante Phase 3, Excluding Water Campus)

A PARCEL OF LAND LOCATED WITHIN SECTION 1, SECTION 2, AND THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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~~COMMENCING AT THE NORTHEAST CORNER OF SECTION 11, BEING AN IRONING
CAP, FROM WHICH THE EAST QUARTER CORNER OF SECTION 11, BEING A 1 INCH
IRON PIPE, BEARS SOUTH 00 DEGREES 42 MINUTES 32 SECONDS WEST, A DISTANCE
OF 2,644.31 FEET;~~

~~THENCE NORTH 00 DEGREES 46 MINUTES 22 SECONDS EAST, ALONG A LINE
COMMON TO SECTION 1 AND 2, A DISTANCE OF 42.73 FEET, TO THE NORTHERN RIGHT
OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED ON THE MAP OF DEDICATION
RECORDED IN BOOK 885 OF MAPS, PAGE 46, MARICOPA COUNTY RECORDS AND THE
POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;~~

~~THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 9 COURSES; NORTH 46
DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 695.24 FEET;~~

~~THENCE NORTH 01 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 42.43
FEET;~~

~~THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 80.00
FEET;~~

~~THENCE SOUTH 88 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 42.43
FEET;~~

~~THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 1.17
FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A
RADIUS OF 2,267.50 FEET;~~

~~THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH
A CENTRAL ANGLE OF 18 DEGREES 43 MINUTES 45 SECONDS, A DISTANCE OF 741.21
FEET;~~

~~THENCE NORTH 65 DEGREES 12 MINUTES 24 SECONDS WEST, A DISTANCE OF 350.58
FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A
RADIUS OF 2,132.50 FEET;~~

~~THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT
THROUGH A CENTRAL ANGLE OF 18 DEGREES 43 MINUTES 45 SECONDS, A DISTANCE
OF 697.08 FEET;~~

~~THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 144.00
FEET TO A POINT ON A LINE COMMON TO THE PROPERTIES DESCRIBED IN DEED
#2007-1067233, RECORDS OF MARICOPA COUNTY, ARIZONA;~~

~~THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, ALONG SAID LINE, A
DISTANCE OF 3,332.10 FEET;~~

~~THENCE SOUTH 89 DEGREES 37 MINUTES 36 SECONDS EAST, DEPARTING SAID
COMMON LINE, A DISTANCE OF 110.43 FEET;~~

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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THENCE SOUTH 10 DEGREES 13 MINUTES 39 SECONDS EAST, A DISTANCE OF 102.10 FEET;
THENCE SOUTH 01 DEGREES 13 MINUTES 39 SECONDS EAST, A DISTANCE OF 87.10 FEET;
THENCE SOUTH 23 DEGREES 27 MINUTES 34 SECONDS EAST, A DISTANCE OF 44.67 FEET;
THENCE SOUTH 48 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 58.17 FEET;
THENCE SOUTH 71 DEGREES 58 MINUTES 39 SECONDS EAST, A DISTANCE OF 42.31 FEET;
THENCE NORTH 80 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 56.50 FEET;
THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 112.00 FEET;
THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 28.99 FEET;
THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 333.98 FEET TO THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION RECORDED IN BOOK 686 OF MAPS, PAGE 08, MARICOPA COUNTY RECORDS;
THENCE SOUTH 48 DEGREES 28 MINUTES 39 SECONDS EAST ALONG SAID LINE, A DISTANCE OF 3,089.91 FEET TO THE COMMON LINE OF THE PROPERTIES DESCRIBED IN DEEDS #2007-1290568 AND #2007-1286545, RECORDS OF MARICOPA COUNTY, ARIZONA;
THENCE DEPARTING THE SOUTH LINE OF THE MAP OF DEDICATION RECORDED IN BOOK 686 OF MAPS, PAGE 08, MARICOPA COUNTY RECORDS AND ALONG SAID COMMON LINE THE FOLLOWING 23 COURSES, SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 1,059.84 FEET;
THENCE SOUTH 61 DEGREES 41 MINUTES 01 SECONDS WEST, A DISTANCE OF 83.16 FEET;
THENCE SOUTH 28 DEGREES 18 MINUTES 59 SECONDS EAST, A DISTANCE OF 392.76 FEET;
THENCE SOUTH 29 DEGREES 57 MINUTES 11 SECONDS EAST, A DISTANCE OF 70.03 FEET;
THENCE SOUTH 28 DEGREES 18 MINUTES 59 SECONDS EAST, A DISTANCE OF 113.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A

<http://recorder.maricopa.gov/reccoddata/verifycert.aspx?id=240425%20190502986> 49 Pages

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THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 08 DEGREES 00 MINUTES 36 SECONDS, A DISTANCE OF 27.66 FEET;

THENCE SOUTH 28 DEGREES 18 MINUTES 59 SECONDS EAST, A DISTANCE OF 653.67 FEET;

THENCE SOUTH 61 DEGREES 41 MINUTES 01 SECONDS WEST, A DISTANCE OF 230.68 FEET;

THENCE SOUTH 01 DEGREES 54 MINUTES 43 SECONDS WEST, A DISTANCE OF 88.45 FEET;

THENCE NORTH 88 DEGREES 05 MINUTES 17 SECONDS WEST, A DISTANCE OF 970.95 FEET;

THENCE SOUTH 53 DEGREES 32 MINUTES 54 SECONDS WEST, A DISTANCE OF 218.55 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, THE RADIUS OF WHICH BEARS NORTH 53 DEGREES 32 MINUTES 54 SECONDS EAST, A DISTANCE OF 350.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 06 DEGREES 21 MINUTES 44 SECONDS, A DISTANCE OF 38.86 FEET;

THENCE SOUTH 59 DEGREES 54 MINUTES 39 SECONDS WEST, A DISTANCE OF 50.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, THE RADIUS OF WHICH BEARS SOUTH 59 DEGREES 54 MINUTES 39 SECONDS WEST, A DISTANCE OF 15.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90 DEGREES 12 MINUTES 44 SECONDS, A DISTANCE OF 23.62 FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 376.12 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 12 DEGREES 26 MINUTES 10 SECONDS, A DISTANCE OF 81.64 FEET;

THENCE SOUTH 01 DEGREES 15 MINUTES 44 SECONDS WEST, A DISTANCE OF 50.46 FEET;

THENCE SOUTH 42 DEGREES 44 MINUTES 16 SECONDS EAST, A DISTANCE OF 125.00 FEET;

THENCE SOUTH 47 DEGREES 15 MINUTES 44 SECONDS WEST, A DISTANCE OF 462.31 FEET;

THENCE SOUTH 42 DEGREES 44 MINUTES 16 SECONDS EAST, A DISTANCE OF 42.47 FEET;

[http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425\[20190502986\]](http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425[20190502986]) 49 Pages

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THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 92 DEGREES 34 MINUTES 06 SECONDS, A DISTANCE OF 24.23 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, THE RADIUS OF WHICH BEARS SOUTH 47 DEGREES 15 MINUTES 44 SECONDS WEST, A DISTANCE OF 15.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 92 DEGREES 34 MINUTES 06 SECONDS, A DISTANCE OF 24.23 FEET;

THENCE SOUTH 49 DEGREES 49 MINUTES 50 SECONDS WEST, A DISTANCE OF 130.85 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 15.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88 DEGREES 44 MINUTES 41 SECONDS, A DISTANCE OF 23.23 FEET TO THE NORTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46, MARICOPA COUNTY RECORDS AND THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1267.50 FEET;

THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY AND THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 05 DEGREES 03 MINUTES 11 SECONDS, A DISTANCE OF 199.97 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, CONTINUING ALONG SAID RIGHT OF WAY, A DISTANCE OF 118.74 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 3 (Asante North Phase 1 Water Campus)

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, BEING A 1 INCH IRON PIPE, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 1, BEING A 3/4 INCH IRON PIPE, BEARS SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, A DISTANCE OF 228.42 FEET;

THENCE SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, ALONG SAID LINE, A DISTANCE OF 100.00 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 89 DEGREES 37 MINUTES 54 SECONDS EAST, A DISTANCE OF 107.38 FEET TO THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 866 OF MAPS, PAGE 08, RECORDS OF

[http://recorder.maricopa.gov/reccoddata/verifycert.aspx?id=240425\[20190502986\]](http://recorder.maricopa.gov/reccoddata/verifycert.aspx?id=240425[20190502986]) 49 Pages

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~~THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, ALONG GRID LINE, DISTANCE OF 389.05 FEET;~~

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, DEPARTING THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 579.16 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 1;

THENCE NORTH 00 DEGREES 46 MINUTES 43 SECONDS EAST, ALONG SAID LINE, A DISTANCE OF 688.62 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 4 (Asante Phase 3 Water Campus)

A PARCEL OF LAND LOCATED WITHIN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, BEING A 1 INCH IRON PIPE, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 1, BEING A 3/4 INCH IRON PIPE, BEARS SOUTH 00 DEGREES 46 MINUTES 43 SECONDS WEST, A DISTANCE OF 2,226.42 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 535.26 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, CONTINUING ALONG SAID LINE, A DISTANCE OF 441.71 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, DEPARTING THE SOUTHWESTERN BOUNDARY OF THE MAP OF DEDICATION FOR DESERT OASIS OF SURPRISE, RECORDED IN BOOK 666 OF MAPS, PAGE 08, RECORD OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 333.98 FEET;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, A DISTANCE OF 28.99 FEET;

THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 112.00 FEET;

THENCE SOUTH 80 DEGREES 31 MINUTES 21 SECONDS WEST, A DISTANCE OF 56.50 FEET;

~~THENCE NORTH 71 DEGREES 58 MINUTES 30 SECONDS WEST, A DISTANCE OF 42.31 FEET;~~

<http://recorder.maricopa.gov/recdodata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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FEET;

THENCE NORTH 23 DEGREES 27 MINUTES 34 SECONDS WEST, A DISTANCE OF 44.67 FEET;

THENCE NORTH 01 DEGREES 13 MINUTES 39 SECONDS WEST, A DISTANCE OF 37.10 FEET;

THENCE NORTH 46 DEGREES 28 MINUTES 39 SECONDS WEST, A DISTANCE OF 192.54 FEET;

THENCE NORTH 89 DEGREES 37 MINUTES 36 SECONDS WEST, A DISTANCE OF 110.43 FEET;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 541.03 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

Parcel No. 5 (Asante Phase 4 Excluding Unit 406)

A PARCEL OF LAND LOCATED WITHIN THE SOUTH HALF OF SECTION 1 AND WITHIN SECTION 12, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12, BEING A BRASS CAP IN A HANDHOLE, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 12, BEING A BRASS CAP IN A HANDHOLE, BEARS SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 263.20 FEET;

THENCE NORTH 88 DEGREES 55 MINUTES 04 SECONDS WEST, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 12, A DISTANCE OF 67.50 FEET, TO THE WEST RIGHT OF WAY OF 163RD AVENUE AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, MARICOPA COUNTY RECORDS AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 5 COURSES; SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 50.00 FEET;

THENCE SOUTH 44 DEGREES 55 MINUTES 00 SECONDS WEST, A DISTANCE OF 42.30 FEET;

THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 110.00 FEET;

THENCE SOUTH 44 DEGREES 05 MINUTES 00 SECONDS EAST, A DISTANCE OF 42.55 FEET;

THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

474163.1 \xf1j01 \056772-032

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20190502986

MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 52, MARICOPA COUNTY RECORDS;

THENCE DEPARTING THE WEST RIGHT OF WAY OF 163RD AVENUE AND ALONG THE NORTHERN AND WESTERN LINES OF SAID TRACT THE FOLLOWING 4 COURSES NORTH 89 DEGREES 14 MINUTES 58 SECONDS WEST, A DISTANCE OF 150.00 FEET;

THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 150.00 FEET;

THENCE NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 349.50 FEET;

THENCE SOUTH 00 DEGREES 58 MINUTES 23 SECONDS WEST, A DISTANCE OF 150.00 FEET, TO THE NORTH RIGHT OF WAY OF ASANTE BOULEVARD, AKA "COLLECTOR 'B'" AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, MARICOPA COUNTY RECORDS;

THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 6 COURSES; NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 199.71 FEET;

THENCE SOUTH 88 DEGREES 06 MINUTES 38 SECONDS WEST, A DISTANCE OF 400.50 FEET;

THENCE NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 1,054.28 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 2,035.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 13 DEGREES 58 MINUTES 35 SECONDS, A DISTANCE OF 496.41 FEET;

THENCE SOUTH 76 DEGREES 09 MINUTES 47 SECONDS WEST, A DISTANCE OF 883.19 FEET;

THENCE NORTH 58 DEGREES 00 MINUTES 13 SECONDS WEST, A DISTANCE OF 42.43 FEET TO THE NORTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 885 OF MAPS, PAGE 46, MARICOPA COUNTY RECORDS;

THENCE ALONG SAID RIGHT OF WAY, NORTH 13 DEGREES 00 MINUTES 13 SECONDS WEST, A DISTANCE OF 1,139.64 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2,267.50 FEET;

THENCE NORTHWESTERLY CONTINUING ALONG THE NORTHERN RIGHT OF WAY OF PAT TILLMAN BOULEVARD AND ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 28 DEGREES 25 MINUTES 16 SECONDS, A DISTANCE OF 1,124.77 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, THE RADIUS OF WHICH BEARS NORTH 48 DEGREES 34 MINUTES 31

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

474163.1 \xf1j01 \056772-032

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20190502986

THENCE EASTERLY BEARING THE RIGHT OF WAY OF RAY FREEMAN BOULEVARD
AND ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF
70 DEGREES 21 MINUTES 04 SECONDS, A DISTANCE OF 18.42 FEET TO POINT ON A
COMMON LINE OF THE PROPERTIES DESCRIBED IN DEEDS #2007-129056 AND
#2007-1286545, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID COMMON LINE THE FOLLOWING 24 COURSES; NORTHEASTERLY
ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18
DEGREES 23 MINUTES 37 SECONDS, A DISTANCE OF 4.81 FEET,

THENCE NORTH 49 DEGREES 49 MINUTES 50 SECONDS EAST, A DISTANCE OF 130.85
FEET TO THE BEGINNING OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF
15.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A
CENTRAL ANGLE OF 92 DEGREES 34 MINUTES 08 SECONDS, A DISTANCE OF 24.23
FEET;

THENCE NORTH 47 DEGREES 15 MINUTES 44 SECONDS EAST, A DISTANCE OF 50.00
FEET;

THENCE NORTH 42 DEGREES 44 MINUTES 16 SECONDS WEST, A DISTANCE OF 13.17
FEET;

THENCE NORTH 47 DEGREES 15 MINUTES 44 SECONDS EAST, A DISTANCE OF 462.31
FEET;

THENCE NORTH 42 DEGREES 44 MINUTES 16 SECONDS WEST, A DISTANCE OF 125.00
FEET;

THENCE NORTH 47 DEGREES 15 MINUTES 44 SECONDS EAST, A DISTANCE OF 50.46
FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A
RADIUS OF 376.12 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH
A CENTRAL ANGLE OF 12 DEGREES 26 MINUTES 10 SECONDS, A DISTANCE OF 81.64
FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE SOUTHERLY, HAVING A
RADIUS OF 15.00 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A
CENTRAL ANGLE OF 90 DEGREES 12 MINUTES 44 SECONDS, A DISTANCE OF 23.62
FEET;

THENCE NORTH 59 DEGREES 54 MINUTES 39 SECONDS EAST, A DISTANCE OF 50.00
FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY,
THE RADIUS OF WHICH BEARS NORTH 59 DEGREES 54 MINUTES 39 SECONDS EAST, A

[http://recorder.maricopa.gov/recdcddata/verifycert.aspx?id=240425\[20190502986\]](http://recorder.maricopa.gov/recdcddata/verifycert.aspx?id=240425[20190502986]) 49 Pages

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THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 06 DEGREES 21 MINUTES 44 SECONDS, A DISTANCE OF 38.86 FEET;

THENCE NORTH 53 DEGREES 32 MINUTES 54 SECONDS EAST, A DISTANCE OF 218.55 FEET;

THENCE SOUTH 88 DEGREES 05 MINUTES 17 SECONDS EAST, A DISTANCE OF 970.95 FEET;

THENCE NORTH 01 DEGREES 54 MINUTES 43 SECONDS EAST, A DISTANCE OF 88.45 FEET;

THENCE NORTH 61 DEGREES 41 MINUTES 01 SECONDS EAST, A DISTANCE OF 230.68 FEET;

THENCE NORTH 28 DEGREES 18 MINUTES 59 SECONDS WEST, A DISTANCE OF 652.30 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 20.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 07 DEGREES 31 MINUTES 42 SECONDS, A DISTANCE OF 2.87 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 205.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 42 SECONDS, A DISTANCE OF 27.35 FEET;

THENCE NORTH 28 DEGREES 18 MINUTES 59 SECONDS WEST, A DISTANCE OF 113.00 FEET;

THENCE NORTH 29 DEGREES 57 MINUTES 11 SECONDS WEST, A DISTANCE OF 70.03 FEET;

THENCE NORTH 28 DEGREES 18 MINUTES 59 SECONDS WEST, A DISTANCE OF 392.76 FEET;

THENCE NORTH 61 DEGREES 41 MINUTES 01 SECONDS EAST, A DISTANCE OF 83.16 FEET;

THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, A DISTANCE OF 1,059.84 FEET TO THE SOUTHERLY BOUNDARY OF THE MAP OF DEDICATION RECORDED IN BOOK 666 OF MAPS, PAGE 08, MARICOPA COUNTY RECORDS;

THENCE SOUTH 46 DEGREES 28 MINUTES 39 SECONDS EAST, ALONG SAID BOUNDARY, A DISTANCE OF 3,023.40 FEET, TO THE WEST RIGHT OF WAY OF 163RD AVENUE AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 11, MARICOPA COUNTY RECORDS;

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~~THENCE SOUTH 00 DEGREES 47 MINUTES 28 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 62.01 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.~~

EXCEPTING THEREFROM;

A PARCEL OF LAND LOCATED WITHIN THE NORTH EAST QUARTER OF SECTION 12, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

~~COMMENCING AT THE NORTHEAST CORNER OF SECTION 12, BEING A BRASS CAP IN A HANDHOLE, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 12, BEING A BRASS CAP IN A HANDHOLE, BEARS SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 2634.20 FEET;~~

~~THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION, A DISTANCE OF 1368.92 FEET;~~

~~THENCE NORTH 89 DEGREES 14 MINUTES 56 SECONDS WEST, A DISTANCE OF 87.50 FEET, TO THE WEST RIGHT OF WAY OF 163RD AVENUE AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, MARICOPA COUNTY RECORDS AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;~~

~~THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, ALONG SAID RIGHT OF WAY, A DISTANCE OF 909.44 FEET TO A POINT ON THE NORTH LINE OF TRACT C AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 938 OF MAPS, PAGE 32, MARICOPA COUNTY RECORDS;~~

~~THENCE DEPARTING THE WEST RIGHT OF WAY OF 163RD AVENUE AND ALONG THE NORTHERN AND WESTERN LINES OF SAID TRACT THE FOLLOWING 4 COURSES NORTH 89 DEGREES 14 MINUTES 56 SECONDS WEST, A DISTANCE OF 150.00 FEET;~~

~~THENCE SOUTH 00 DEGREES 45 MINUTES 04 SECONDS WEST, A DISTANCE OF 150.00 FEET;~~

~~THENCE NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 349.50 FEET;~~

~~THENCE SOUTH 00 DEGREES 58 MINUTES 23 SECONDS WEST, A DISTANCE OF 150.00 FEET, TO THE NORTH RIGHT OF WAY OF ASANTE BOULEVARD, AKA "COLLECTOR 'B'" AS DESCRIBED ON THE MAP OF DEDICATION RECORDED IN BOOK 857 OF MAPS, PAGE 17, MARICOPA COUNTY RECORDS;~~

~~THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 4 COURSES; NORTH 89 DEGREES 01 MINUTES 37 SECONDS WEST, A DISTANCE OF 199.71 FEET;~~

~~THENCE SOUTH 88 DEGREES 06 MINUTES 38 SECONDS WEST, A DISTANCE OF 400.50~~

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THENCE NORTH 88 DEGREES 07 MINUTES 57 SECONDS WEST, A DISTANCE OF 1,054.26 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 2,035.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 02 DEGREES 41 MINUTES 49 SECONDS, A DISTANCE OF 96.79 FEET;

THENCE NORTH 44 DEGREES 28 MINUTES 22 SECONDS EAST, DEPARTING SAID RIGHT OF WAY, A DISTANCE OF 43.00 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 551.26 FEET;

THENCE NORTH 01 DEGREES 23 MINUTES 23 SECONDS WEST, A DISTANCE OF 70.03 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 113.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 205.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 42 SECONDS, A DISTANCE OF 27.35 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 20.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 07 DEGREES 38 MINUTES 42 SECONDS, A DISTANCE OF 2.87 FEET;

THENCE NORTH 00 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 382.74 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 1,040.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 02 DEGREES 02 MINUTES 37 SECONDS, A DISTANCE OF 55.25 FEET;

THENCE SOUTH 85 DEGREES 42 MINUTES 34 SECONDS EAST, A DISTANCE OF 80.00 FEET;

THENCE SOUTH 89 DEGREES 45 MINUTES 11 SECONDS EAST, A DISTANCE OF 1,030.89 FEET;

THENCE SOUTH 85 DEGREES 30 MINUTES 48 SECONDS EAST, A DISTANCE OF 338.15 FEET;

THENCE SOUTH 89 DEGREES 45 MINUTES 11 SECONDS EAST, A DISTANCE OF 781.08 FEET TO THE BEGINNING OF THE LARGE HEREIN DESCRIBED.

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~~Parcel No. 7 (Asante Phase 1 Unit 106)~~

~~Lots 1 through 71, inclusive, of ASANTE PHASE ONE UNIT 1A, according to the plat recorded in Book 918 of Maps at Page 10 of the records of the County Recorder of Maricopa County, Arizona.~~

~~Parcel No. 7 (Asante Phase 1 Unit 106)~~

~~Lots 1 through 100, inclusive, of ASANTE PHASE ONE UNIT SIX, according to the plat recorded in Book 888 of Maps at Page 22 of the records of the County Recorder of Maricopa County, Arizona.~~

~~Parcel No. 8 (HEC Wastewater Treatment Plant Property)~~

~~A PARCEL OF LAND LOCATED WITHIN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:~~

~~COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 18, BEING AN IRON PIPE, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 18, BEING AN IRON PIPE, BEARS NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, A DISTANCE OF 2634.93 FEET;~~

~~THENCE NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, ALONG SAID NORTH SECTION LINE, A DISTANCE OF 173.98 FEET TO THE SOUTH LINE OF THE BEARDSLEY CANAL PER BOOK 584 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA;~~

~~THENCE SOUTH 56 DEGREES 20 MINUTES 15 SECONDS WEST, DEPARTING SAID NORTH SECTION LINE AND ALONG SOUTH LINE OF SAID PARCEL, A DISTANCE OF 218.18 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;~~

~~THENCE SOUTH 00 DEGREES 22 MINUTES 18 SECONDS WEST, DEPARTING SOUTH LINE OF SAID CANAL PARCEL, A DISTANCE OF 136.94 FEET;~~

~~THENCE SOUTH 50 DEGREES 41 MINUTES 34 SECONDS WEST, A DISTANCE OF 401.09 FEET;~~

~~THENCE SOUTH 39 DEGREES 18 MINUTES 26 SECONDS EAST, A DISTANCE OF 505.62 FEET TO THE NORTH LINE OF THE TRILBY WASH DETENTION BASIN PER BOOK 63 OF MAPS, PAGE 31, RECORDS OF MARICOPA COUNTY, ARIZONA;~~

~~THENCE SOUTH 50 DEGREES 41 MINUTES 34 SECONDS WEST, ALONG THE NORTH LINE OF SAID TRILBY PARCEL, A DISTANCE OF 1,270.23 FEET;~~

~~THENCE NORTH 00 DEGREES 24 MINUTES 22 SECONDS EAST, DEPARTING THE~~

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THENCE NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, A DISTANCE OF 374.73 FEET TO THE SOUTH LINE OF THE BEARDSLEY CANAL PER BOOK 584 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 41 DEGREES 43 MINUTES 12 SECONDS EAST, ALONG SAID SOUTH LINE OF CANAL PARCEL, A DISTANCE OF 791.78 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, THE RADIUS OF WHICH BEARS SOUTH 48 DEGREES 16 MINUTES 55 SECONDS EAST, A DISTANCE OF 1,115.51 FEET;

THENCE NORTHEASTERLY, CONTINUING ALONG SAID SOUTH LINE OF CANAL PARCEL AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 14 DEGREES 43 MINUTES 10 SECONDS, A DISTANCE OF 288.58 FEET;

THENCE NORTH 56 DEGREES 26 MINUTES 15 SECONDS EAST, CONTINUING ALONG SAID SOUTH LINE OF CANAL PARCEL, A DISTANCE OF 722.73 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

EXCEPTING THEREFROM:

A PARCEL OF LAND LOCATED WITHIN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 18, BEING AN IRON PIPE, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 18, BEING AN IRON PIPE, BEARS NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, A DISTANCE OF 2634.93 FEET;

THENCE NORTH 89 DEGREES 14 MINUTES 38 SECONDS WEST, ALONG SAID NORTH SECTION LINE, A DISTANCE OF 173.98 FEET TO THE SOUTH LINE OF THE BEARDSLEY CANAL PER BOOK 584 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE SOUTH 56 DEGREES 26 MINUTES 15 SECONDS WEST, DEPARTING SAID NORTH SECTION LINE AND ALONG SOUTH LINE OF SAID PARCEL, A DISTANCE OF 805.45 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE SOUTH 33 DEGREES 33 MINUTES 45 SECONDS EAST, A DISTANCE OF 212.00 FEET;

THENCE SOUTH 56 DEGREES 26 MINUTES 15 SECONDS WEST, A DISTANCE OF 135.48 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, THE RADIUS OF WHICH BEARS SOUTH 33 DEGREES 33 MINUTES 46 SECONDS EAST, A DISTANCE OF 903.54 FEET;

THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 14 DEGREES 43 MINUTES 10 SECONDS, A DISTANCE OF 232.12 FEET;

<http://recorder.maricopa.gov/recordocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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THENCE SOUTH 47 DEGREES 14 MINUTES 12 SECONDS WEST, A DISTANCE OF 151.78 FEET;

THENCE SOUTH 39 DEGREES 43 MINUTES 44 SECONDS EAST, A DISTANCE OF 114.09 FEET;

THENCE NORTH 50 DEGREES 18 MINUTES 16 SECONDS EAST, A DISTANCE OF 270.47 FEET;

THENCE SOUTH 39 DEGREES 18 MINUTES 26 SECONDS EAST, A DISTANCE OF 281.46 FEET;

THENCE SOUTH 50 DEGREES 41 MINUTES 34 SECONDS WEST, A DISTANCE OF 514.69 FEET;

THENCE NORTH 00 DEGREES 23 MINUTES 27 SECONDS EAST, A DISTANCE OF 29.33 FEET;

THENCE NORTH 39 DEGREES 18 MINUTES 26 SECONDS WEST, A DISTANCE OF 148.76 FEET;

THENCE NORTH 89 DEGREES 12 MINUTES 33 SECONDS WEST, A DISTANCE OF 150.53 FEET;

THENCE NORTH 89 DEGREES 12 MINUTES 33 SECONDS WEST, A DISTANCE OF 374.23 FEET TO THE SOUTH LINE OF THE BEARDSLEY CANAL PER BOOK 584 OF MAPS, PAGE 19, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 41 DEGREES 43 MINUTES 12 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 191.78 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, THE RADIUS OF WHICH BEARS SOUTH 48 DEGREES 18 MINUTES 55 SECONDS EAST, A DISTANCE OF 1,115.51 FEET;

THENCE NORTHEASTERLY, CONTINUING ALONG SAID SOUTH LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 14 DEGREES 43 MINUTES 10 SECONDS, A DISTANCE OF 286.58 FEET;

THENCE NORTH 56 DEGREES 26 MINUTES 15 SECONDS EAST, CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 135.48 FEET TO THE POINT OF BEGINNING OF THE

<http://recorder.maricopa.gov/recdodata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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20190502986

EXHIBIT "B"

Legal Description of the Sunrise Ranch Property

That portion of the Southwest quarter of Section 36, Township 5 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

BEGINNING at the Southwest corner of said Southwest quarter, said point being the TRUE POINT OF BEGINNING;

Thence north 00 degrees 28 minutes 05 seconds West (record) North 00 degrees 04 minutes 08 seconds East (measured) along the West line of said Southwest quarter, a distance of 2477.75 feet (record) 2475.27 feet (measured) to the Northwest corner of said Southwest quarter;

Thence North 89 degrees 56 minutes 06 seconds East (record) South 89 degrees 28 minutes 41 seconds East (measured) along the North line of said Southwest quarter, a distance of 1601.63 feet;

Thence South 33 degrees 22 minutes 26 seconds East, a distance of 1912.10 feet (record) South 32 degrees 52 minutes 12 seconds East 1910.75 feet (measured) to a point on the East line of said Southwest quarter;

Thence South 00 degrees 23 minutes 19 seconds (record) South 00 degrees 07 minutes 45 seconds West (measured) along the East line, a distance of 852.27 feet to the Southeast corner of said Southwest quarter;

Thence South 88 degrees 06 minutes 06 seconds West (record) South 89 degrees 55 minutes 26 seconds West (measured) along the South line of said Southwest quarter, a distance of 2639.15 feet (record) 2639.65 feet (measured) back to the TRUE POINT OF BEGINNING;

EXCEPT all minerals as reserved to the State of Arizona in Deed recorded in Docket 624, Page 452, records of Maricopa County, Arizona.

<http://recorder.maricopa.gov/recdocdata/verifycert.aspx?id=240425> [20190502986] 49 Pages

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20190502986

EXHIBIT "C"

Legal Description of the Verdugo Property

PARCEL I

PARCELS 1 THROUGH 5, INCLUSIVE, OF VERDUGO - MASTER PLAT, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 1362 OF MAPS, PAGE 45, AND INSTRUMENT NO. 20180027559, ON JANUARY 11, 2018.

PARCEL II:

TRACTS A THROUGH G OF VERDUGO - MASTER PLAT, RECORDED AT BOOK 1362 OF MAPS, PAGE 45, AND INSTRUMENT NO. 20180027559, ON JANUARY 11, 2018, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA.

<http://recorder.maricopa.gov/reco/bcd/data/verify/cert.aspx?id=240425> [20190502986] 49 Pages

20200757396

20190502986

EXHIBIT "D"

Legal Description of the Altamira Property

PARCEL 1:

A portion of Section 7, Township 4 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the South quarter corner of said Section 7;

THENCE South 89 degrees 55 minutes 12 seconds East, along the South line of said Section 7, a distance of 533.69 feet to the TRUE POINT OF BEGINNING;

THENCE North 00 degrees 04 minutes 45 seconds East, a distance of 786.42 feet;

THENCE North 00 degrees 27 minutes 21 seconds West, a distance of 36.19 feet;

THENCE North 02 degrees 40 minutes 08 seconds West, a distance of 113.42 feet;

THENCE North 06 degrees 01 minutes 27 seconds West, a distance of 113.42 feet;

THENCE North 09 degrees 49 minutes 48 seconds West, a distance of 143.85 feet to the beginning of a non-tangent curve;

THENCE Westerly along said curve, having a radius of 480.00 feet concave Southerly, whose radius bears South 08 degrees 36 minutes 31 seconds East, through a central angle of 01 degrees 04 minutes 36 seconds, a distance of 9.02 feet;

THENCE North 09 degrees 41 minutes 07 seconds West, a distance of 40.00 feet;

THENCE North 14 degrees 46 minutes 20 seconds West, a distance of 108.76 feet;

THENCE North 17 degrees 57 minutes 09 seconds West, a distance of 105.48 feet;

THENCE North 21 degrees 05 minutes 03 seconds West, a distance of 105.48 feet;

THENCE North 24 degrees 12 minutes 57 seconds West, a distance of 105.48 feet;

THENCE North 27 degrees 20 minutes 51 seconds West, a distance of 105.48 feet;

THENCE North 30 degrees 28 minutes 45 seconds West, a distance of 105.48 feet;

THENCE North 33 degrees 36 minutes 39 seconds West, a distance of 105.48 feet;

THENCE North 36 degrees 44 minutes 33 seconds West, a distance of 106.11 feet;

THENCE North 33 degrees 31 minutes 38 seconds West, a distance of 121.44 feet;

THENCE North 23 degrees 52 minutes 01 seconds West, a distance of 148.00 feet;

THENCE North 08 degrees 11 minutes 01 seconds West, a distance of 151.36 feet;

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THENCE North 00 degrees 01 minutes 29 seconds East, a distance of 60.00 feet;
THENCE North 89 degrees 58 minutes 31 seconds West, a distance of 19.81 feet;
THENCE North 00 degrees 22 minutes 47 seconds West, a distance of 164.41 feet;
THENCE North 44 degrees 49 minutes 14 seconds East, a distance of 56.37 feet to the center of said Section 7;
THENCE South 89 degrees 58 minutes 44 seconds East, a distance of 657.68 feet;
THENCE South 89 degrees 58 minutes 31 seconds East, a distance of 176.82 feet;
THENCE South 89 degrees 59 minutes 00 seconds East, a distance of 151.91 feet;
THENCE South 89 degrees 57 minutes 40 seconds East, a distance of 328.93 feet;
THENCE North 00 degrees 25 minutes 42 seconds West, a distance of 659.44 feet;
THENCE North 00 degrees 21 minutes 05 seconds West, a distance of 659.77 feet;
THENCE South 89 degrees 59 minutes 51 seconds East, a distance of 1313.10 feet to the East line of said Section 7;
THENCE South 00 degrees 28 minutes 27 seconds East, along the East line of said Section 7, a distance of 659.96 feet;
THENCE South 00 degrees 29 minutes 58 seconds East, a distance of 659.57 feet to the East quarter corner of said Section 7;
THENCE South 00 degrees 28 minutes 48 seconds East, along the East line of said Section 7, a distance of 2638.86 feet;
THENCE North 89 degrees 55 minutes 12 seconds West, along the South line of said Section 7, a distance of 2101.30 feet to the TRUE POINT OF BEGINNING.
EXCEPT all oil and gas as reserved to the United States of America, in the patent of said land and subject to the provisions and limitation of the act of June 17, 1914 (39 STAT. 509) and
EXCEPT all the mineral, gas and oil rights as granted in Deed recorded in Recording No. 1983-23170 and in Recording No. 1983-187997.

PARCEL 2:

A portion of the Southwest quarter of Section 7, Township 4 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the southwest corner of said Section 7, from which the South quarter corner bears South 89 degrees 54 minutes 10 Seconds East, a distance of 1893.31 feet;

<http://recorder.maricopa.gov/recdocdata/verifycent.aspx?id=240425> [20190502986] 49 Pages

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20190502986

THENCE along the west line of said southwest quarter, North 00 Degrees 04 minutes 45 seconds East, a distance of 976.17 feet;

THENCE departing said west line, South 89 degrees 55 minutes 15 Seconds East, a distance of 40.00 feet to the east right-of-way of Sarival Road (163rd Avenue) per Docket 10260, page 1332, Maricopa County records, and the POINT OF BEGINNING;

THENCE departing said right-of-way line and continuing, South 89 degrees 55 minutes 15 seconds East, a distance of 95.00 feet;

THENCE South 00 degrees 04 minutes 45 seconds West, a distance of 811.22 feet;

THENCE South 44 degrees 54 minutes 43 seconds East, a distance of 70.72 Feet;

THENCE South 89 degrees 54 minutes 10 seconds East, a distance of 580.00 feet;

THENCE South 00 degrees 04 minutes 45 seconds West, a distance of 75.00 Feet to the north right-of-way line of Pinnacle Peak Road per Docket 10260, page 1332, Maricopa County Records;

THENCE along said right-of-way, North 89 degrees 54 minutes 10 Seconds West, a distance of 725.00 feet to the east right-of-way of Sarival Road;

THENCE departing said north right-of-way and along said east right-of-way, North 00 degrees 04 minutes 45 seconds East to the POINT OF BEGINNING.

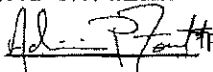
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20190502986
OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES



The foregoing instrument is an
electronically prepared
full, true and correct copy
of the original record in this
office.

Attest: 07/31/2020 09:46:22 AM

By  Recorder

To Verify this purchase visit
<http://recorder.maricopa.gov/recdoodata/verifycert.aspx?id=240425>

EXHIBIT "D"

Site Plan Depicting Addition to the DO Water Facility Parcel

(See Following Page)

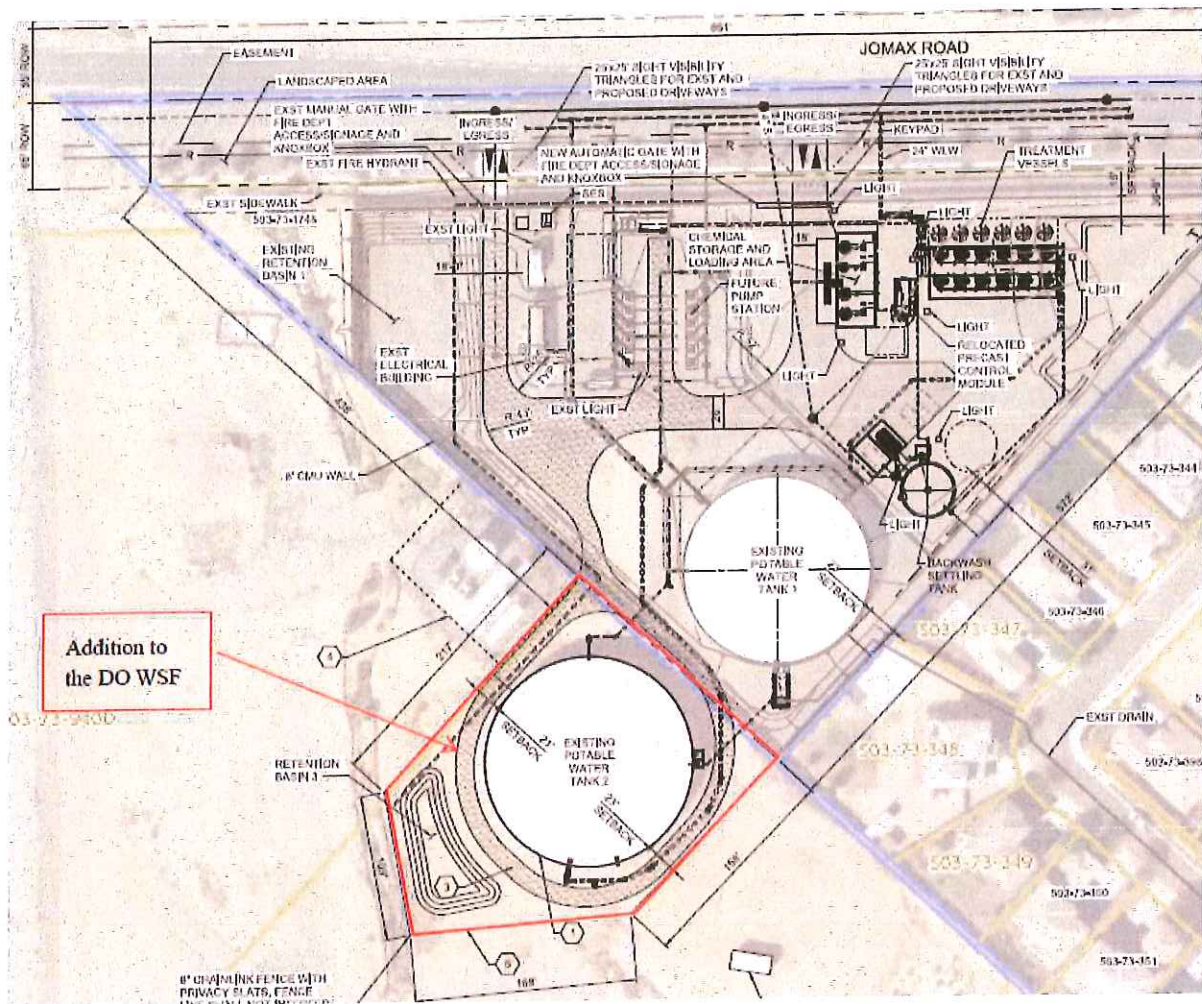


EXHIBIT “E”

Addendum (Regarding Assignment – Restated Agreement)

See Following Pages

**AMENDED AND RESTATED ASANTE ARSENIC TREATMENT
DEVELOPMENT AGREEMENT**

ADDENDUM NO. ____

This Addendum No. ____ (“**Addendum**”) to the Amended And Restated Asante Arsenic Treatment Development Agreement is made and entered into by and between LCD Asante, LLC, a Delaware limited liability company (“**LCD Asante**”) and/or HE Capital Asante, LLC, a Delaware limited liability company (“**HEC Asante**”), or its prior assignee (“**Assignor**”) and Assignee (defined herein) with respect to the Agreement, and, when countersigned below by the City Manager on behalf of the City, it shall become an addendum to the Agreement for all purposes, and shall thereafter be construed to be integrated into such document.

Pursuant to Paragraph 13, the parties hereby approve the following assignment by Assignor to Assignee (defined herein), who has acquired all or a portion of Asante (attach a copy of the title report).

Assignor

“Assignee”:

“Affected Property” (attach a depiction of the property transferred)

Any references to the parties within the Agreement shall now include Assignee, and Assignee shall be entitled to the rights and responsible for the following obligations within the Agreement:

Unless otherwise separately defined in this Addendum, all capitalized terms contained herein shall be given the meaning set forth for such terms in the Agreement. All of the terms, provisions and conditions of the Agreement which are not expressly modified, amended or clarified by this Addendum (or which, in context, must be deemed modified, amended or clarified hereby) shall remain in full force and effect.

This Addendum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document. The parties agree that signatures transmitted by facsimile shall be binding as if they were original signatures.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

Signature Page to Addendum No. ____
to
Amended and Restated Asante Arsenic Treatment Development Agreement

LCD ASANTE, LLC, a Delaware limited liability company

By: Lennar Communities Development, Inc., a Delaware corporation

Its: Manager

By: _____

Name: _____

Its: _____

[and/or]

HE CAPITAL ASANTE, LLC, a Delaware limited liability company

By: _____

Its: _____

By: _____

Name: _____

Its: _____

[Or Prior Assignee from LCD Asante or HEC Asante]

STATE OF _____)

) ss:

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 202__, by
_____, the _____ of _____, a(n)
_____.

Notary Public

My Commission Expires:

ASSIGNEE:

CITY:
CITY OF SURPRISE, an Arizona municipal corporation

Date:

Subscribed and sworn to before me this _____ day of _____, 202__, by

My Commission Expires:

Continued Signature Page To
Amended and Restated Asante Arsenic Treatment Development Agreement

ESCROW AGENT

EMPIRE WEST TITLE AGENCY LLC, an Arizona limited liability company, D/B/A
Thomas Title & Escrow

By: [Signature]

Name: CHADWICK L. CAMPBELL

Its: SENIOR COUNSEL & TRUST OFFICER

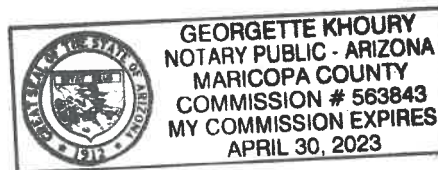
STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 4th day of November,
2020, by Chadwick L. Campbell, the Senior Counsel + Trust Officer
of EMPIRE WEST TITLE AGENCY LLC, an Arizona limited liability company, for and on
behalf of the company.

[Signature]
Notary Public

My Commission expires:

April 30, 2023





CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Lloyd Abrams
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to acceptance of a Bridge Construction and Access Easement, Sewer Line Utility License, and Water Line Utility License from Maricopa Water District at the Beardsley Canal and 147th Avenue.

Motion:

I move to accept the Bridge Construction and Access Easement, Sewer Line Utility License, and Water Line Utility License from Maricopa Water District.

Background:

Rancho Mercado is putting in access across the Beardsley Canal at 147th avenue. In order for the construction to occur, Maricopa Water District requires the Bridge construction and access easement to be dedicated to the City. Along with that, a License is needed to put utilities across the Beardsley Canal. The Water Line Utility License and the Sewer Line Utility will allow the lines to cross the Beardsley Canal to connect at the SPA 2 Waste Water Treatment Facility.

Objective Analysis:

As part of the requirements for the development of Rancho Mercado, a crossing is needed at 147th and the Beardsley Canal. Maricopa Water District will only issue the Licenses and Easement to the City. The Licenses and Easement are needed to further development.

Policy Compliant:

Approval of this item is policy compliant. The Bridge construction and access easement will advance the goals and policies of the Surprise General Plan and the City Council's Strategic Plan.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is currently no budgetary impact related to approval of this item. Future Operation and Maintenance of the site will be incorporated into Public Works.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. Sewer line license
 2. Water line license
 3. Bridge Construction Easement
 4. MWD Bridge and Access Map
-

WHEN RECORDED MAIL TO:

**Maricopa Water District
P.O. Box 900
Waddell, AZ 85355-0900**

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE

**LICENSE TO USE MWD LANDS
MUNICIPAL UTILITY CROSSING OF THE BEARDSLEY CANAL**

**MWD License No. 20-018-84N1WBCM
Project No. 09001944**

Page 1 of 8

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona ("**MWD**") hereby grants and **CITY OF SURPRISE**, a municipal corporation of the State of Arizona ("**Licensee**") hereby accepts a revocable, nonexclusive License to enter upon and use a portion of MWD's lands and property interests described herein, pursuant to the following terms and conditions:

1. Licensed Property

Licensee shall occupy and use, for the purposes stated herein, those lands and property interests of MWD which are described and delineated in **Exhibit "A"**, attached hereto and incorporated herein by reference ("**Licensed Property**").

2. Purpose

Licensee shall use the Licensed Property for the sole purpose of the construction, installation, repair, reconstruction, modification, reinstallation, replacement, relocation, and removal ("**Construction**") and the operation, maintenance, and use of one (1) 21" PVC PS46 Sewer Line in one (1) 32" casing, as described in Water & Sewer Plans For N. 147th Ave – McMicken Way to Happy Valley prepared by Atwell Group Drawing #09001944, dated January 22, 2020, incorporated herein by reference ("**Sewer Line**"). The **Sewer Line** shall include any associated materials, improvements, facilities, fixtures, and appurtenances approved by MWD and placed on the Licensed Property by Licensee, its directors, officers, employees, or agents.

3. Compensation

3.1 Licensee shall pay MWD upon execution of this License, a one-time License Application Fee of **\$12,338.50**. MWD hereby waives any further fees that would otherwise be charged as consideration for the License, rights and privileges granted herein.

3.2 In addition to the fees set forth in Section 3.1 above, Licensee shall pay the total amount of any taxes, assessments, or other charges, if any, imposed or levied on MWD or the Licensed Property, as a result of this License or any activities or payments made under this License, by other governing bodies having jurisdiction.

4. Term

This License shall become effective upon the date of execution by MWD and shall continue in perpetuity, subject to the revocation and/or termination provisions of Section 5.

5. Termination of the License

5.1 Licensee may terminate this License upon not less than thirty (30) days' prior written notice to MWD; provided, however, the provisions of this Section shall survive the revocation and/or termination of this License.

5.2 If Licensee terminates this License, Licensee, at Licensee's discretion and expense, shall either abandon or remove the **Sewer Line** unless the **Sewer Line** are overhead facilities, in which case Licensee, at Licensee's expense, shall remove the **Sewer Line**. In the event of an abandonment, Licensee shall provide MWD, and Blue Stake where applicable, written notice of such abandonment within twenty (20) days following the revocation and/or termination of this License. For the abandonment of the **Sewer Line**, Licensee shall be responsible for properly capping each end of the abandoned **Sewer Line** at the entry and exit points of the Licensed Property. In the event of a removal of the **Sewer Line**, Licensee shall restore the Licensed Property to a condition acceptable to MWD.

5.3 If Licensee fails to comply with the material conditions set forth herein, MWD may, at its election and upon thirty (30) days' written notice of such failure of compliance to Licensee, revoke and/or terminate this License; provided, however, that where such failure to comply cannot reasonably be cured within the thirty (30) days notice period, if Licensee shall proceed promptly to cure the same with due diligence, the time for curing such failure to comply shall be extended for an additional sixty (60) days to complete such curing. If Licensee is nevertheless unable to cure its failure of compliance, Licensee shall remove, at Licensee's expense and within thirty (30) days thereafter, the **Sewer Line** and shall restore the Licensed Property to a condition acceptable to MWD. If Licensee fails to remove the **Sewer Line** within the time specified above, MWD or its authorized agents may remove the **Sewer Line**.

5.4 If MWD removes the **Sewer Line** pursuant to Section 5.3, Licensee shall reimburse MWD for the cost and expense of such removal, as conclusively determined by MWD, within ten (10) calendar days after MWD presents Licensee a statement of such cost and expense. Licensee hereby releases MWD from all claims of damages resulting to Licensee from such removal.

5.5 This License shall terminate and all rights granted hereunder shall revert to MWD in the event Licensee shall fail to commence actual or physical initial construction or installation of the **Sewer Line** provided for herein within two (2) years of the date of this License or in the event Licensee at any time shall abandon the use of the **Sewer Line** on the Licensed Property.

6. Nonexclusive Rights

This License is nonexclusive and no interest whatsoever in the Licensed Property, except as specifically expressed herein, shall pass to Licensee, its directors, officers, employees, or agents. MWD, its successors and assigns, shall retain at all times a prior and superior right of access and use of the Licensed Property to accomplish all of MWD's purposes and nothing in this License shall be construed to deny or lessen the powers and privileges granted MWD by the laws of the State of Arizona. Neither Licensee or its agents shall interfere with the use of the Licensed Property by MWD or the interest of any other individual or entity in the Licensed Property. Nothing herein shall preclude, interfere with, or prohibit MWD, its directors, officers, employees, agents, and licensees from controlling access to, entering upon, being upon, or using the Licensed Property for any purposes whatsoever, or prohibit MWD from permitting another entity to access or use the Licensed Property. MWD shall not be liable to Licensee for any damage to public or private property or installations located upon the Licensed Property.

7. Existing Easements and Licenses

This License is subject to all existing easements, licenses, and matters of record.

8. Insurance

8.1 Without limiting any liabilities or any other obligations of Licensee, Licensee, at Licensee's expense, shall obtain and maintain for the duration of this License, including any subsequent terms thereof, with forms and insurers acceptable to MWD, the minimum insurance coverages as follows:

(i) General Liability Insurance with policy limits of a minimum of two million dollars (\$2,000,000) as to each occurrence for Bodily Injury, Personal Injury and Property Damage and a General Aggregate of two million dollars (\$2,000,000). Such policy or policies shall list MWD, its directors, officers, employees, and agents as additional insureds.

(ii) Worker's Compensation insurance coverage with Employer's Liability insurance limits of not less than the statutory limits for any one occurrence.

(iii) Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of a minimum of two million dollars (\$2,000,000) each occurrence with respect to Licensee's vehicles, whether owned, hired or non-owned, assigned to, or used for any purpose related to this License. Such policy or policies shall list MWD, its directors, officers, employees, and agents as additional insureds. In the event such insurance is not applicable to this License, as conclusively determined by MWD, such insurance requirement may be waived by MWD.

8.2 The policies required by Subsections 8.1 (i) and (iii) hereof shall stipulate that the insurance afforded for MWD, its directors, officers, employees, and agents shall be primary insurance and that any insurance carried by MWD, its directors, officers, employees, or agents shall be excess and not contributory insurance.

8.3 Licensee and its insurers providing the required coverages shall waive all rights of subrogation against MWD and its directors, officers, employees, and agents.

8.4 Upon the full execution of the License and prior to commencing any Construction on the Licensed Property, Licensee shall furnish MWD with Certificates of Insurance as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall provide that not less than thirty (30) days' advance notice of cancellation, revocation, termination, or alteration shall be sent directly to MWD.

8.5 Licensee shall require any contractors or subcontractors to comply with the provisions of Section 8 herein.

8.6 Upon MWD's receipt of satisfactory evidence of Licensee's financial ability to self-insure, Licensee shall have the option to self-insure the minimum limits set forth above in lieu of providing the insurance provided for under Section 8.1 herein.

9. Construction

9.1 Prior to Construction of the **Sewer Line** on the Licensed Property, Licensee shall submit to MWD five (5) copies of a detailed design plan, including the location, design drawings, specifications or calculations ("**Design**"). The Design and Construction of the **Sewer Line** are subject to MWD review and written approval. Notwithstanding the foregoing, MWD's approval of the Design or Construction pursuant to the provisions of this Section does not constitute a determination that such Design and Construction are adequate for Licensee's intended purpose or comply with applicable laws or industry standards.

9.2 The Design shall incorporate applicable MWD standards or specifications, including, but not limited to, burial depths, clearance requirements, and MWD vehicular access provisions. The Design shall prohibit the installation of junction boxes, manholes, landscaping or other obstructions that, in MWD's sole determination, would impede MWD operations and access or cause damage to MWD facilities.

9.3 Licensee's Construction, operation, maintenance, and use of the **Sewer Line** shall be at Licensee's expense and shall not interfere with nor impede MWD's use of MWD existing or future water, power, communications or other facilities, on or adjacent to the Licensed Property. The Construction shall be scheduled and coordinated with MWD as follows:

(i) The Construction shall be scheduled and coordinated with the **MWD Project Engineer at (623/546-8266)**.

(ii) Licensee shall provide MWD with a 48-hour notice prior to commencement of Construction.

9.4 Licensee shall be qualified to perform, or shall contract with qualified parties to perform any Construction work and shall not construct or install any improvements or fixtures, other than those specifically addressed herein, within or upon the Licensed Property. Any Construction and/or modifications to the Licensed Property shall be completed and maintained in conformity with all applicable safety standards, regulations and the like, and specifically in a manner so as to avoid the creation of potentially dangerous conditions and harm to others.

9.5 Licensee shall contact Blue Stake prior to commencing Construction and shall be responsible for the location and probing of any and all utilities, structures and facilities on the Licensed Property, with the exception of any MWD facilities, which will be located by MWD.

9.6 Licensee shall provide adequate dust abatement for the Construction as determined by MWD. Licensee shall not use any form of inorganic material for dust abatement.

9.7 The Licensed Property shall be restored to a condition acceptable to MWD and all debris shall be removed immediately following the completion of any Construction.

9.8 Within thirty (30) days following the completion of any Construction, Licensee shall submit to MWD "as-built" drawings of the **Sewer Line** with specific location dimensions and, as applicable, depths of burial.

9.9 Licensee is not the agent of MWD and has no authority to create a lien against MWD or the Licensed Property for materials or services furnished to Licensee. Licensee shall, immediately following the completion of any Construction and upon receipt of a request by MWD, provide MWD with lien waivers or other releases satisfactory to MWD to ensure that there are no mechanic's or materialmen's liens filed against the License Property.

9.10 Licensee shall pay MWD in accordance with the MWD Fee Schedule and as invoiced by MWD, all charges incurred by MWD to review, inspect and approve Licensee's Design and Construction.

9.11 If any repair, relocation or reconstruction of MWD's existing or future water, power, communication or other facilities, is deemed reasonably necessary by MWD because of the Construction, operation, maintenance or use of the **Sewer Line**, such repair, relocation or reconstruction shall be accomplished by MWD at Licensee's expense.

9.12 If, in MWD's determination, modification or relocation of the **Sewer Line** is necessary to accommodate the operational needs or plans of MWD, including, but not limited to, any major repair, modification, construction, or reconstruction of MWD's existing or future water, power, communication or other facilities, Licensee, at Licensee's expense, shall promptly modify or relocate the **Sewer Line** upon reasonable notice from MWD. MWD shall not exercise its right to require modification or relocation of Licensee's facilities in an unreasonable or arbitrary manner.

10. Maintenance Of Licensed Property

Licensee, at Licensee's expense, shall maintain the Licensed Property and the **Sewer Line** thereon in good, sanitary, and safe condition, as conclusively determined by MWD. Notwithstanding the foregoing, MWD has no obligation to inspect the Licensed Property or the **Sewer Line**, nor to report the condition of same to Licensee or others.

11. Permits, Statutes, and Codes

Licensee shall comply with the applicable requirements of all statutes, acts, ordinances, regulations, codes, and standards of all legally constituted authorities with jurisdiction. Licensee shall obtain or cause to be obtained, at Licensee's expense, all permits, approvals, and authorizations required by Licensee's actions pursuant to this License.

12. MWD's Right to Inspect

12.1 MWD may enter any part of the Licensed Property at all reasonable times to make an inspection thereof. During any Construction by Licensee, MWD may inspect all trenching, backfilling, and other related items and require conformance with all requirements and specifications established by MWD. Said inspection, however, is not intended nor understood to be nor constitutes more than a determination that the specifications set forth herein have been complied with by Licensee and is not an approval or ratification by MWD of the quality or fitness of the **Sewer Line**.

12.2 Licensee shall release MWD from liability for all damages arising out of any delay, whether reasonable or unreasonable, or foreseeable or unforeseeable, by MWD in permitting or inspecting any work on the Licensed Property. The provisions of this Section shall survive revocation and/or termination of this License.

13. Storage and Use of Regulated Products

Licensee shall not store or use any hazardous materials, fuels or other petroleum products, chemicals, herbicides, pesticides, fertilizers, paint or any other such regulated products on the Licensed Property without the prior written approval from MWD. In the event of a spill on the Licensed Property of any authorized or unauthorized materials or products by reason of or related to the exercise of the privileges herein granted to Licensee, Licensee shall immediately notify MWD and shall be responsible for the remediation of such spill and any costs associated therewith. Any remediation shall be performed in a timely manner in accordance with a plan approved by the appropriate governmental authority and reasonably acceptable to MWD.

14. Indemnification

Licensee shall indemnify and hold harmless MWD, its directors, officers, employees, and agents, for, from and against all claims, demands, suits and costs including, but not limited to, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, and whether to any person including, but not limited to, employees of MWD or Licensee, or to property, including natural resources, to which MWD, its directors, officers, employees, or agents may be put or subject to by reason of (i) any act or omission by Licensee, or any of its directors, officers, employees, agents, or invitees; (ii) Licensee's use or occupancy of the Licensed Property; or (iii) any failure on the part of Licensee, or any of its directors, officers, employees, or agents to fulfill its obligations hereunder except to the extent that any loss, damage, expense, and liability is attributable to the negligent or willful misconduct of MWD, its directors, officers, employees, and agents. The provisions of this Section shall survive revocation and/or termination of this License.

15. Assignment

This License shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto to the same extent and effect as the same are binding upon and inure to the benefit of the parties hereto. Licensee shall not assign this License or the rights and privileges herein, in whole or in part, without MWD's prior written consent, which shall not be unreasonably withheld or delayed and, absent such consent, any attempted assignment shall be void; provided, however, Licensee may assign or transfer this License to a parent, subsidiary, or affiliate, or in connection with a corporate refinancing, upon written notice to MWD of such transfer, which contains an agreement in writing by such parent, subsidiary, or affiliate to abide by the terms and conditions of this License. Licensee shall make all requests for MWD's consent to an assignment, modification, or amendment of this License in writing and shall accompany each request with a non-refundable service charge of Two Hundred Fifty Dollars (\$250.00).

16. Service of Notice

16.1 All notices and demands required or permitted by this License shall be in writing and shall be deemed to have been given properly when (i) sent by certified mail (postage fully prepaid) or delivered personally or by overnight courier, to the respective address below or to such other address as may be furnished in writing by either party to the other pursuant to this Section; or (ii) transmitted by telefacsimile to the respective telefacsimile number below or to such other telefacsimile number as may be furnished in writing by either party to the other pursuant to this Section, and the appropriate answerback is received.

Notices to MWD:

**Attn: Property & Contracts Manager
Maricopa Water District
P.O. Box 900
Waddell, AZ 85355-0900**

Notices to Licensee:

**Attn: Nuning Lemka
City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374**

Telephone No. (623) 546-8266

Telefacsimile No. (623) 222-6006

Telephone No. (623) 222-6150

16.2 All notices and demands shall be deemed effective upon delivery, if delivered personally or by overnight courier, or if transmitted by telefacsimile; or twenty-four (24) hours after deposit in the U. S. Mail, if by certified mail.

17. Waiver

No waiver by either party of any breach of any of the covenants or conditions of this License which are to be performed by the other party shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition.

18. Attorneys' Fees Upon Default

If MWD or Licensee defaults in the timely performance of its obligations under this License, the party not in default shall be entitled to recover court costs and reasonable attorneys' fees, as determined by a court, in any suit or proceeding to enforce its rights under this License. The foregoing shall not in any way limit or restrict any right or remedy at law or equity which would otherwise be available to such party in default.

19. Force Majeure

If either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this License, other than the obligation of Licensee to make payments of amounts due hereunder, then the obligations of both Licensee and MWD, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall so far as possible be remedied within a reasonable time. The term "force majeure" as employed in this License shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, interruptions by government not due to the fault of the parties, civil disturbances, explosions, or unforeseeable action or nonaction by governmental bodies in approving the applications for approvals or permits, or any material change in circumstances arising out of legislation, regulation, or litigation. Nothing in this Section shall require MWD or Licensee to settle a strike.

20. Entire Agreement; Changes After Execution

This License, including its specified addenda and exhibits, if any, constitutes the entire agreement between the parties, and any amendment thereto must be in writing, signed by both parties.

21. Water Damage

MWD shall not be liable for any loss sustained by Licensee, its officers, employees, agents, assigns, or invitees on the Licensed Property because of water damage from any source whatsoever including, but not limited to, flood, drainage, or run-off, irrespective of any prior knowledge by MWD of the possibility of such flood, drainage, or run-off, or any act, omission, or negligence of MWD, its directors, officers, employees, or agents arising from operation or maintenance of any canal or other work.

IN WITNESS WHEREOF, the parties hereto have executed this License this _____ day of _____, 2020.

APPROVED:

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona

By: _____
Christine Cain

Its: Property & Contracts Manager

STATE OF ARIZONA)
) ss:
County of Maricopa)

On this _____ day of _____, 2020, before me, the undersigned Notary Public, personally appeared Christine Cain, known to me to be the Property & Contracts Manager of **MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE**, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona, and she, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:

LICENSE ACCEPTANCE:

CITY OF SURPRISE, a municipal corporation of
the State of Arizona

By: _____
Michael T. Frazier

Its: City Manager

STATE OF ARIZONA)
) ss:
County of Maricopa)

On this _____ day of _____, 2020, before me, the undersigned Notary Public, personally appeared Michael T. Frazier, known to me to be the City Manager of **CITY OF SURPRISE**, a municipal corporation of the State of Arizona, and he, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:



ONE COMPANY.
INFINITE SOLUTIONS.

EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
BRIDGE SEWER LICENSE

**A PORTION OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 NORTH, RANGE 1 WEST,
OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.**

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3 1/2" ALUMINUM CAP STAMPED LS 33307 2011, ACCEPTED AS THE
NORTHWEST CORNER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 1 WEST FROM WHICH A FOUND 2"
ALUMINUM CAP STAMPED RLS 35832 2003, ACCEPTED AS THE WEST QUARTER CORNER OF SECTION 9,
TOWNSHIP 4 NORTH, RANGE 1 WEST, THEREOF BEARS S00°06'42"E A DISTANCE OF 2645.56 FEET;

THENCE, CONTINUING ALONG THE WEST LINE OF SAID SECTION 9, S00°06'42"E A DISTANCE OF 2058.69
FEET;

THENCE, LEAVING THE WEST LINE OF SAID SECTION 9, S73°30'56"W A DISTANCE OF 8.33 FEET TO THE
POINT OF BEGINNING;

THENCE, S00°06'44"E A DISTANCE OF 144.87 FEET;

THENCE, S73°30'56"W A DISTANCE OF 12.51 FEET;

THENCE, N00°06'44"W A DISTANCE OF 144.87 FEET;

THENCE, N73°30'56"E A DISTANCE OF 12.51 FEET TO THE **POINT OF BEGINNING.**



ONE COMPANY.
INFINITE SOLUTIONS.

THE ABOVE DESCRIBED PARCEL CONTAINS A COMPUTED AREA OF 1738 SQUARE FEET OR 0.040 ACRES, MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, OR RIGHTS OF WAY OF RECORD OR OTHERWISE.

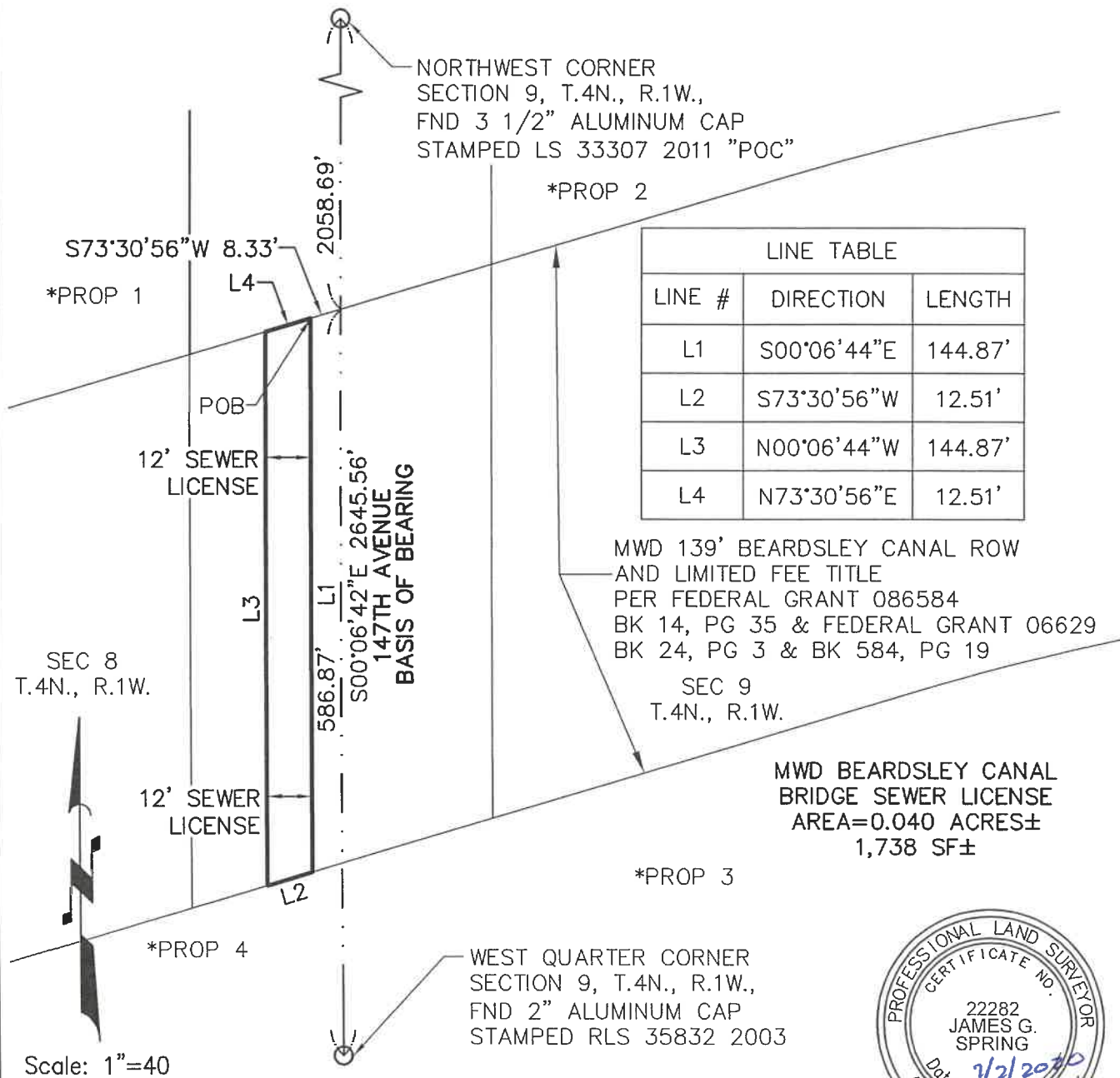
THE DESCRIPTION SHOWN HEREON IS NOT TO BE USED TO VIOLATE ANY SUBDIVISION REGULATIONS OF THE STATE, COUNTY AND/OR MUNICIPALITY OR ANY OTHER LAND DIVISION RESTRICTIONS.

PREPARED BY:
ATWELL, LLC
4700 E. SOUTHERN AVENUE
MESA, ARIZONA 85206
PROJECT NO. 09001944
JULY 2, 2020

MWD APPROVED
gmc 8/10/20
gmc 8/10/20



EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
BRIDGE SEWER LICENSE



- *PROPERTY 1 CURRENTLY BEING REASSESSED
- *PROPERTY 2 BROOKFIELD HOLDINGS MERCADO LLC A.P.N. 503-69-010E
- *PROPERTY 3 MANDOU FAMILY TRUST A.P.N. 503-69-010D
- *PROPERTY 4 ARLENE G. KAMARATA TRUST A.P.N. 503-69-003C

JOB #0901944-SHEET 3 OF 3

7-2-2020



EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
BRIDGE SEWER LICENSE
CITY OF SURPRISE, ARIZONA

WHEN RECORDED MAIL TO:

Maricopa Water District
P.O. Box 900
Waddell, AZ 85355-0900

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE

**LICENSE TO USE MWD LANDS
MUNICIPAL UTILITY CROSSING OF THE BEARDSLEY CANAL**

MWD License No. 20-019-94N1WBCM

Project No. 09001944

Page 1 of 8

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona ("**MWD**") hereby grants and **CITY OF SURPRISE**, a municipal corporation of the State of Arizona ("**Licensee**") hereby accepts a revocable, nonexclusive License to enter upon and use a portion of MWD's lands and property interests described herein, pursuant to the following terms and conditions:

1. Licensed Property

Licensee shall occupy and use, for the purposes stated herein, those lands and property interests of MWD which are described and delineated in **Exhibit "A"**, attached hereto and incorporated herein by reference ("**Licensed Property**").

2. Purpose

Licensee shall use the Licensed Property for the sole purpose of the construction, installation, repair, reconstruction, modification, reinstallation, replacement, relocation, and removal ("**Construction**") and the operation, maintenance, and use of one (1) Poly Wrapped DIP CL350 Water Line, as described in Water & Sewer Plans For N. 147th Ave – McMicken Way to Happy Valley prepared by Atwell Group Drawing #09001944, dated January 22, 2020, incorporated herein by reference ("**Water Line**"). The **Water Line** shall include any associated materials, improvements, facilities, fixtures, and appurtenances approved by MWD and placed on the Licensed Property by Licensee, its directors, officers, employees, or agents.

3. Compensation

3.1 Licensee shall pay MWD upon execution of this License, a one-time License Application Fee of **\$12,338.50**. MWD hereby waives any further fees that would otherwise be charged as consideration for the License, rights and privileges granted herein.

3.2 In addition to the fees set forth in Section 3.1 above, Licensee shall pay the total amount of any taxes, assessments, or other charges, if any, imposed or levied on MWD or the Licensed Property, as a result of this License or any activities or payments made under this License, by other governing bodies having jurisdiction.

4. Term

This License shall become effective upon the date of execution by MWD and shall continue in perpetuity, subject to the revocation and/or termination provisions of Section 5.

5. Termination of the License

5.1 Licensee may terminate this License upon not less than thirty (30) days' prior written notice to MWD; provided, however, the provisions of this Section shall survive the revocation and/or termination of this License.

5.2 If Licensee terminates this License, Licensee, at Licensee's discretion and expense, shall either abandon or remove the **Water Line** unless the **Water Line** are overhead facilities, in which case Licensee, at Licensee's expense, shall remove the **Water Line**. In the event of an abandonment, Licensee shall provide MWD, and Blue Stake where applicable, written notice of such abandonment within twenty (20) days following the revocation and/or termination of this License. For the abandonment of the **Water Line**, Licensee shall be responsible for properly capping each end of the abandoned **Water Line** at the entry and exit points of the Licensed Property. In the event of a removal of the **Water Line**, Licensee shall restore the Licensed Property to a condition acceptable to MWD.

5.3 If Licensee fails to comply with the material conditions set forth herein, MWD may, at its election and upon thirty (30) days' written notice of such failure of compliance to Licensee, revoke and/or terminate this License; provided, however, that where such failure to comply cannot reasonably be cured within the thirty (30) days notice period, if Licensee shall proceed promptly to cure the same with due diligence, the time for curing such failure to comply shall be extended for an additional sixty (60) days to complete such curing. If Licensee is nevertheless unable to cure its failure of compliance, Licensee shall remove, at Licensee's expense and within thirty (30) days thereafter, the **Water Line** and shall restore the Licensed Property to a condition acceptable to MWD. If Licensee fails to remove the **Water Line** within the time specified above, MWD or its authorized agents may remove the **Water Line**.

5.4 If MWD removes the **Water Line** pursuant to Section 5.3, Licensee shall reimburse MWD for the cost and expense of such removal, as conclusively determined by MWD, within ten (10) calendar days after MWD presents Licensee a statement of such cost and expense. Licensee hereby releases MWD from all claims of damages resulting to Licensee from such removal.

5.5 This License shall terminate and all rights granted hereunder shall revert to MWD in the event Licensee shall fail to commence actual or physical initial construction or installation of the **Water Line** provided for herein within two (2) years of the date of this License or in the event Licensee at any time shall abandon the use of the **Water Line** on the Licensed Property.

6. Nonexclusive Rights

This License is nonexclusive and no interest whatsoever in the Licensed Property, except as specifically expressed herein, shall pass to Licensee, its directors, officers, employees, or agents. MWD, its successors and assigns, shall retain at all times a prior and superior right of access and use of the Licensed Property to accomplish all of MWD's purposes and nothing in this License shall be construed to deny or lessen the powers and privileges granted MWD by the laws of the State of Arizona. Neither Licensee or its agents shall interfere with the use of the Licensed Property by MWD or the interest of any other individual or entity in the Licensed Property. Nothing herein shall preclude, interfere with, or prohibit MWD, its directors, officers, employees, agents, and licensees from controlling access to, entering upon, being upon, or using the Licensed Property for any purposes whatsoever, or prohibit MWD from permitting another entity to access or use the Licensed Property. MWD shall not be liable to Licensee for any damage to public or private property or installations located upon the Licensed Property.

7. Existing Easements and Licenses

This License is subject to all existing easements, licenses, and matters of record.

8. Insurance

8.1 Without limiting any liabilities or any other obligations of Licensee, Licensee, at Licensee's expense, shall obtain and maintain for the duration of this License, including any subsequent terms thereof, with forms and insurers acceptable to MWD, the minimum insurance coverages as follows:

(i) General Liability Insurance with policy limits of a minimum of two million dollars (\$2,000,000) as to each occurrence for Bodily Injury, Personal Injury and Property Damage and a General Aggregate of two million dollars (\$2,000,000). Such policy or policies shall list MWD, its directors, officers, employees, and agents as additional insureds.

(ii) Worker's Compensation insurance coverage with Employer's Liability insurance limits of not less than the statutory limits for any one occurrence.

(iii) Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of a minimum of two million dollars (\$2,000,000) each occurrence with respect to Licensee's vehicles, whether owned, hired or non-owned, assigned to, or used for any purpose related to this License. Such policy or policies shall list MWD, its directors, officers, employees, and agents as additional insureds. In the event such insurance is not applicable to this License, as conclusively determined by MWD, such insurance requirement may be waived by MWD.

8.2 The policies required by Subsections 8.1 (i) and (iii) hereof shall stipulate that the insurance afforded for MWD, its directors, officers, employees, and agents shall be primary insurance and that any insurance carried by MWD, its directors, officers, employees, or agents shall be excess and not contributory insurance.

8.3 Licensee and its insurers providing the required coverages shall waive all rights of subrogation against MWD and its directors, officers, employees, and agents.

8.4 Upon the full execution of the License and prior to commencing any Construction on the Licensed Property, Licensee shall furnish MWD with Certificates of Insurance as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall provide that not less than thirty (30) days' advance notice of cancellation, revocation, termination, or alteration shall be sent directly to MWD.

8.5 Licensee shall require any contractors or subcontractors to comply with the provisions of Section 8 herein.

8.6 Upon MWD's receipt of satisfactory evidence of Licensee's financial ability to self-insure, Licensee shall have the option to self-insure the minimum limits set forth above in lieu of providing the insurance provided for under Section 8.1 herein.

9. Construction

9.1 Prior to Construction of the **Water Line** on the Licensed Property, Licensee shall submit to MWD five (5) copies of a detailed design plan, including the location, design drawings, specifications or calculations ("**Design**"). The Design and Construction of the **Water Line** are subject to MWD review and written approval. Notwithstanding the foregoing, MWD's approval of the Design or Construction pursuant to the provisions of this Section does not constitute a determination that such Design and Construction are adequate for Licensee's intended purpose or comply with applicable laws or industry standards.

9.2 The Design shall incorporate applicable MWD standards or specifications, including, but not limited to, burial depths, clearance requirements, and MWD vehicular access provisions. The Design shall prohibit the installation of junction boxes, manholes, landscaping or other obstructions that, in MWD's sole determination, would impede MWD operations and access or cause damage to MWD facilities.

9.3 Licensee's Construction, operation, maintenance, and use of the **Water Line** shall be at Licensee's expense and shall not interfere with nor impede MWD's use of MWD existing or future water, power, communications or other facilities, on or adjacent to the Licensed Property. The Construction shall be scheduled and coordinated with MWD as follows:

(i) The Construction shall be scheduled and coordinated with the **MWD Project Engineer** at (623/546-8266).

(ii) Licensee shall provide MWD with a 48-hour notice prior to commencement of Construction.

9.4 Licensee shall be qualified to perform, or shall contract with qualified parties to perform any Construction work and shall not construct or install any improvements or fixtures, other than those specifically addressed herein, within or upon the Licensed Property. Any Construction and/or modifications to the Licensed Property shall be completed and maintained in conformity with all applicable safety standards, regulations and the like, and specifically in a manner so as to avoid the creation of potentially dangerous conditions and harm to others.

9.5 Licensee shall contact Blue Stake prior to commencing Construction and shall be responsible for the location and probing of any and all utilities, structures and facilities on the Licensed Property, with the exception of any MWD facilities, which will be located by MWD.

9.6 Licensee shall provide adequate dust abatement for the Construction as determined by MWD. Licensee shall not use any form of inorganic material for dust abatement.

9.7 The Licensed Property shall be restored to a condition acceptable to MWD and all debris shall be removed immediately following the completion of any Construction.

9.8 Within thirty (30) days following the completion of any Construction, Licensee shall submit to MWD "as-built" drawings of the **Water Line** with specific location dimensions and, as applicable, depths of burial.

9.9 Licensee is not the agent of MWD and has no authority to create a lien against MWD or the Licensed Property for materials or services furnished to Licensee. Licensee shall, immediately following the completion of any Construction and upon receipt of a request by MWD, provide MWD with lien waivers or other releases satisfactory to MWD to ensure that there are no mechanic's or materialmen's liens filed against the License Property.

9.10 Licensee shall pay MWD in accordance with the MWD Fee Schedule and as invoiced by MWD, all charges incurred by MWD to review, inspect and approve Licensee's Design and Construction.

9.11 If any repair, relocation or reconstruction of MWD's existing or future water, power, communication or other facilities, is deemed reasonably necessary by MWD because of the Construction, operation, maintenance or use of the **Water Line**, such repair, relocation or reconstruction shall be accomplished by MWD at Licensee's expense.

9.12 If, in MWD's determination, modification or relocation of the **Water Line** is necessary to accommodate the operational needs or plans of MWD, including, but not limited to, any major repair, modification, construction, or reconstruction of MWD's existing or future water, power, communication or other facilities, Licensee, at Licensee's expense, shall promptly modify or relocate the **Water Line** upon reasonable notice from MWD. MWD shall not exercise its right to require modification or relocation of Licensee's facilities in an unreasonable or arbitrary manner.

10. Maintenance Of Licensed Property

Licensee, at Licensee's expense, shall maintain the Licensed Property and the **Water Line** thereon in good, sanitary, and safe condition, as conclusively determined by MWD. Notwithstanding the foregoing, MWD has no obligation to inspect the Licensed Property or the **Water Line**, nor to report the condition of same to Licensee or others.

11. Permits, Statutes, and Codes

Licensee shall comply with the applicable requirements of all statutes, acts, ordinances, regulations, codes, and standards of all legally constituted authorities with jurisdiction. Licensee shall obtain or cause to be obtained, at Licensee's expense, all permits, approvals, and authorizations required by Licensee's actions pursuant to this License.

12. MWD's Right to Inspect

12.1 MWD may enter any part of the Licensed Property at all reasonable times to make an inspection thereof. During any Construction by Licensee, MWD may inspect all trenching, backfilling, and other related items and require conformance with all requirements and specifications established by MWD. Said inspection, however, is not intended nor understood to be nor constitutes more than a determination that the specifications set forth herein have been complied with by Licensee and is not an approval or ratification by MWD of the quality or fitness of the **Water Line**.

12.2 Licensee shall release MWD from liability for all damages arising out of any delay, whether reasonable or unreasonable, or foreseeable or unforeseeable, by MWD in permitting or inspecting any work on the Licensed Property. The provisions of this Section shall survive revocation and/or termination of this License.

13. Storage and Use of Regulated Products

Licensee shall not store or use any hazardous materials, fuels or other petroleum products, chemicals, herbicides, pesticides, fertilizers, paint or any other such regulated products on the Licensed Property without the prior written approval from MWD. In the event of a spill on the Licensed Property of any authorized or unauthorized materials or products by reason of or related to the exercise of the privileges herein granted to Licensee, Licensee shall immediately notify MWD and shall be responsible for the remediation of such spill and any costs associated therewith. Any remediation shall be performed in a timely manner in accordance with a plan approved by the appropriate governmental authority and reasonably acceptable to MWD.

14. Indemnification

Licensee shall indemnify and hold harmless MWD, its directors, officers, employees, and agents, for, from and against all claims, demands, suits and costs including, but not limited to, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, and whether to any person including, but not limited to, employees of MWD or Licensee, or to property, including natural resources, to which MWD, its directors, officers, employees, or agents may be put or subject to by reason of (i) any act or omission by Licensee, or any of its directors, officers, employees, agents, or invitees; (ii) Licensee's use or occupancy of the Licensed Property; or (iii) any failure on the part of Licensee, or any of its directors, officers, employees, or agents to fulfill its obligations hereunder except to the extent that any loss, damage, expense, and liability is attributable to the negligent or willful misconduct of MWD, its directors, officers, employees, and agents. The provisions of this Section shall survive revocation and/or termination of this License.

15. Assignment

This License shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto to the same extent and effect as the same are binding upon and inure to the benefit of the parties hereto. Licensee shall not assign this License or the rights and privileges herein, in whole or in part, without MWD's prior written consent, which shall not be unreasonably withheld or delayed and, absent such consent, any attempted assignment shall be void; provided, however, Licensee may assign or transfer this License to a parent, subsidiary, or affiliate, or in connection with a corporate refinancing, upon written notice to MWD of such transfer, which contains an agreement in writing by such parent, subsidiary, or affiliate to abide by the terms and conditions of this License. Licensee shall make all requests for MWD's consent to an assignment, modification, or amendment of this License in writing and shall accompany each request with a non-refundable service charge of Two Hundred Fifty Dollars (\$250.00).

16. Service of Notice

16.1 All notices and demands required or permitted by this License shall be in writing and shall be deemed to have been given properly when (i) sent by certified mail (postage fully prepaid) or delivered personally or by overnight courier, to the respective address below or to such other address as may be furnished in writing by either party to the other pursuant to this Section; or (ii) transmitted by telefacsimile to the respective telefacsimile number below or to such other telefacsimile number as may be furnished in writing by either party to the other pursuant to this Section, and the appropriate answerback is received.

Notices to MWD:

**Attn: Property & Contracts Manager
Maricopa Water District
P.O. Box 900
Waddell, AZ 85355-0900**

Notices to Licensee:

**Attn: Nuning Lemka
City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374**

Telephone No. (623) 546-8266

Telefacsimile No. (623) 222-6006

Telephone No. (623) 222-6150

16.2 All notices and demands shall be deemed effective upon delivery, if delivered personally or by overnight courier, or if transmitted by telefacsimile; or twenty-four (24) hours after deposit in the U. S. Mail, if by certified mail.

17. Waiver

No waiver by either party of any breach of any of the covenants or conditions of this License which are to be performed by the other party shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition.

18. Attorneys' Fees Upon Default

If MWD or Licensee defaults in the timely performance of its obligations under this License, the party not in default shall be entitled to recover court costs and reasonable attorneys' fees, as determined by a court, in any suit or proceeding to enforce its rights under this License. The foregoing shall not in any way limit or restrict any right or remedy at law or equity which would otherwise be available to such party in default.

19. Force Majeure

If either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this License, other than the obligation of Licensee to make payments of amounts due hereunder, then the obligations of both Licensee and MWD, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall so far as possible be remedied within a reasonable time. The term "force majeure" as employed in this License shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, interruptions by government not due to the fault of the parties, civil disturbances, explosions, or unforeseeable action or nonaction by governmental bodies in approving the applications for approvals or permits, or any material change in circumstances arising out of legislation, regulation, or litigation. Nothing in this Section shall require MWD or Licensee to settle a strike.

20. Entire Agreement; Changes After Execution

This License, including its specified addenda and exhibits, if any, constitutes the entire agreement between the parties, and any amendment thereto must be in writing, signed by both parties.

21. Water Damage

MWD shall not be liable for any loss sustained by Licensee, its officers, employees, agents, assigns, or invitees on the Licensed Property because of water damage from any source whatsoever including, but not limited to, flood, drainage, or run-off, irrespective of any prior knowledge by MWD of the possibility of such flood, drainage, or run-off, or any act, omission, or negligence of MWD, its directors, officers, employees, or agents arising from operation or maintenance of any canal or other work.

IN WITNESS WHEREOF, the parties hereto have executed this License this _____ day of _____, 2020.

APPROVED:

MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona

By: _____
Christine Cain

Its: Property & Contracts Manager

STATE OF ARIZONA)
) ss:
County of Maricopa)

On this _____ day of _____, 2020, before me, the undersigned Notary Public, personally appeared Christine Cain, known to me to be the Property & Contracts Manager of **MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE**, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona, and she, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:

LICENSE ACCEPTANCE:

CITY OF SURPRISE, a municipal corporation of
the State of Arizona

By: _____
 Michael T. Frazier

Its: City Manager

STATE OF ARIZONA)
) **ss:**
County of Maricopa)

On this _____ day of _____, 2020, before me, the undersigned Notary Public, personally appeared Michael T. Frazier, known to me to be the City Manager of **CITY OF SURPRISE**, a municipal corporation of the State of Arizona, and he, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:



ONE COMPANY.
INFINITE SOLUTIONS.

EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
BRIDGE WATER DISTRIBUTION LICENSE

**A PORTION OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 1 WEST,
OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.**

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3 1/2" ALUMINUM CAP STAMPED LS 33307 2011, ACCEPTED AS THE
NORTHWEST CORNER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 1 WEST FROM WHICH A FOUND 2"
ALUMINUM CAP STAMPED RLS 35832 2003, ACCEPTED AS THE WEST QUARTER CORNER OF SECTION 9,
TOWNSHIP 4 NORTH, RANGE 1 WEST, THEREOF BEARS S00°06'42"E A DISTANCE OF 2645.56 FEET;

THENCE, CONTINUING ALONG THE WEST LINE OF SAID SECTION 9, S00°06'42"E A DISTANCE OF 2058.69
FEET;

THENCE, LEAVING THE WEST LINE OF SAID SECTION 9, N73°30'56"E A DISTANCE OF 15.65 FEET TO THE
POINT OF BEGINNING;

THENCE, N73°30'56"E A DISTANCE OF 12.51 FEET;

THENCE, S00°07'04"E A DISTANCE OF 144.87 FEET;

THENCE, S73°30'56"W A DISTANCE OF 12.51 FEET;

THENCE, N00°07'04"W A DISTANCE OF 144.87 FEET TO THE **POINT OF BEGINNING.**



ONE COMPANY.
INFINITE SOLUTIONS.

THE ABOVE DESCRIBED PARCEL CONTAINS A COMPUTED AREA OF 1738 SQUARE FEET OR 0.040 ACRES, MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, OR RIGHTS OF WAY OF RECORD OR OTHERWISE.

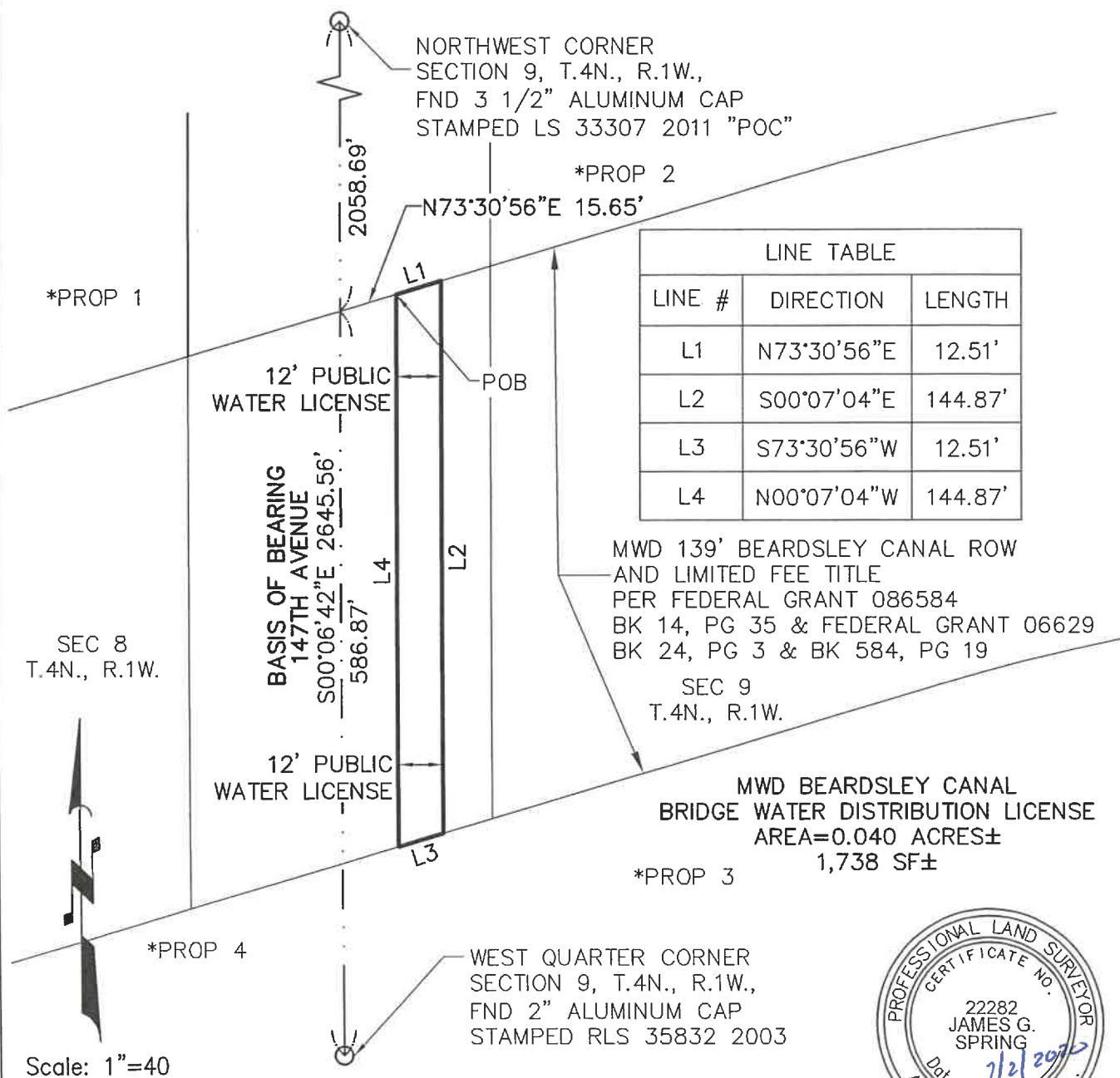
THE DESCRIPTION SHOWN HEREON IS NOT TO BE USED TO VIOLATE ANY SUBDIVISION REGULATIONS OF THE STATE, COUNTY AND/OR MUNICIPALITY OR ANY OTHER LAND DIVISION RESTRICTIONS.

PREPARED BY:
ATWELL, LLC
4700 E. SOUTHERN AVENUE
MESA, ARIZONA 85206
PROJECT NO. 09001944
July 2, 2020



MWD APPROVED
cmc / 8/10/20
kg / 8/10/20

EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
BRIDGE WATER DISTRIBUTION LICENSE



- *PROPERTY 1 CURRENTLY BEING REASSESSED
- *PROPERTY 2 BROOKFIELD HOLDINGS MERCADO LLC A.P.N. 503-69-010E
- *PROPERTY 3 MANDOU FAMILY TRUST A.P.N. 503-69-010D
- *PROPERTY 4 ARLENE G. KAMARATA TRUST A.P.N. 503-69-003C

JOB #0901944-SHEET 3 OF 3

7-2-2020



EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
WATER DISTRIBUTION LICENSE
CITY OF SURPRISE, ARIZONA

WHEN RECORDED MAIL TO:

Maricopa Water District
P.O. Box 900
Waddell, AZ 85355-0900

BRIDGE CONSTRUCTION AND ACCESS EASEMENT

This Bridge Construction And Access Easement (the "Easement") is executed to be effective as of the _____ day of _____, 2020, by the **CITY OF SURPRISE**, an Arizona municipal corporation (the "Grantee") and **MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE**, an irrigation and water conservation district, a municipal corporation and a political subdivision of the State of Arizona ("MWD").

RECITALS

A. MWD is the owner of the real property legally described on **Exhibit A** attached hereto and incorporated herein by this reference (the "Easement Property"). Such Easement Property currently contains, and will continue to contain, a portion of MWD's canal, maintenance road and other facilities.

B. Grantee desires that a bridge and related support structures and a roadway connecting to the bridge at each end of the bridge (collectively, the "Bridge Improvements") be constructed on, over and across the Easement Property. The Bridge Improvements shall be utilized as a public bridge and roadway.

C. Grantee and MWD desire to provide for an easement and right-of-way in gross on, over, and across the Easement Property in favor of Grantee for the commercial purposes of constructing, operating, maintaining, replacing and repairing the Bridge Improvements and, once constructed, an easement in gross for a public bridge and roadway over the portions of the Easement Property that have been improved by the Bridge Improvements.

AGREEMENTS

Now, therefore, in consideration of the foregoing and in consideration of the following mutual covenants and obligations and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Grant of Easement In Gross.** Subject to the terms and conditions hereof, MWD hereby grants to Grantee, the following nonexclusive easements in gross on, over and across the Easement Property: (i) a nonexclusive easement in gross for the construction, installation, repair, reconstruction, modification, reinstallation, replacement, and removal ("Construction") and the operation, maintenance and use of the Bridge Improvements, and (ii) following the Construction of the Bridge Improvements, a perpetual nonexclusive easement in gross for a public bridge, roadway and associated bridge and roadway purposes, such as operation, maintenance, repair, reconstruction, improvements, and placement of traffic signal and street light conduits.

2. **Nonexclusive Easement.** Exclusive use of the Easement Property is not hereby granted. MWD reserves: (a) a prior and superior right of access and use of the Easement Property to accomplish all of MWD's purposes, and nothing in this Easement shall be construed to deny or lessen the powers and privileges granted MWD by the laws of the State of Arizona; (b) the right to grant to others the right to use the Easement Property in common with MWD, Grantee and others entitled to the use thereof; (c) the right to use the Easement Property (and to grant to others the right to use the Easement Property) for any surface or subsurface use that does not unreasonably interfere with Grantee's use of the Easement Property for public bridge and roadway purposes including, but not limited to, the installation and maintenance of sewer, water, electric, communications, fiber optics and other utility facilities; provided that no such use shall substantially interfere with, substantially reduce or substantially curtail the grants in Section 1, above, or impede safe travel for public traffic across the Bridge Improvements; and (d) the right to grant to public authorities, utility companies, utility providers or others easements, licenses, or other rights over or across the Easement Property and/or the Bridge Improvements for utility purposes, provided no such easement shall preclude or restrict the use of the Easement Property by Grantee for public bridge and roadway purposes and provided such public authorities, utility companies, utility providers or others obtain a permit from the Grantee or County, as applicable, prior to commencing work on or in the bridge or roadway. Notwithstanding the foregoing, Grantee's use of the Easement Property for public bridge and roadway purposes includes the right to install facilities to provide for traffic signals and street lighting for such bridge and roadway, all of which shall be considered part of the Bridge Improvements. Nothing in this Easement shall constitute a public dedication of the Easement Property for bridge, roadway or any other purposes, and the parties agree to cooperate in taking such actions as may from time to time be necessary to avoid the implication of any such dedication.

Neither Grantee nor its employees, invitees or agents shall interfere with the use of the Easement Property by MWD or the interest of any other individual or entity in the Easement Property. Nothing herein shall preclude, interfere with, or prohibit MWD, its directors, officers, employees, agents, and licensees from controlling access to, entering upon, being upon, or using the Easement Property for any purposes whatsoever, or prohibit MWD from permitting another entity to access or use the Easement Property. Except in the event of emergencies (i.e., acts of God or other events beyond the control of MWD), prior to MWD, its directors, officers, employees, agents, and licensees controlling access (i.e., road closures) to the Easement Property/Bridge Improvements, which interferes with vehicular traffic over any portions of the bridge or roadway, barricades shall be utilized. Prior to controlling access for MWD's purposes, MWD shall cause Grantee to be provided with (i) a detailed road access control plan outlining the purpose, description and duration of the proposed road restrictions; and (ii) a minimum of five (5) working days notice of the need to have access controlled. The Grantee will review and approve such road access control plan within five (5) working days of submittal, prior to MWD initiating such road access control. MWD may hire a contractor or consultant to prepare the road access control plan and to undertake the barricading. Grantee shall reimburse MWD the reasonable cost of such activities, upon Grantee receiving from MWD an invoice and documentation supporting the invoice. In the event of an emergency, MWD shall provide Grantee with such notice as soon as practical under the circumstances. MWD and its road access control contractor and/or consultant shall not be required to pay any review, licensing or similar fees to Grantee for review and approval of MWD access control plans. If Grantee fails or unreasonably refuses to approve an MWD road access control plan within five (5) working days of submittal of the plan to Grantee, MWD may proceed with such road access control plan and initiate and maintain road access control. With respect to any MWD licensee, prior to controlling access, such licensee shall provide Grantee with (i) a detailed road access control plan outlining the purpose, description and duration

of the proposed road restrictions; and (ii) such minimum days notice of the need to have access controlled as is required by Grantee of other, third parties seeking to control road access. Any MWD licenses issued after the effective date of this Easement shall make the licensee responsible for providing barricading of the bridge or roadway if the licensee engages in activity which interferes with vehicular traffic over any portion of the bridge or roadway. With respect to existing licenses, if any, the licensee shall be responsible for providing barricading of the bridge or roadway if the licensee engages in activity which interferes with vehicular traffic and the existing license does not relieve the licensee of such responsibility. Any barricading shall be pursuant to the Manual on Uniform Traffic Control Devices published by the United States Department of Transportation Federal Highways and as amended by Arizona Department of Transportation, or as otherwise amended. Except in the event of emergencies (i.e., acts of God or other events beyond the control of MWD), at least one lane of traffic shall remain open whenever it is necessary to control access to accommodate the activities of MWD, its directors, officers, employees and agents. In any circumstances, other than emergencies, which may reasonably require full closure, MWD will consult with Grantee and Grantee shall undertake a good faith evaluation and consideration of whether full closure may occur.

3. Construction and Maintenance of Bridge Improvements.

3.1. Prior to the Construction of the Bridge Improvements on the Easement Property, Grantee shall ensure that five (5) copies of a detailed design plan, including the location, design drawings, plans and specifications for the Bridge Improvements prepared by an engineer licensed to practice in the State of Arizona (collectively the "Design") are submitted to MWD. The Design and Construction of the Bridge Improvements are subject to MWD's review and written approval prior to the commencement of Construction of the Bridge Improvements. Grantee shall ensure that MWD also is provided with evidence of Grantee's approval of the Design. Notwithstanding the foregoing, MWD's and Grantee's approval of the Design or Construction of the Bridge Improvements does not constitute a determination that such Design and Construction are adequate for the intended purpose or comply with applicable laws or industry standards.

3.2. Grantee shall be responsible for the cost and expense of Construction, operation, maintenance and use of the Bridge Improvements. Additionally, the Construction, operation, maintenance and use of the Bridge Improvements shall not interfere with and shall not impede MWD's use of MWD's existing or future water, power, communications or other facilities on or adjacent to the Easement Property within the Beardsley Canal corridor. Notwithstanding the foregoing, while modification to the Bridge Improvements may be needed in the future to accommodate MWD's use of MWD facilities, MWD shall not require Grantee to relocate the Bridge Improvements. Future facilities, if any, of MWD licensees shall not interfere with the Construction, operation, maintenance and use of the Bridge Improvements. The Construction of the Bridge Improvements shall be scheduled and coordinated with MWD Operations.

3.3. Grantee shall ensure that qualified parties are contracted with to perform the Construction work and that there will not be any Construction or installation of any improvements or fixtures, other than those specifically described in the Design, within or upon the Easement Property. Any Construction of the Bridge Improvements and/or modifications to the Easement Property shall be completed and maintained in conformity with all applicable safety standards, regulations and the like, and specifically in a manner so as to avoid the creation of potentially dangerous conditions and harm to others.

3.4. Grantee shall ensure that, prior to commencing Construction, Blue Stake and MWD are contacted. Grantee shall ensure that the location and probing of any and all utilities, structures and facilities on the Easement Property, are identified/located prior to commencing Construction, with the exception of any MWD facilities, which will be located by MWD.

3.5. Grantee shall ensure that adequate dust abatement for the Construction is provided in accordance with the requirements of Maricopa County and any other governmental entity having jurisdiction. Grantee shall ensure that no form of inorganic material for dust abatement is used.

3.6. The Easement Property shall be restored to a condition acceptable to MWD and all debris shall be removed immediately following the completion of the Construction of the Bridge Improvements.

3.7. Within thirty (30) days following the completion of the Construction, Grantee shall ensure that "as-built" drawings of the Bridge Improvements with specific locations and dimensions are submitted to MWD.

3.8. All work on the Bridge Improvements shall be completed in a lien free manner. Grantee is not the agent of MWD and has no authority to create a lien against MWD or the Easement Property for materials or services furnished to Grantee. Grantee shall ensure that immediately following the completion of any Construction and upon receipt of a request by MWD, MWD is provided with lien waivers or other releases satisfactory to MWD to ensure that there are no mechanic's or materialmen's liens filed against the Easement Property.

3.9. Grantee shall ensure that payment is made to MWD in accordance with the Maricopa Water District Development Fee Schedule and as invoiced by MWD, all charges incurred by MWD to review, inspect and approve the Design and Construction of the Bridge Improvements.

3.10. If any repair, relocation or reconstruction of MWD's existing or future water, power, communication or other facilities is deemed reasonably necessary by MWD because of the Construction, such repair, relocation or reconstruction shall be accomplished by MWD, at Grantee's sole cost and expense. If any repair, relocation or reconstruction of MWD's existing or future water, power, communication or other facilities, is deemed reasonably necessary by MWD because of the operation, maintenance or use of the Bridge Improvements, such repair, relocation or reconstruction shall be accomplished by MWD, at Grantee's sole cost and expense. Prior to MWD engaging in such repair, relocation or reconstruction, MWD shall inform Grantee of such repair, relocation or reconstruction and allow Grantee a reasonable opportunity to suggest an alternative to such repair, relocation or reconstruction. If such suggested alternative accomplishes the purposes of the proposed repair, relocation or reconstruction in a reasonably comparable manner, and Grantee agrees to pay any additional cost of such alternative (if applicable), MWD will consider, in good faith, whether to accept such suggested alternative.

3.11. This Easement is subject to any existing licenses and any facilities constructed or installed under existing licenses. If any repair, relocation or reconstruction of licensee facilities constructed or installed pursuant to an MWD license issued after the effective date of this Easement is necessary because of the Construction, operation, maintenance or use of the Bridge Improvements, such repair, relocation or reconstruction shall be the responsibility of the licensee, at the licensee's sole cost and expense.

3.12. Upon completion of Construction of the Bridge Improvements, Grantee, at Grantee's sole cost and expense, shall maintain the Bridge Improvements in good and safe condition and repair.

3.13. Grantee may delegate the Construction of the Bridge Improvements to William Lyon Homes, Inc., and its contractors, agents and engineers, subject to the terms and conditions of this Easement.

3.14. Grantee shall be responsible for any costs and expenses associated with the Bridge Improvements including, but not limited to, any costs or expenses necessary for the repair, modification or replacement of the Bridge Improvements (a) that are damaged or destroyed by MWD, its employees, contractors or agents, who are accessing and/or using the Easement Property for MWD's purposes, (b) to accomplish any of Grantee's purposes, or (c) that require repair, modification or replacement for any other reason. For example, if MWD installs an underground pipeline under the MWD maintenance road, and the pipeline crosses under the roadway portion of the Bridge Improvements, it may be necessary to cut and remove a portion of the roadway pavement in order to trench the pipe. In such circumstances, Grantee will be responsible for restoring the roadway surface to its prior condition, at Grantee's cost and expense. However, Grantee shall not be responsible for any costs and expenses associated with the negligent or willful acts and misconduct of MWD, its employees, contractors or agents.

4. Insurance Obligations of Grantee.

4.1. Without limiting any liabilities or any other obligations of Grantee, Grantee, at Grantee's sole cost and expense, shall obtain and maintain, with forms and insurers acceptable to MWD, the following minimum insurance coverages:

(a) General Liability Insurance with policy limits of a minimum of two million dollars (\$2,000,000) as to each occurrence for bodily injury, personal injury and property damage and a general aggregate of two million dollars (\$2,000,000). Such policy or policies shall list MWD, its directors, officers, employees, and agents as additional insureds.

(b) Worker's Compensation insurance coverage with Employer's Liability insurance limits of not less than the statutory limits for any one occurrence.

(c) Comprehensive automobile liability insurance with a combined single limit for bodily injury and property damage of a minimum of one million dollars (\$1,000,000) each occurrence with respect to Grantee's vehicles, whether owned, hired or nonowned, assigned to, or used for any purpose related to this Easement. Such policy or policies shall list MWD, its directors, officers, employees, and agents as additional insureds. In the event such insurance is not applicable to this Easement, as conclusively determined by MWD, such insurance requirement may be waived by MWD.

4.2. The policies required by Subsections 4.1 (a) and (b) hereof shall stipulate that the insurance afforded for MWD, its directors, officers, employees, and agents shall be primary insurance and that any insurance carried by MWD, its directors, officers, employees, or agents shall be excess and not contributory insurance.

4.3. Grantee and its insurers providing the required coverages shall waive all rights of subrogation against MWD and its directors, officers, employees, and agents.

4.4. Upon the execution of this Easement by MWD and Grantee and prior to commencing any Construction on the Easement Property, Grantee shall furnish MWD with Certificates of Insurance as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall provide that not less than thirty (30) days' advance notice of cancellation, revocation, termination, or alteration shall be sent directly to MWD.

4.5. Grantee shall require any contractors or subcontractors to comply with the provisions of Section 4 herein.

4.6. Upon MWD's receipt of satisfactory evidence of Grantee's financial ability to self-insure, Grantee shall have the option to self-insure the minimum limits set forth above in lieu of providing the insurance provided for under Section 4.1 herein.

5. **Maintenance of Bridge Improvements.** Grantee, at Grantee's expense, shall maintain the Easement Property and the Bridge Improvements thereon in good, sanitary, and safe condition, as determined by MWD and Grantee. Notwithstanding the foregoing, MWD has no obligation to inspect the Easement Property or the Bridge Improvements, nor to report the condition of same to Grantee or others.

6. **Permits, Statutes, and Codes.** Grantee shall comply with the applicable requirements of all statutes, acts, ordinances, regulations, codes, and standards of all legally constituted authorities with jurisdiction. Grantee shall obtain or cause to be obtained, at Grantee's expense, all permits, approvals, and authorizations required by Grantee's or other's actions pursuant to this Easement.

7. **MWD's Right to Inspect.**

7.1. MWD may enter any part of the Easement Property at all reasonable times to make an inspection thereof. During any Construction, MWD may inspect all such work and require conformance with the Design approved by MWD. Said inspection, however, is not intended nor understood to be nor constitutes more than a determination that the specifications set forth herein have been complied with and is not an approval or ratification by MWD of the quality or fitness of the Bridge Improvements.

7.2. Grantee shall release MWD from liability for all damages arising out of any delay with reference to the Bridge Improvements Construction, whether reasonable or unreasonable, or foreseeable or unforeseeable, by MWD in permitting or inspecting any work on the Easement Property. MWD shall act in a reasonable timely manner in permitting or inspecting any work on the Easement Property. The provisions of this Section 7.2 shall survive revocation and/or termination of this Easement.

8. **Storage and Use of Regulated Products.** Grantee shall ensure that there is no storage or use of any hazardous materials, fuels or other petroleum products, chemicals, herbicides, pesticides, fertilizers, paint or any other such regulated products on the Easement Property without the prior written approval from MWD. In the event of a spill on the Easement Property of any authorized or unauthorized materials or products by reason of or related to the exercise of the privileges herein granted to Grantee, Grantee shall immediately notify MWD and shall be responsible for the remediation of such spill and any costs associated therewith. Any remediation shall be performed in a timely manner in accordance with a plan approved by the appropriate governmental authority and reasonably acceptable to MWD.

9. **Utility Crossings.** Notwithstanding anything contained in this Easement to the contrary, Grantee acknowledges that MWD has reserved the right to grant easements or licenses to public authorities (including Grantee), utility companies, utility providers or others for the installation, attachment or affixation of sewer, water, electricity, communications, fiber optics and other utility facilities on, over, under, across or to the Easement Property and/or the Bridge Improvements. However, notwithstanding Section 2 hereof and this Section 9, MWD will not grant a right to a third party to affix any facility to or affect the Bridge Improvements without the Grantee's written consent and the Grantee's approval of the design and location of any such facilities. Grantee acknowledges that the easement in gross granted herein is for the specific and limited purposes described in Section 1 hereof and that Grantee has no authority to use the Easement Property or Bridge Improvements beyond the rights granted herein or to grant any persons, including but not limited to public authorities (including the Grantee), utility companies, utility providers, or others the right to install or affix utility facilities to the Bridge Improvements or on, over, across, or to the Easement Property, absent MWD's grant of a separate easement or license to such persons.

10. **Indemnification.** Grantee shall indemnify and hold harmless MWD, its directors, officers, employees, and agents, for, from and against all claims, demands, suits and costs including, but not limited to, costs of defense, reasonable attorneys' fees, witness fees of any type, losses, damages, expenses and liabilities, whether direct or indirect, and whether to any person including, but not limited to, employees of MWD or Grantee, or to property, including natural resources, to which MWD, its directors, officers, employees, or agents may be put or subject to by reason of (i) any act or omission by Grantee, or any of its directors, officers, employees, agents, or invitees; (ii) Grantee's use of the Easement Property or the Construction, maintenance, repair and use of the Bridge Improvements by any person or entity, including but not limited to Grantee, Grantee's employees, agents, contractors, invitees, or customers; (iii) the use of the Bridge Improvements by any person; or (iv) any failure on the part of Grantee, or any of its directors, officers, employees, or agents to fulfill its obligations hereunder except to the extent that any loss, damage, expense, and liability is attributable to the negligent or willful acts and misconduct of MWD, its directors, officers, employees, and agents. The provisions of this Section 10 shall survive revocation and/or termination of this Easement.

11. **Incorporation of Recitals and Exhibits.** The recitals set forth above, and all referenced exhibits, are expressly incorporated in this Agreement by this reference.

12. **Assignment.** Grantee shall not assign, encumber, mortgage or transfer any rights under this Easement, or the rights and privileges herein, in whole or in part, without MWD's prior written consent, which consent may be withheld for any reason.

13. **Service of Notice.**

13.1. All notices and demands required or permitted by this Easement shall be in writing and shall be deemed to have been given properly when (i) sent by certified mail (postage fully prepaid) or delivered personally or by overnight courier to the respective address below or to such other address as may be furnished in writing by either party to the other pursuant to this Section 13.1; or (ii) transmitted by telefacsimile to the respective telefacsimile number below or to such other telefacsimile number as may be furnished in writing by either party to the other pursuant to this Section 13.1, and the appropriate conformation is received.

Notices to MWD:

Attn: Property & Contracts Manager
Maricopa Water District
P.O. Box 900
Waddell, AZ 85355-0900
Telephone No. (623) 546-8266

Notices to Grantee:

City of Surprise
ATTN: Nuning Lemka
16000 N. Civic Center Plaza
Surprise, AZ 85374
Facsimile No. (623) 222-6006
Telephone No. (623) 222-6150

13.2. All notices and demands shall be deemed effective upon delivery, if delivered personally or by overnight courier, or if transmitted by telefacsimile; or twenty-four (24) hours after deposit in the U. S. Mail, if by certified mail.

14. **Waiver.** No waiver by either party of any breach of any of the covenants or conditions of this Easement which are to be performed by the other party shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition.

15. **Attorneys' Fees Upon Default.** If MWD or Grantee defaults in the timely performance of its obligations under this Easement, the party not in default shall be entitled to recover court costs and reasonable attorneys' fees, as determined by a court, in any suit or proceeding to enforce its rights under this Easement. The foregoing shall not in any way limit or restrict any right or remedy at law or equity which would otherwise be available to such party in default.

16. **Entire Easement; Changes After Execution.** This Easement, including its specified addenda and exhibits, if any, constitutes the entire agreement between the parties, and any amendment thereto must be in writing, signed by both parties.

17. **Water Damage.** MWD shall not be liable for any loss sustained by Grantee, its officers, employees, agents, assigns, or invitees on the Easement Property or to the Bridge Improvements because of water damage from any source whatsoever including, but not limited to, flood, drainage, or run-off, irrespective of any prior knowledge by MWD of the possibility of such flood, drainage, or run-off, or any act, omission, or negligence of MWD, its directors, officers, employees, contractors or agents arising from operation or maintenance of any canal or other work.

18. **Termination.** At any time the Easement Property is no longer used by Grantee for the purposes provided for herein, this Easement shall terminate two (2) years after such nonuse begins.

In witness whereof, the parties have executed this Easement effective as of the date first set forth above.

**MARICOPA COUNTY MUNICIPAL WATER
CONSERVATION DISTRICT NUMBER
ONE**, a political subdivision of the State of
Arizona,

ATTEST:

By _____
Christine Cain

By _____
Glen Vortherms

Its Property & Contracts Manager

Its Assistant Secretary

STATE OF ARIZONA)
) ss:
County of Maricopa)

On this _____ day of _____, 2020, before me the undersigned Notary Public personally appeared Christine Cain and Glen Vortherms, known to me to be the Property and Contracts Manager and Assistant Secretary of **MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE**, a political subdivision of the State of Arizona, and they, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:

CITY OF SURPRISE, an Arizona municipal corporation

ATTEST:

By _____
Michael T. Frazier

By _____

Its: _____
City Manager

Its: _____

Approved as to form:

By: _____

STATE OF ARIZONA)
) **ss:**
County of Maricopa)

On this _____ day of _____, 2020, before me, the undersigned Notary Public, personally appeared Michael T. Frazier, known to me to be the City Manager of the **CITY OF SURPRISE**, an Arizona municipal corporation, and he, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained.

In witness whereof, I have hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT A

Legal Description of Easement Property



ONE COMPANY.
INFINITE SOLUTIONS.

EXHIBIT "A"
RANCHO MERCADO
MWD BEARDSLEY CANAL
BRIDGE CONSTRUCTION & ACCESS EASEMENT

A PORTION OF THE NORTHWEST QUARTER OF SECTION 9 AND THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3 1/2" ALUMINUM CAP STAMPED LS 33307 2011, ACCEPTED AS THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 1 WEST FROM WHICH A FOUND 2" ALUMINUM CAP STAMPED RLS 35832 2003, ACCEPTED AS THE WEST QUARTER CORNER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 1 WEST, THEREOF BEARS S00°06'42"E A DISTANCE OF 2645.56 FEET;

THENCE, ALONG THE WEST LINE OF SAID SECTION 9, S00°06'42"E A DISTANCE OF 2058.69 FEET TO THE **POINT OF BEGINNING**;

THENCE, LEAVING THE WEST LINE OF SAID SECTION 9, N73°30'56"E A DISTANCE OF 41.69 FEET;

THENCE, S00°06'42"E A DISTANCE OF 144.87 FEET;

THENCE, S73°30'56"W A DISTANCE OF 41.69 FEET TO THE WEST SECTION LINE OF SAID SECTION 9;

THENCE, LEAVING SAID WEST LINE OF SAID SECTION 9, S73°30'56"W A DISTANCE OF 41.69 FEET;

THENCE, N00°06'42"W A DISTANCE OF 144.87 FEET;

THENCE, N73°30'56"E A DISTANCE OF 41.69 FEET TO THE WEST LINE OF SAID SECTION 9 ALSO BEING THE **POINT OF BEGINNING**.



MWD APPROVED
CMC / 9/21/20
JG / 9/21/20



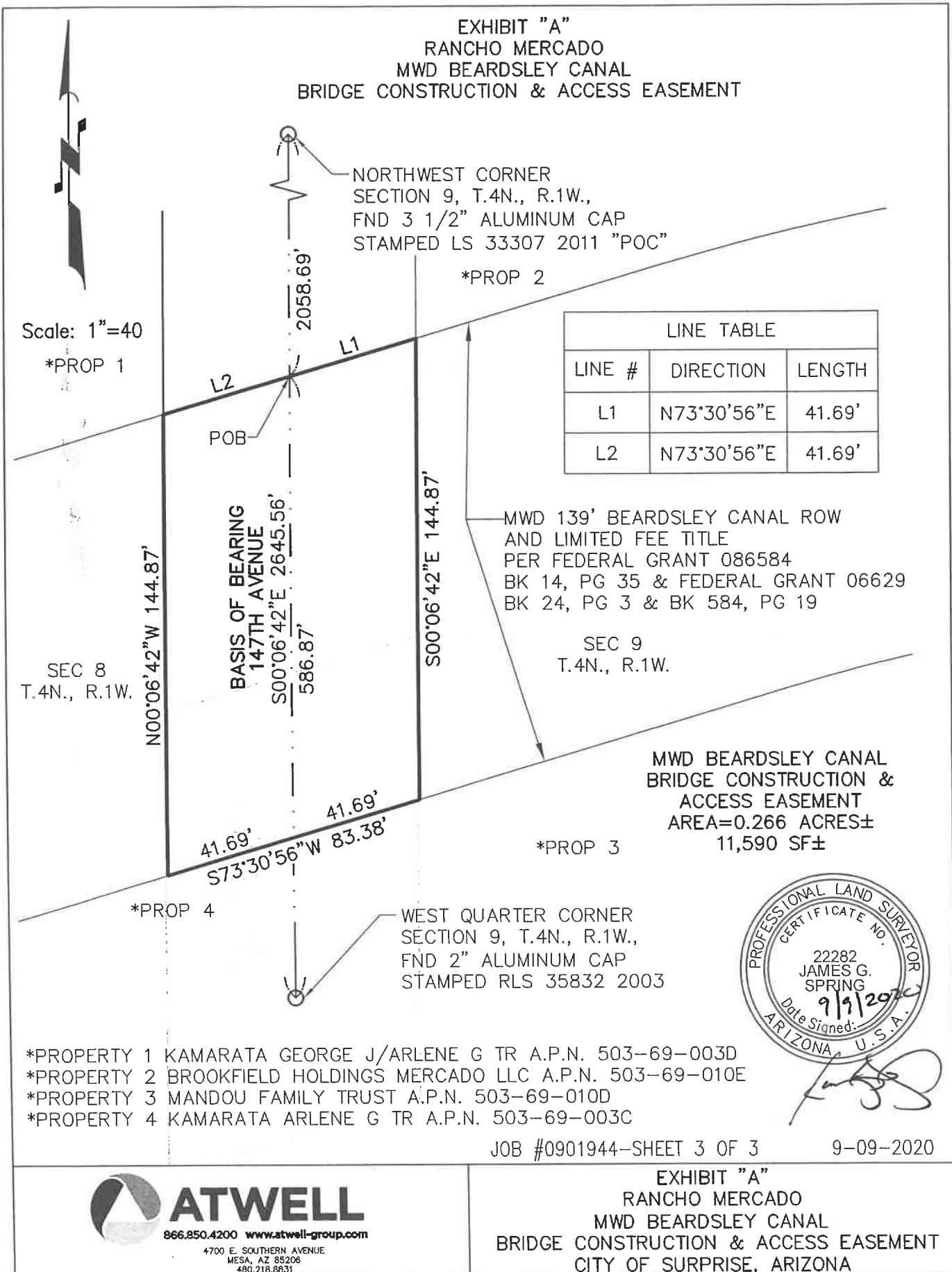
ONE COMPANY.
INFINITE SOLUTIONS.

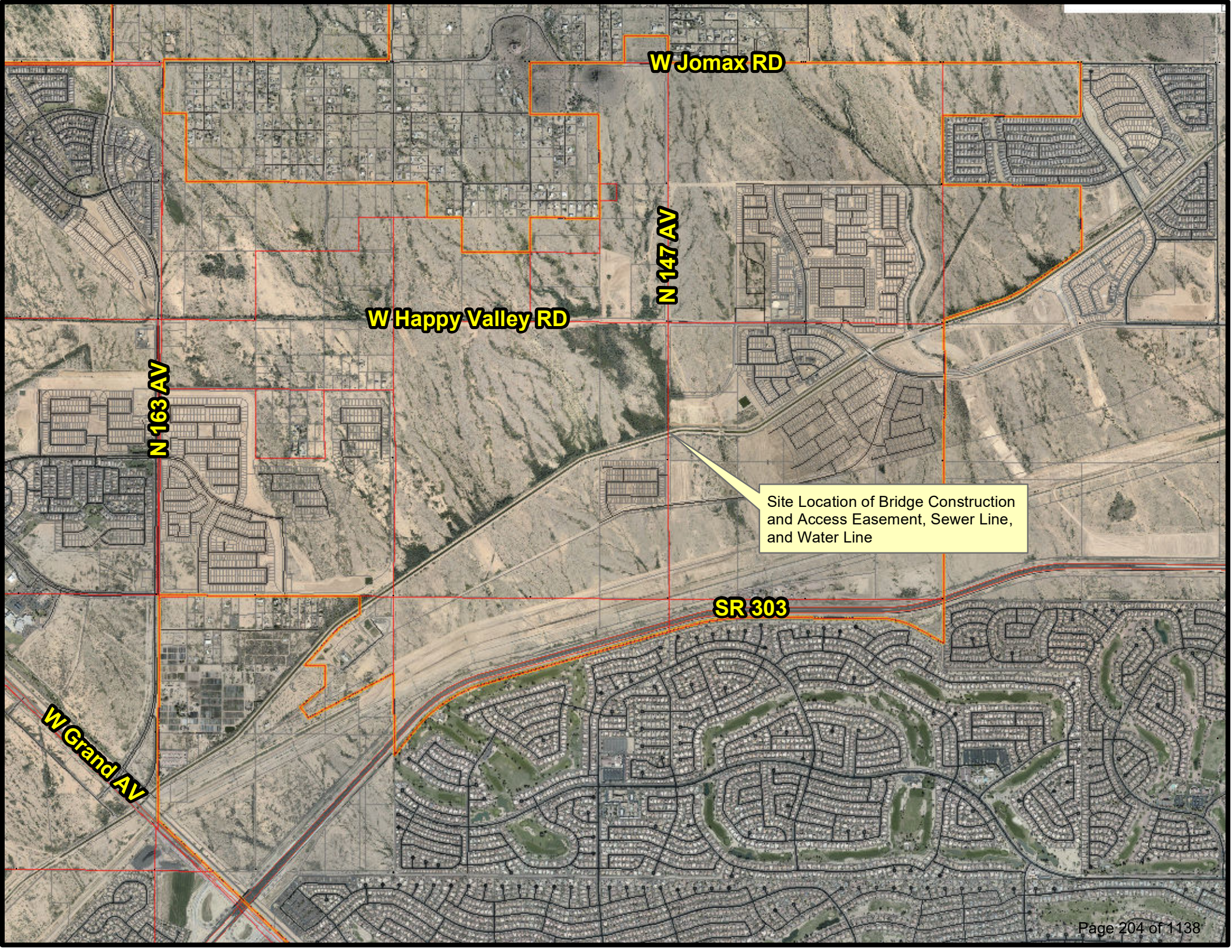
THE ABOVE DESCRIBED PARCEL CONTAINS A COMPUTED AREA OF 11,590 SQUARE FEET OR 0.266 ACRES, MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, OR RIGHTS OF WAY OF RECORD OR OTHERWISE.

THE DESCRIPTION SHOWN HEREON IS NOT TO BE USED TO VIOLATE ANY SUBDIVISION REGULATIONS OF THE STATE, COUNTY AND/OR MUNICIPALITY OR ANY OTHER LAND DIVISION RESTRICTIONS.

PREPARED BY:
ATWELL, LLC
4700 E. SOUTHERN AVENUE
MESA, ARIZONA 85206
PROJECT NO. 09001944
SEPTEMBER 9TH, 2020







W Jomax RD

N 147 AV

W Happy Valley RD

N 163 AV

Site Location of Bridge Construction
and Access Easement, Sewer Line,
and Water Line

SR 303

W Grand AV



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Sergio Angulo
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Final Plat entitled “Heritage Asante – Parcel 6 Phase 2” an approximately 11.652 acre property generally located west of 163rd Avenue and north of Grand Avenue; Case FS20-417.

Motion:

I move to approve the Final Plat entitled, “Heritage Asante – Parcel 6 Phase 2”

Background:

Hilgart Wilson, LLC., on behalf of Lennar Arizona Construction, Inc., seeks approval of a Final Plat for a 41-lot single-family residential subdivision in Parcel 6 of the Heritage at Asante Development.

Objective Analysis:

Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Policy Compliant:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which supports the proposed Final Plat.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staffing levels.

ATTACHMENTS:

1. 00 - FS20-417 - Staff Report
2. 01 - FS20-417 - Vicinity Map

3. 02 - FS20-417 - Final Plat
 4. FS20-417 - PowerPoint
-

FINAL PLAT

REPORT TO THE CITY COUNCIL

Case: FS20-417

Project Name: Heritage Asante Parcel 6 – Phase 2

Council District: 1

City Council Date: December 15, 2020

Planner: Sergio Angulo, Planner II

Owner: Lennar Arizona Construction, Inc.

Applicant: Diego Ortiz with Hilgart Wilson, LLC

Request: Final Plat for a 41-lot, single-family subdivision in Parcel 6 of the Heritage Asante Planned Unit Development.

Site Location: Generally west of 163rd Avenue and north of Grand Avenue

Site Size: 11.652 acres (approx.)

Density: 3.5 DU/Ac

Findings:

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the Paradiso Asante PUD as amended under case FS18-078.
- The Final Plat is consistent with the Preliminary Plat approved under case FS19-854.

Alternative Actions: **Approve** – Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Deny – Denial of the requested Final Plat will prevent the applicant from subdividing the property as proposed.

Additional Information:

40 Hilgart Wilson, LLC, on behalf of Lennar Arizona Construction, Inc., requests approval of the Final Plat
41 of Heritage Asante – Parcel 6 Phase 2. The subject property is approximately 11.652 acres and it is
42 located generally west of 163rd Avenue and north of Grand Avenue. The subject property is zoned
43 RM-6 with a PUD Overlay.

44

45 The applicant proposes 41 single-family lots for a total density of 3.5 dwelling units per acre. The
46 typical lot size proposed in this subdivision is 70' x 120'. This development dedicates approximately
47 1.15 acres (9.8%) for open space. This plat provides an internal trail that connects to Phase 1 of Parcel
48 6 of Heritage Asante to the east. Phase 1 includes access to the public linear park along Grand Avenue
49 and internal pedestrian trails that connect to adjacent parcels and lead to the community clubhouse
50 and amenity parcel to the east. Additional landscape and retention basins on site also contribute to
51 the total open space. The proposed Final Plat is in compliance with the latest amendment to the
52 Paradiso Asante PUD (case FS18-078) and the Preliminary Plat approved under case FS19-854.

53

54 **Attachments:**

55

56 01 Vicinity Map

57 02 Final Plat

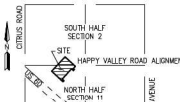


VICINITY MAP

FINAL PLAT
OF
HERITAGE ASANTE - PARCEL 6 PHASE 2
SURPRISE, ARIZONA
BEING WITHIN A PORTION OF THE SOUTHWEST QUARTER
OF SECTION 2, AND A PORTION OF THE NORTHWEST
QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2
WEST OF THE GILA AND SALT RIVER MERIDIAN,
MARICOPA COUNTY, ARIZONA

OWNER
LOD ASANTE, LLC
1865 W ALAMOGA DR., SUITE 130
TEMPE, AZ 85285-3200

SURVEYOR
HILGARTWILSON, LLC
2141 E. HIGHLAND AVE., STE. 250
PHOENIX, ARIZONA 85016
PHONE: (602) 490-0535
CONTACT: BRIAN BENEDICT, RLS



VICINITY MAP
NOT TO SCALE

SHEET INDEX

COVER SHEET
SHEET INDEX MAP, LEGEND,
NOTES, LOT/TRACT AREA TABLE,
LOT NETWORK & VISIBILITY DETAIL
FINAL PLAT

PUBLIC NOTICE:

THE LOTS DEPICTED ON THIS PLAT ARE LOCATED WITHIN THE VICINITY OF LUKE AIR FORCE BASE AND MAY BE SUBJECT TO OVERFLIGHTS BY MILITARY ALL STRUCTURES WITHIN THIS PLAT SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE SOUND ATTENUATION STANDARDS ADOPTED BY THE CITY OF SURPRISE. A MAP DEPICTING THE MOST CURRENT ADOPTED MAP HOUSE CONTAINS THE INFORMATION THAT THIS PLAT SHALL BE BOUND BY THE CITY OF SURPRISE. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE CITY OF SURPRISE COMMUNITY DEVELOPMENT DEPARTMENT.

RELEASE OF LIABILITY

LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ("OWNER"), DOES HEREBY (1) RELEASE AND DISCHARGE THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE (USAF) AND THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE USAF AND CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH AIRCRAFT OVERFLIGHTS FROM AIRCRAFT UTILIZING LUKE AIR FORCE BASE, WHETHER SUCH DAMAGE SHALL ORIGINATE FROM NOISE, VIBRATION, FUMES, DUST, FUEL AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT OR ON LUKE AIR FORCE BASE AND ITS ADJACENT AREAS. THIS RELEASEMENT SHALL RUN WITH THE LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL OR LOT THEREIN. THIS INSTRUMENT DOES NOT RELEASE THE USAF FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUMES, DUST, FUEL, AND LUBRICANT PARTICLES.

LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ("OWNER"), DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE NOW DEDICATED RIGHT-OF-WAY AS DEPICTED ON THIS PLAT UNTIL SUCH TIME THE RIGHT-OF-WAY IS IMPROVED TO CITY STANDARDS AND SUCH IMPROVEMENTS ARE APPROVED AND ACCEPTED BY THE CITY COUNCIL. THE MAINTENANCE OF THE AREA WITHIN ANY NOW DEDICATED RIGHT-OF-WAY AS SHOWN ON THIS PLAT SHALL BE THE RESPONSIBILITY OF THE ADJACENT OWNER/S OR SUBSEQUENT ADJACENT OWNERS WITHIN THE BOUNDARY OF SAID PLAT UNTIL SUCH TIME THAT THE AREA WITHIN THE RIGHT-OF-WAY IS IMPROVED TO CITY STANDARD AND ACCEPTED BY THE CITY OF SURPRISE.

THE CITY OF SURPRISE AGREES TO INDEMNIFY LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS OR THOSE OF AND ITS SUCCESSORS AND ASSIGNS FOR ANY AND ALL DIRECT DAMAGES TO THE PERSONAL PROPERTY OF OR FOR PHYSICAL INJURY TO OR DEATH OF PERSONS OCCURRING IN THE AREA OF THIS EASEMENT CAUSED BY OR ARISING AS THE PROXIMATE RESULT OF THE ACTIVITIES OF THE CITY OF SURPRISE, EXCEPT FOR SUCH INJURY OR DAMAGES CAUSED BY OR ARISING SOLELY FROM THE NEGLIGENCE, MALFEIT, MALICIOUS OR GROSSLY NEGLIGENT CONDUCT OF LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS OR THOSE OF ITS SUCCESSORS AND ASSIGNS THAT WAS THE DIRECT CAUSE OF THE INJURY TO THE USER.

OWNER HEREBY FURTHER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE FROM ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE IN CONNECTION WITH THE USE OF THE SIDEWALKS LOCATED WITHIN THE RIGHT-OF-WAY, UNTIL SUCH TIME THE CITY OF SURPRISE HAS ACCEPTED THE SIDEWALKS.

CITY OF SURPRISE ENGINEER APPROVAL:

DATA ON THIS PLAT REVIEWED AND APPROVED THIS _____ DAY OF _____, 2020, BY THE CITY ENGINEER OF SURPRISE, ARIZONA.

APPROVED: _____
CITY ENGINEER

CITY OF SURPRISE COUNCIL APPROVAL:

APPROVED BY THE CITY COUNCIL OF THE CITY OF SURPRISE, ARIZONA, THIS _____ DAY OF _____, 2020.

ATTEST:

MAYOR _____

CITY CLERK _____

CERTIFICATION

I, THE CITY ENGINEER, HAVE THE SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATED HEREIN MADE UNDER MY DIRECTION DURING THE MONTH OF OCTOBER 2018, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT THE EXTERIOR BOUNDARY MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN, THAT THEIR POSITIONS ARE CORRECTLY SHOWN, AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

BY: BRIAN J. BENEDICT, RLS
RLS# 32222
HILGARTWILSON, LLC
2141 E. HIGHLAND AVENUE, SUITE 250
PHOENIX, ARIZONA 85016
P: (602) 490-0535
bbenedict@hlgartwilson.com



NOTE:
A.R.S. 32-191 STATES THAT THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A PERSON OR FIRM THAT IS REGISTERED OR CERTIFIED BY THE BOARD IS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING FACTS OR FINDINGS THAT ARE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE AN EXPRESSION OF OPINION REGARDING OR GUARANTEE.

DEDICATION

STATE OF ARIZONA } SS
COUNTY OF MARICOPA }

KNOW ALL PERSONS BY THESE PRESENTS:

THAT LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER OF A SUBDIVISION WITHIN THE COUNTY OF MARICOPA, HAS SUBDIVIDED UNDER THE NAME OF "HERITAGE ASANTE - PARCEL 6 PHASE 2", BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 2 AND NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AS IS AND FOR THE PLAT OF SAID "HERITAGE ASANTE - PARCEL 6 PHASE 2" AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF EACH LOT, TRACT AND EASEMENTS CONSTITUTING SAME, AND THAT EACH LOT, TRACT AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

TRACT A IS HEREBY DECLARED AS PRIVATE ACCESSORY TO BE OWNED AND MAINTAINED BY HERITAGE ASANTE COMMUNITY ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION, AN EASEMENT FOR PUBLIC WATER AND SEWER, REFUSE COLLECTION, DRAINAGE AND EMERGENCY SERVICE TYPE VEHICLE ACCESS IS HEREBY DEDICATED TO THE PUBLIC OVER TRACT A.

OWNER HEREBY GRANTS TO THE PUBLIC A PERPETUAL NON-EXCLUSIVE EASEMENT IN, UPON, OVER, UNDER, THROUGH, AND ACROSS THE AREAS DESIGNATED AS PUBLIC UTILITY EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF ACCESSING, INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING AND UTILIZING PUBLIC UTILITIES.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL NON-EXCLUSIVE EASEMENT OVER, UPON AND ACROSS THE AREAS DESIGNATED AS SIGHT VISIBILITY TRIANGLES FOR THE PURPOSE OF ENSURING THAT THESE AREAS REMAIN FREE OF SIGHT VISIBILITY OBSTRUCTIONS.

OWNER HEREBY GRANTS TO THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE ("USAF") AN AVIATION EASEMENT OVER AND ACROSS THIS PLAT AND EVERY LOT AND PARCEL THEREIN, WHICH EASEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF FLIGHT OF AIRCRAFT OVER THIS PLAT, TOGETHER WITH ITS ATTENDANT NOISE, VIBRATIONS, FUMES, DUST, FUEL AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT OR ON LUKE AIR FORCE BASE AND ADJACENT AREAS.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL CROSS ACCESS EASEMENT ACROSS THE PLAT INCLUDING ROADS AND STREETS, OPEN SPACES, COMMUNITY FACILITIES, TRAILS, SIDEWALKS, DRAINAGE BASINS AND ANY PROPERTY WITHIN THE PLAT OWNED BY THE HOMEOWNERS ASSOCIATION FOR THE PURPOSES OF PROVIDING CONTINUOUS AND UNINTERRUPTED INGRESS AND EGRESS FOR TRASH COLLECTION VEHICLES.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE AN ODOOR EASEMENT OVER, UPON AND ACROSS THIS PLAT AND EVERY LOT AND PARCEL THEREIN, WHICH EASEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT TO INVADE WITH ODORS, FUMES, SMELLS AND PHYSICAL AIRBORNE PARTICULATES CAUSED BY THE OPERATION AND MAINTENANCE OF THE CITY'S WATER RECLAMATION FACILITIES.

ALL IMPROVEMENTS, FOR STREETS AND PUBLIC UTILITIES OWNED AND OPERATED BY THE CITY, INSTALLED OR CONSTRUCTED BY OWNER WITHIN THE PUBLIC RIGHT-OF-WAY, THE EASEMENTS OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE SHALL BE DEEMED TO HAVE BEEN DEDICATED BY OWNER TO THE CITY UPON THEIR COMPLETION, HOWEVER, SUCH TRANSFER SHALL NOT OCCUR UNTIL THE CITY GRANTS, FOR THE CITY OF SURPRISE MAINTENANCE ITS ACCEPTANCE BY SEPARATE FORMAL COUNCIL ACTION.

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL EXCLUSIVE EASEMENT OVER, UNDER, UPON AND ACROSS ALL AREAS DESIGNATED ON THE PLAT AS WATER/SEWER LINES, MANHOLES, FIRE HYDRANTS AND WATER METERS FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING AND UTILIZING THE WATER/SEWER LINES, MANHOLES, FIRE HYDRANTS AND WATER METERS.

THE EASEMENTS GRANTED WITHIN THIS DEDICATION ARE PERMANENT AND PERPETUAL AND SHALL RUN WITH THE LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL OR LOT THEREIN.

IN WITNESS WHEREOF:

LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER, HAS HERETO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS _____ DAY OF _____, 2020.

LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY

BY: LINDAN COMMUNITIES DEVELOPMENT, INC., A DELAWARE CORPORATION

ITS MANAGER

BY: _____
VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF ARIZONA } SS
COUNTY OF MARICOPA }

ON THIS _____ DAY OF _____, 2020, BEFORE ME, JEFFERY ANDERSON, WHO ACKNOWLEDGED HIMSELF TO BE THE VICE PRESIDENT OF LINDAN COMMUNITIES DEVELOPMENT, INC., A DELAWARE CORPORATION, THE MANAGER OF LOD ASANTE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND ACKNOWLEDGED THAT HE, AS SUCH OFFICER, BEING DULY AUTHORIZED TO DO SO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES CONTAINED THEREIN.

IN WITNESS WHEREOF:
I HERETO SET MY HAND AND OFFICIAL SEAL:

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

COMMUNITY ASSOCIATION RATIFICATION

BY THE RATIFICATION, AS _____ OF HERITAGE ASANTE COMMUNITY ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION, ACKNOWLEDGES THAT HE/IT/WE _____

BY: _____

TITLE: _____

PRINTED NAME: _____

ACKNOWLEDGMENT FOR RATIFICATION

STATE OF ARIZONA } SS
COUNTY OF MARICOPA }

ON THIS, THE _____ DAY OF _____, 2020, BEFORE ME, PERSONALLY APPEARED WHO ACKNOWLEDGED HIMSELF/HERSELF/IT/US TO BE _____ OF THE ASSOCIATION AND ACKNOWLEDGED THAT HE/IT/WE _____ BEING DULY AUTHORIZED TO DO SO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES CONTAINED HEREIN, BY SIGNING IN THE NAME OF THE ASSOCIATION, BY HIMSELF/HERSELF/US, _____

IN WITNESS WHEREOF, I HEREBY SET MY HAND AND OFFICIAL SEAL:

BY: _____ DATE: _____

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED WITHIN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 2 AND A PORTION OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND ALUMINUM CAP ACCEPTED AS THE EAST QUARTER CORNER OF SAID SECTION 11 FROM WHICH A FOUND ALUMINUM CAP ACCEPTED AS THE SOUTHEAST CORNER OF SAID SECTION 11 BEARS SOUTH 05°54'44" WEST, 2644.11 FEET;

THENCE NORTH 89°21'01" WEST, 1812.85 FEET ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 11 TO THE NORTHEASTLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD;

THENCE LEAVING SAID MID-SECTION LINE, NORTH 46°13'34" WEST, 3284.23 FEET ALONG SAID NORTHEASTLY RIGHT OF WAY;

THENCE LEAVING SAID NORTHEASTLY LINE, NORTH 43°46'26" EAST, 200.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 43°46'26" EAST, 657.44 FEET;

THENCE SOUTH 46°42'56" EAST, 612.70 FEET;

THENCE SOUTH 43°17'04" WEST, 140.00 FEET;

THENCE SOUTH 46°42'56" EAST, 47.13 FEET;

THENCE NORTH 88°31'45" EAST, 19.34 FEET;

THENCE SOUTH 42°31'00" WEST, 58.81 FEET;

THENCE SOUTH 01°28'15" EAST, 9.83 FEET;

THENCE NORTH 46°13'34" WEST, 118.03 FEET;

THENCE SOUTH 43°46'26" WEST, 280.00 FEET;

THENCE SOUTH 46°13'34" EAST, 6.00 FEET;

THENCE SOUTH 43°46'26" WEST, 325.23 FEET;

THENCE SOUTH 46°13'34" EAST, 110.00 FEET;

THENCE SOUTH 88°46'26" WEST, 7.07 FEET;

THENCE SOUTH 43°46'26" WEST, 60.00 FEET;

THENCE NORTH 46°13'34" WEST, 678.00 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARING

BASES OF BEARING IS SOUTH 05°54'44" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN ON THE RECORD OF SURVEY, RECORDED IN BOOK 1360, PAGE 02, MARICOPA COUNTY RECORDS.

100 YEAR ASSURED WATER SUPPLY

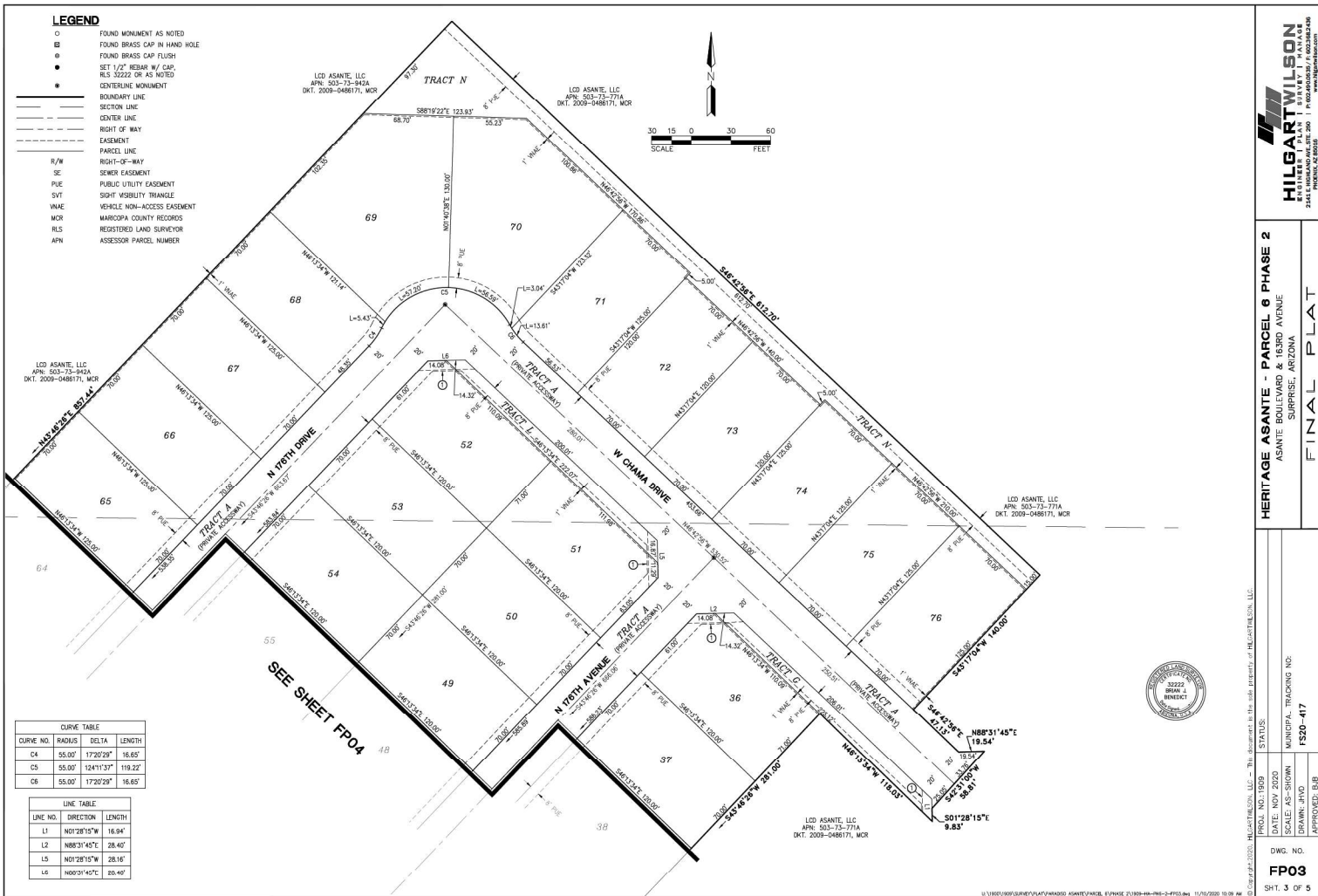
THE AREA PLANNED HEREON LIES WITHIN THE DOMESTIC WATER SERVICE AREA OF CITY OF SURPRISE, ARIZONA, 2010-012, SIGNED ON 8-29-2010, DECISION AND ORDER NUMBER 86-002344.001, WHICH IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT A.R.S. 45-576.

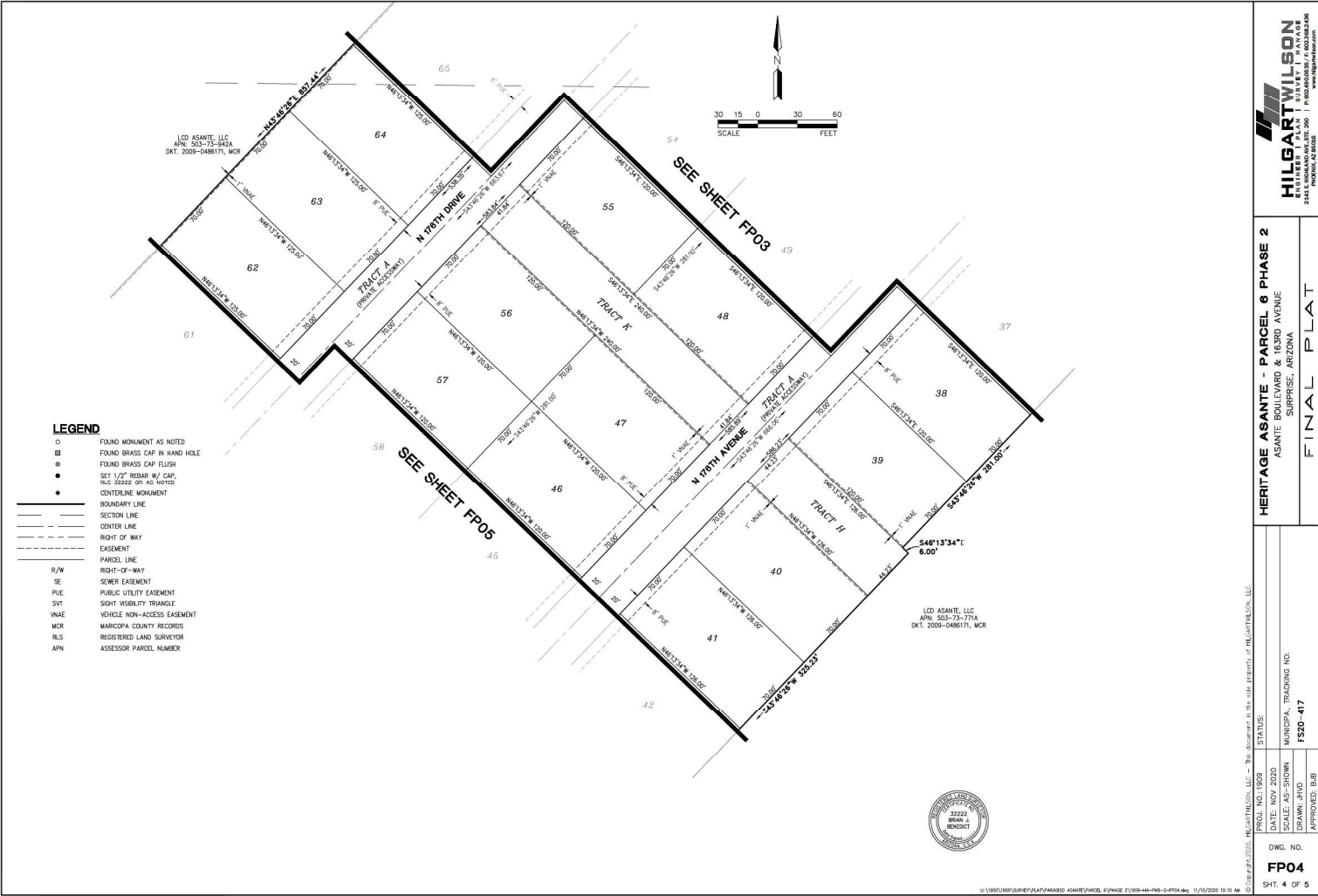
FLOOD ZONE DESIGNATION

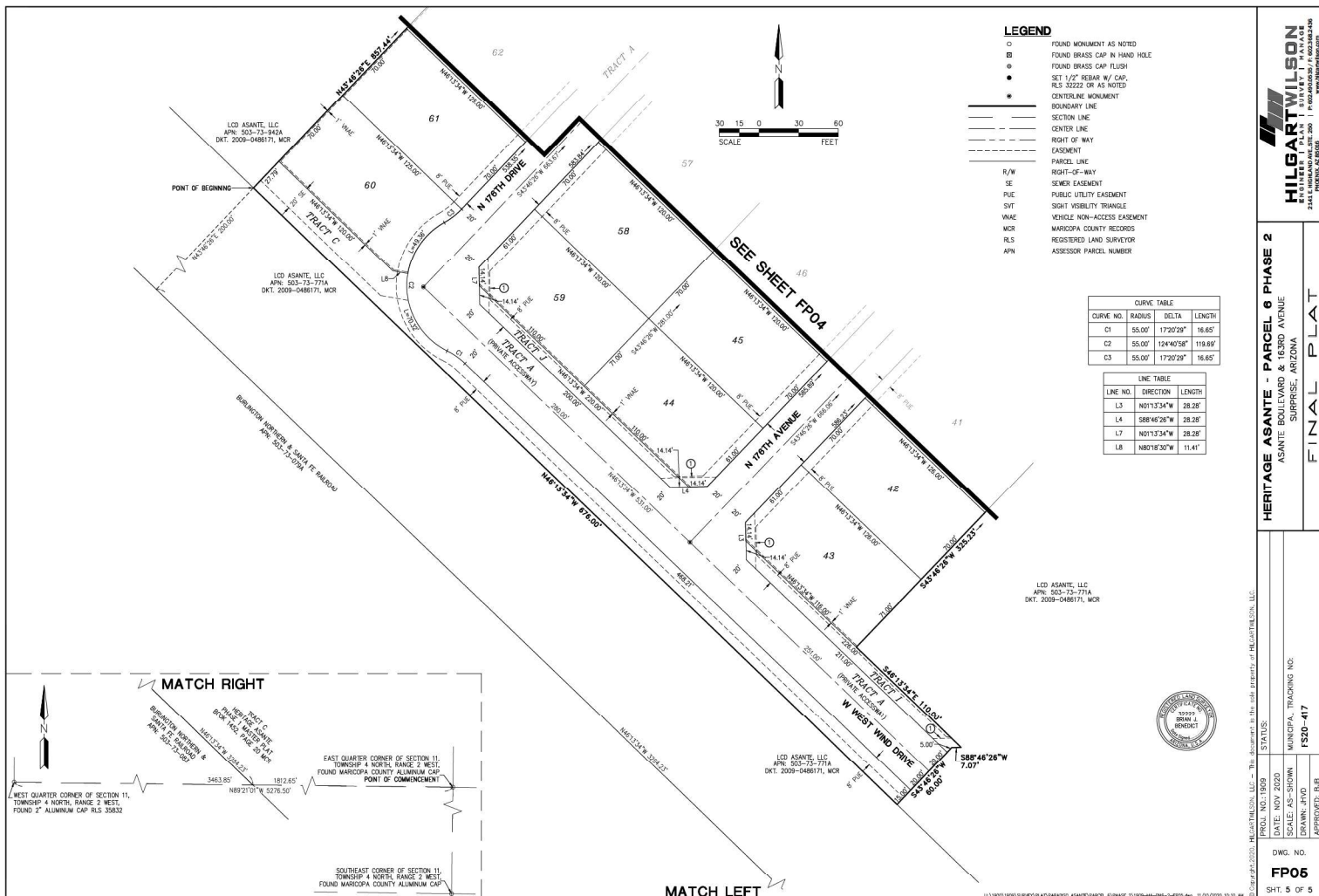
THE PROPERTY IS LOCATED WITHIN AN AREA HAVING FLOOD ZONE "X" BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, ON FLOOD INSURANCE RATE MAP NO. 040302701L, WITH A DATE OF IDENTIFICATION OF OCTOBER 16, 2013, FOR COMMUNITY NO. 04003, IN MARICOPA COUNTY, STATE OF ARIZONA, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITUATED.

HERITAGE ASANTE - PARCEL 6 PHASE 2
SOUTH HALF SECTION 11
NORTH HALF SECTION 11
HILGARTWILSON
BUSINESS PLAN
2141 E. HIGHLAND AVE., SUITE 250
PHOENIX, ARIZONA 85016
www.hlgartwilson.com

STATUS: _____
PROJ. NO.: 1509
DATE: NOV 2020
SCALE: NONE
DRAWN: JHD
1520-417
APPROVED: SUB
DWG. NO.
FPO1
SHT. 1 OF 5









Heritage Asante Parcel 6 Ph. 2 Final Plat FS20-417

City Council
December 15, 2020



VICINITY MAP







QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: Police
Staff Recommendations: None

Contact Person: Terry Young
District: Citywide

Consent: Yes Regular: No Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations in the amount of \$31,000 within the Grants Fund from Contingency to Project G31430 to provide funding for the purchase of personal protective equipment related to COVID-19 exposure and other safety equipment and for acceptance of a grant award from the Arizona Attorney General's Office; Resolution #2020-155.

Motion:

I move to approve Resolution #2020-155.

Background:

The Arizona Attorney General's Office has awarded grant funding to area agencies for the purchase of Personal Protective Equipment (PPE) related to COVID-19 exposure. The City of Surprise was awarded \$31,000.

Objective Analysis:

This grant allows the Police Department to purchase Personal Protective Equipment for our officers as well as other safety equipment. The equipment will help to provide protection to our officers during critical incidents. The time spent managing the grant (i.e. scheduling, tracking, and reporting) is not covered by the grant.

Policy Compliant:

The grant objectives are consistent with City and Council policy and the practice of supplementing the General Fund budget through use of grant funds when reasonable to do so. Acceptance and utilization of these grant funds will better prepare officers when dealing with incidents related to COVID-19 exposure and this is consistent with City and Council policy and practice of preparation.

Financial Impact:

This one-time grant award includes \$31,000 for Personal Protective Equipment. There is no City match requirement.

Budget Impact:

The FY2021 adopted budget did not include appropriations for this grant award to the Police

Department. Acceptance of this grant will amend the budget by reallocating appropriations in the amount of \$31,000 within the Grants Fund from Contingency to Project G31430 AG Law Enforcement Safety Equipment. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget.

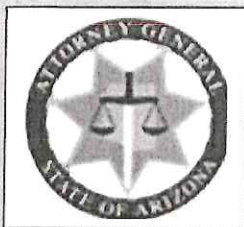
FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. Office of AZ Attorney General - Surprise PD Application
 2. Resolution 2020-155 - AZAG grant off safety equip
-

Approved

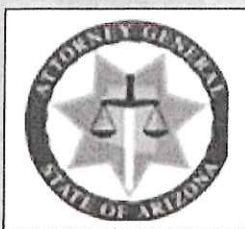


Office of Arizona Attorney General
**Mark Brnovich Law Enforcement Equipment Funding
 Program**

Notice of Funds Available

Law Enforcement Agency Name	Surprise Police Department		
Legal entity (government agency or body)	City of Surprise Arizona		
Mailing Address	14250 Statler Plaza Suite 103	County	Maricopa
City	Surprise	Zip Code	85374
Chief / Sheriff	Terry Young	Phone	623 222 4000
Email	<u>Terry.young@surpriseaz.gov</u>	Secondary Email	<u>Mark.filler@surpriseaz.gov</u>
Grant Contact	Lieutenant R. Mark Filler	Phone	623 222 4365
Email	<u>Mark.filler@surpriseaz.gov</u>		
Total number of current law enforcement personnel with ACT certification (as of 05/01/20):	158	Total Funding Amount Requested:	\$31,000.00

[Handwritten signature]



Office of Arizona Attorney General
**Mark Brnovich Law Enforcement Equipment Funding
Program**

Notice of Funds Available

Please explain how each item of requested equipment will assist with or promote officer safety.

Mobile Field Force Safety Equipment Kit (Helmet, Shields, Padding, Gloves, etc.): Safety Kits will be used to provide protection to officers who are required to deploy as a mobile field force protection unit in the event of civil unrest or to protect critical infrastructure, public buildings, artifacts, and historical sites. SPD MFF teams could / have been used as a regionally deployable asset in support of UASI partnerships.

Ballistic Helmet's with Face Shields: Officers are frequently required to deploy to violent and unpredictable situations such as criminal barricades, mass casualty active threats, and civil disturbances. Providing each responding officer with ballistic helmets increases the likelihood of survival and successful resolution of the critical incident without injury to the officer.

AVON Air Purifying Respirator Filters: Officers are required to respond to critical incidents in which known and unknown respiratory hazards exist. These incidents include criminal incidents in which chemical agents such as OC/CS agent are used to disperse and disrupt violent or destructive criminal groups or gain compliance. These incidents can also include chemical spills and other hazards created by natural or man-made disasters. SPD officers are supplied with air purifying respirators to mitigate risk, these filters will allow for prolonged work in hazardous environments are immediate refit in the event an exposure occurred.

AVON SCBA/APR Kit: Surprise SWAT operators are part of the Regional UASI CBRNE response team. We currently have no excess SCBA(s) to support operations in the event of a malfunction or other event which would down one of our units. These SCBA's would allow for SPD to maintain full operational capability in the event of an unforeseen issue or DECON process for our current kits. SCBA's are used to provide respiratory protection while working in hazardous environments such as clandestine labs, explosive labs, and hazardous material/chemical spills.

Describe personnel who will use each type of equipment you propose to purchase.



**Office of Arizona Attorney General
Mark Brnovich Law Enforcement Equipment Funding
Program**

Notice of Funds Available

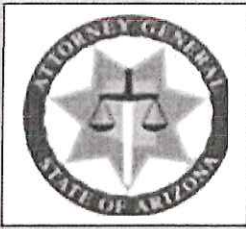
Each of these items will be utilized by AZPOST certified Police Officers employed by the City of Surprise. Some members will be assigned to and trained as Mobile Field Force operators, others will be SCBA trained SWAT operators.

What is the expected timeline to purchase each type of equipment?

These items will be purchased within FY2021 and prior to June 30, 2021.

Please verify that the AGO monies will not supplant funds, i.e., they will not be used to take the place of any existing state or federal funding for the purchase of the equipment.

These monies will not supplant funds currently allocated nor will they take the place of any existing state or federal funding for the purchase of this equipment.



Office of Arizona Attorney General
Mark Brnovich Law Enforcement Equipment Funding
Program

Notice of Funds Available

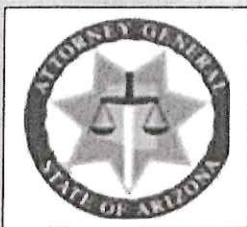
Are there specific department-related funding requests that are outside the scope of this grant, but are needed by your agency and you would like to see addressed in the future? If so, please describe and explain the need.

Authorized Signature:

Printed Name: R. Mark Filler

Title: Lieutenant

Date: 07/24/2021



Office of Arizona Attorney General
**Mark Brnovich Law Enforcement Equipment Funding
Program**

Notice of Funds Available



**ARIZONA DEPARTMENT OF ADMINISTRATION PROCUREMENT OFFICE
STATUTORY TERMS AND CONDITIONS**

1. **Applicable Law** – In accordance with ARS § 41-2501, et seq, and AAC R2-7-101, et seq, Contract shall be governed and interpreted by the laws of the State of Arizona and the Arizona Procurement Code.
2. **Non-Availability of Funds** – In accordance with ARS § 35-154, every payment obligation of the State under the Contract is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
3. **Audit** – In accordance with A.R.S. § 35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce the original of any or all such records.
4. **Conflict of Interest** – In accordance with A.R.S. § 38-511, State may within three years after execution cancel the Contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State, at any time while the Contract is in effect, becomes an employee or agent or any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter of the Contract.
5. **Non-Discrimination** – In accordance with ARS § 41-1461, et seq, Contractor shall provide equal employment opportunities for all persons, regardless of race, color, creed, religion, sex, age, national origin, disability or political affiliation. Contractor shall comply with the Americans with Disabilities Act.
6. **E-Verify** – In accordance with ARS § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with AAC Section A.R.S. § 23-214, Subsection A.
7. **Arbitration** – In accordance with ARS § 12-1518, the parties to agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes.

ACKNOWLEDGED BY:

and _____

RESOLUTION # 2020-155

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA ATTORNEY GENERAL'S OFFICE TO ACCEPT GRANT FUNDING AND AMENDING THE FISCAL YEAR 2021 BUDGET BY REALLOCATING APPROPRIATIONS OF \$31,000 WITHIN THE GRANTS FUND FROM CONTINGENCY TO PROJECT G31430 TO PROVIDE FUNDING FOR THE PURPOSE OF PERSONAL PROTECTIVE EQUIPMENT RELATED TO COVID-19 EXPOSURE.

WHEREAS, the Arizona Attorney General's Office awarded funds to police agencies for the purchase of qualified police officer safety equipment;

WHEREAS, the Arizona Attorney General's Office has awarded the City of Surprise \$31,000 for the purchase of personal protective equipment related to COVID-19 exposure;

WHEREAS, the City of Surprise Police Department desires to accept this award;

WHEREAS, the FY2021 budget was adopted by Council Resolution #2020-63 on June 2, 2020;

WHEREAS, this action will necessitate a budget amendment; and

WHEREAS, the City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. That the statements and schedules attached as *Exhibit A* and incorporated by reference are adopted, amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2020 through June 30, 2021.

Section 2. The Intergovernmental Agreement between the City of Surprise and the Arizona Attorney General's Office attached as *Exhibit B* is approved.

Section 3. The City Manager, or his designee, is hereby authorized to execute and submit all documents and other necessary or desirable instruments in connection with said agreements.

SIGNATURES ON THE NEXT PAGE

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2020-155
Exhibit A

1. Appropriation - The allocation below represents a reallocation of appropriation in the amount of \$31,000 from Contingency to Project G31430 to provide funding for the purpose of personal protective equipment related to COVID-19 exposure. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Grants	Police	#G31430 FY21 AZ AG Law Enforce Safety Equip	R	-	31,000	31,000
Grants	Police	#G31430 FY21 AZ AG Law Enforce Safety Equip	E	-	31,000	31,000
Grants/Contingency	General Operations	Contingency	E	18,198,100	(31,000)	18,167,100
Grants/Contingency	General Operations	Other	R	25,552,300	(31,000)	25,521,300
Expense Total				18,198,100	-	18,198,100
Revenue Total				25,552,300	-	25,552,300

RESOLUTION # 2020-155

Exhibit B

INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF SURPRISE AND *ARIZONA ATTORNEY GENERAL'S OFFICE*



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: Public Works
Staff Recommendations: None

Contact Person: Kristin Tytler
District: District 1

Consent: Yes	Regular: No	Public Hearing: No	Report/Discussion: No
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Agenda Wording:

Consideration and action pertaining to approval of the Public Improvements In-lieu Payment Agreement for Rio Rancho with Forestar (USA) Real Estate Group, Inc.; Resolution #2020-156.

Motion:

I move to approve/disapprove Resolution #2020-156, Public Improvements In Lieu Payment Agreement for Rio Rancho..

Background:

Forestar (USA) Realty Group owns Rio Rancho, approximately 188 acres located both north and south of Happy Valley Road and west of 183rd Avenue within the City of Surprise. Forestar is responsible for designing and constructing the Happy Valley Road half-street improvements adjacent to Rio Rancho. These improvements include a portion of an associated regional bridge, which will be needed in the future. The developer has requested, and the City has agreed, that the developer may make in-lieu payments for a portion of their required infrastructure to the City, with the funds to be applied to the costs of construction when the City constructs the necessary improvements.

The Rio Rancho development is immediately adjacent to Arizona State Trust Land (outside of incorporated city limits) and several single family homes fronting Happy Valley Road. The construction of the ultimate build-out of Happy Valley Road and the regional bridge along the frontage of these properties would ultimately be constructed by the City as a future CIP project and/or by future development of the Arizona State Trust Land to the west. Ultimate build-out of these facilities is not anticipated to be constructed in the very near future.

The estimated costs for the Happy Valley Road Improvements are \$1,077,467.05 (the "In Lieu Payment"). The In Lieu Payment shall be paid to the City by the developer or its successor on or before the date on which the City issues the first permits for the construction of the grading, utility and/or other horizontal improvements to the Rio Rancho property.

A regional bridge is planned along Happy Valley Road at approximately the 187th Avenue alignment. The estimated costs for the portion of the 187th Avenue Bridge that abuts Rio Rancho are \$901,996.34.

In the event: (1) the City does not adopt an impact fee or approve some form of public financing to fund the design and construction costs of the 187th Avenue Bridge, and (2) the City has either (i) collected in-lieu payments from the other properties abutting to the 187th Avenue Bridge, or (ii) another property owner has designed and is prepared to construct the 187th Avenue Bridge, then developer shall pay the City the In Lieu Obligation. If within twenty (20) years from the Effective Date, (2) above has not occurred, then developer's obligation to pay the In Lieu Obligation shall expire and the developer shall have no further obligation with respect to the design and construction and installation of the 187th Avenue Bridge.

The monies received by the City from Forestar pursuant to this Agreement shall be placed in a separate fund and accounted for separately and shall only be used by the City for the purpose of completing the Happy Valley Road Improvements, and if applicable the 187th Avenue Bridge, at a future date as determined by the City.

Objective Analysis:

This item will satisfy Rio Rancho's development obligations and secure funding towards future roadway improvements.

Policy Compliant:

This action is consistent with City and Council Policy. The Mayor, the City Manager, the City Clerk and the City Attorney are authorized to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. 01_Res 2020-156 Rio Rancho In Lieu Agreement
 2. In Lieu Payment Agreement -- execution version Forestar signed_With exhibits
-

RESOLUTION # 2020-156

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A PUBLIC IMPROVEMENTS IN-LIEU PAYMENT AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP FOR RIO RANCHO

WHEREAS, the City of Surprise is authorized to enter into development agreements pursuant to Ariz. Rev. Stat. § 9-500.05;

WHEREAS, Forestar (USA) Real Estate Group, Inc., a Delaware corporation ("Forestar"), is developing the Rio Rancho project consisting of approximately 188 acres located both north and south of Happy Valley Road and west of 183rd Avenue within the City of Surprise ("Rio Rancho");

WHEREAS, the City has advised Forestar that certain street improvements must be constructed to accommodate traffic going to and from Rio Rancho when it is developed, and these improvements include a regional bridge, a portion of which abuts the southwest corner of the Rio Rancho property located north of Happy Valley Road, which will be needed in the future;

WHEREAS, Forestar has requested, and the City has agreed, that Forestar may make certain in-lieu payments to the City for these road improvements, with the funds to be applied by the City to the costs of construction when the City constructs the improvements, and Forestar has prepared preliminary plans for construction of the improvements that have been approved by the City;

WHEREAS, pursuant to the Public Improvements In-Lieu Payment Agreement ("Agreement") attached hereto as **Exhibit "A"**, Forestar will make an in-lieu payment of \$1,077,467.05 to the City for the required improvements to Happy Valley Road payable when the City issues the first permits for the construction of the grading, utility, and/or other horizontal improvements for Rio Rancho; and

WHEREAS, also pursuant to the Agreement, Forestar will be obligated to pay the City, as its proportionate share of the estimated costs for the construction of the 187th Avenue bridge, \$901,996.34 within ten (10) business days following receipt of the City's request for payment, as detailed in the Agreement, with this obligation to be in effect for 20 years from the Effective Date of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. That the City of Surprise approves the Public Improvements In-Lieu Payment Agreement for Rio Rancho with Forestar (USA) Realty Group, Inc., attached hereto as **Exhibit A**, which is incorporated by reference.

Section 2. That the Mayor is hereby authorized to execute the Agreement on behalf of the City and to take all further actions necessary to implement the Agreement.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

EXHIBIT “A”

Public Improvements In-Lieu Payment Agreement

(Rio Rancho)

When Recorded Return To:
CITY OF SURPRISE
Public Works Department
Engineering Development Services
16000 N. Civic Center Plaza
Surprise, Arizona 85374-7470

**PUBLIC IMPROVEMENTS
IN-LIEU PAYMENT AGREEMENT
(Rio Rancho)**

This Public Improvements In-Lieu Payment Agreement (Rio Rancho) (“**Agreement**”), shall be effective as of this ____ day of _____, 2020 (the “**Effective Date**”), and is entered into by and between the CITY OF SURPRISE, an Arizona municipal corporation (the “**City**”), and FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation (“**Owner**”). The City and Owner may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.”

RECITALS

A. Owner owns approximately 188 acres located both north and south of Happy Valley Road and west of 183rd Avenue, more particularly described on the attached **Exhibit A** (the “**Property**”), which description is incorporated herein by reference.

B. The Property is situated within the municipal boundaries of the City and is accessed by roadways that are located within and maintained by the City.

C. The City has advised Owner that certain street improvements must be constructed to accommodate traffic going to and from the Property when it is developed.

D. The City has also advised Owner that a regional bridge, a portion of which abuts the southwest corner of the Property located north of Happy Valley Road, will be needed in the future.

E. Owner has requested, and the City has agreed, that Owner may make in-lieu payments to the City with the funds to be applied by the City to the costs of construction when the City constructs the necessary improvements.

F. Owner has prepared plans and specifications for construction of the improvements that have been approved by the City.

G. The in-lieu payments will be made in accordance with the terms and provisions of this Agreement.

H. The City is willing to accept this Agreement and Owner's performance as described herein as full satisfaction of Owner's obligation to construct the required improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, representations, mutual covenants, promises and undertakings in this Agreement, the Parties agree as follows:

1. Happy Valley Road. Owner is responsible for designing and constructing the Happy Valley Road half-street improvements adjacent to the Property, as further described on the attached **Exhibit B** (the "**Happy Valley Road Improvements**"), which list is incorporated herein by reference.

2. 187th Avenue Bridge. A regional bridge is planned along Happy Valley Road at approximately the 187th Avenue alignment, as further described on the attached **Exhibit C** (the "**187th Avenue Bridge**"), which is incorporated herein by reference.

3. Happy Valley Road Improvements Costs. The estimated costs for the Happy Valley Road Improvements are One million Seventy-Seven Thousand Four Hundred Sixty-Seven and 05/100 Dollars (\$1,077,467.05) (the "**In Lieu Payment**"), which is acceptable to Owner. The In Lieu Payment has been approved by the City's Public Works Director/Engineer or designee and is based upon estimates more fully itemized in **Exhibit D** attached hereto and incorporated by this reference. The In Lieu Payment shall be paid to the City by Owner or its successor on or before the date on which the City issues the first permits for the construction of the grading, utility and/or other horizontal improvements to the Property. Payment in full of the In Lieu Payment shall constitute full satisfaction of Owner's or its successors' obligation to design and construct the Happy Valley Road Improvements, and Owner shall then have no further obligation with respect to the design and construction and installation of the Happy Valley Road Improvements or payment of any costs thereof.

4. 187th Avenue Bridge Costs. The estimated costs for the portion of the 187th Avenue Bridge that abuts the Property are Nine Hundred One Thousand Nine Hundred Ninety-Six and 34/100 Dollars (\$901,996.34) (the "**In Lieu Obligation**"), which is acceptable to Owner. The In Lieu Obligation has been approved by the City's Public Works Director/Engineer or designee and is based upon estimates more fully itemized in **Exhibit E** attached hereto and incorporated by this reference. In the event: (1) the City does not adopt an impact fee or approve some form of public financing to fund the design and construction costs of the 187th Avenue Bridge (including the In Lieu Obligation), and (2) the City has either (i) collected in-lieu payments from the other properties abutting to the 187th Avenue Bridge, or (ii) another property owner has designed and is prepared to construct the 187th Avenue Bridge, then Owner shall pay the City the In Lieu Obligation. Owner shall pay the In Lieu Obligation within ten (10) business days following receipt of written notice from the City requesting the In Lieu Obligation and evidence that the above have been satisfied. Payment in full of the In Lieu Obligation shall constitute full satisfaction of Owner's or its successors' obligation to design and construct the 187th Avenue Bridge, and Owner shall have no

further obligation with respect to the design and construction and installation of the 187th Avenue Bridge or payment of any costs thereof. If within twenty (20) years from the Effective Date, (2) above has not occurred, then Owner's obligation to pay the In Lieu Obligation shall expire and Owner shall have no further obligation with respect to the design and construction and installation of the 187th Avenue Bridge or payment of any costs thereof.

5. City Maintenance of Funds. The monies received by the City from Owner pursuant to this Agreement shall be placed in a separate fund and accounted for separately and shall only be used by the City for the purpose of completing the Happy Valley Road Improvements, and if applicable the 187th Avenue Bridge, at a future date as determined by the City. If the costs of completing either the Happy Valley Road Improvements, or if applicable the 187th Avenue Bridge, is greater than the amount of the In Lieu Payment or the In Lieu Obligation, then such excess costs shall be paid by the City and neither Owner nor any of its successors shall have any obligations with respect to such excess costs.

6. Owner Representation. Owner represents and warrants that Owner is the owner in fee of the Property. As the owner of the above-described Property, Owner hereby grants to the City, at no cost to the City, a construction easement over the portion of the Property described on **Exhibit F** attached hereto and incorporated by this reference (the "**Easement Property**"), giving the City the right to use the Easement Property to the extent determined by the City at the time of construction to be necessary to complete the construction of either the Happy Valley Road Improvements or the 187th Avenue Bridge (collectively the "**Improvements**"). This right of use is a temporary use which is granted to the City, to be used and exercised, during the period of time when the Improvements are being constructed and shall expire upon the first to occur of (i) completion of the Improvements, or (ii) the recordation of a final plat for the Property, in a form approved by the City, that dedicates right of way to the City in substantially the area of the Easement Property. This easement granting such use shall run with the land and is intended to survive and be in effect beyond the date that Owner pays the In Lieu Payment and if applicable, the In Lieu Obligation.

7. Prop 207. Owner hereby waives and releases the City from any and all claims under A.R.S. §12-1134, et seq., including any right to compensation for reduction in the fair market value of the real property that is the subject of this Agreement, as a result of the City's approval of this Agreement. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners and shall survive the expiration or other termination of this Agreement.

8. Conflict of Interest. This Agreement is subject to cancellation for conflict of interest. Pursuant to A.R.S. §38-503 and § 38-511, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

9. Assignments. The provisions of this Agreement are binding upon and shall inure to the benefit and burden of the Parties and their successors-in-interest and assigns. Owner shall

use commercially reasonable efforts to provide the City with at least ten (10) business days' written notice in the event that title to all or any part of the Property is conveyed or otherwise transferred to a third party that is not related to or an affiliate of Owner provided, however, that the failure to give such notice shall not affect such successor's obligations hereunder or right to rely upon the benefits granted hereby. Upon the conveyance of all or a portion of the Property by Owner or its successors in title, Owner or its successor shall automatically be released from further obligations with regard to such portion of the Property, but its successor-in-title shall be bound thereby. Notwithstanding the foregoing, Owner's obligation to make the In Lieu Obligation may only be assigned with the prior written approval of the City, such approval not to be unreasonably conditioned, withheld or delayed.

10. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are hereby superseded and merged herein.

11. Applicable Law. The laws of the State of Arizona shall govern any dispute, controversy, claim or cause of action arising out of or related to this Agreement. The venue for any such dispute shall be Maricopa County, Arizona, and each Party waives the right to object to venue in Maricopa County for any reason. Neither Party shall be entitled to recover any of its attorneys' fees or other costs from the other Party incurred in any such dispute, controversy, claim, or cause of action, but each Party shall bear its own attorneys' fees and costs, whether the same is resolved through arbitration, litigation in a court, or otherwise.

12. Enforcement. This Agreement may be enforced by either Party in a court of law or equity. Nothing herein shall prevent or prohibit the City from enforcing this Agreement through such other non-judicial means as may be permitted by law, including, but not limited to, the withholding of building permits. In any action brought to enforce this Agreement, the only available remedies shall be specific performance, declaratory judgment, and injunction. No monetary damages may be sought or awarded other than payments required by this Agreement.

13. Time is of the Essence. Time is of the essence in this Agreement.

14. Gender and Case. In this Agreement, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

15. Running with the Land. This Agreement shall run with the land and inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns.

16. Amendments. Any amendment to this Agreement shall be in writing and approved by both Parties.

17. Third Party Beneficiaries. There are no third-party beneficiaries to this Agreement and no person or entity not a Party shall have any right or cause of action hereunder.

18. Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.

19. Recordation. This Agreement and any amendment or cancellation of this Agreement must be recorded in its entirety in the official records of the Maricopa County Arizona Recorder's Office no later than ten (10) days after the City and Owner execute such Agreement, amendment or cancellation.

20. Notices. All notices, filings, consents approvals and other communications provided or herein or given in connection herewith shall be made in writing and delivered personally, emailed or sent by registered certified United States Postal Service mail to:

City:	City of Surprise Attention: Public Works Director 16000 N. Civic Center Plaza Surprise, Arizona 85374 Email: mike.gent@surpriseaz.gov
With Copy to:	Surprise City Attorney's Office 16000 N. Civic Center Plaza Surprise, Arizona 85374 Email: robert.wingo@surpriseaz.gov
Owner:	Forestar (USA) Real Estate Group, Inc. Attention: Brian Konderik 20410 North 19 th Avenue, Suite #100 Phoenix, Arizona 85027 Email: briankonderik@forestar.com
	Forestar (USA) Real Estate Group, Inc. Attention: Matt Stark 10700 Pecan Park Boulevard, Suite #150 Austin, Texas 78750
	Forestar (USA) Real Estate Group, Inc. Attention: Tom Burleson 2221 East Lamar Boulevard, Suite #700 Arlington, Texas 76006
With Copy to:	Beus Gilbert McGroder PLLC Attention: Jeffrey Blilie 701 N. 44 th Street Phoenix, AZ 85396 Email: jbililie@beusgilbert.com

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY:
CITY OF SURPRISE, an Arizona municipal corporation

By: _____
Skip Hall, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk

APPROVED AS TO FORM:

Robert Wingo, City Attorney

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2020, before me personally appeared _____, Skip Hall the Mayor of the City of Surprise, an Arizona municipal corporation, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above/attached document.

[Affix notary seal here]

Notary Public

OWNER:

**FORESTAR (USA) REAL ESTATE GROUP,
INC.,**

By: 

Name:

Title:

BRIAN KONDERIK
DIVISION PRESIDENT

STATE OF ARIZONA
County of Maricopa

On this 6th day of November, 2020, before me personally appeared Brian Konderik, Division President of Forestar (USA) Real Estate Group, Inc., ,
for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence
to be the person who he claims to be, and acknowledged that he signed the above/attached
document.

[Affix notary seal here]


Notary Public

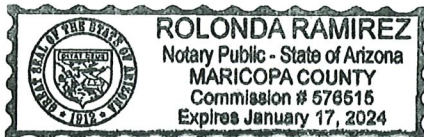


EXHIBIT A

Legal Description of the Property

Exhibit A

MASTER PLAT NORTH ACREAGE DESCRIPTION

All that certain lot, tract, or parcel of land, situated in a portion of the Southwest Quarter of Section 3 and the Northwest Quarter of Section 10, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

BEGINNING at a found 1/2" rebar with cap stamped "RLS #38863" for the Southwest corner of said Section 3;

THENCE North 00 deg. 09 min. 08 sec. West (Basis of Bearings) along the West line of the Southwest Quarter of said Section 3, a distance of 2631.54 feet to a found 3" Maricopa County Department of Transportation brass cap on concrete base for the West Quarter corner of said Section 3;

THENCE South 89 deg. 46 min. 33 sec. East along the North line of the Southwest Quarter of said Section 3, a distance of 2137.51 feet, from which a found 2" Maricopa County Aluminum cap on bar for the East Quarter corner of said Section 3 bears South 89 deg. 46 min. 33 sec. East - 3130.52 feet;

THENCE South 01 deg. 01 min. 16 sec. West departing said North line, a distance of 545.88 feet;

THENCE South 43 deg. 22 min. 03 sec. West, a distance of 49.90 feet;

THENCE South 46 deg. 37 min. 57 sec. East, a distance of 403.84 feet to a Point of Curvature of a circular curve to the left, having a radius of 70.00 feet, a central angle of 44 deg. 29 min. 10 sec., and being subtended by a chord which bears South 68 deg. 52 min. 32 sec. East - 53.00 feet;

THENCE in a southeasterly along said curve to the left, a distance of 54.35 feet;

THENCE North 88 deg. 52 min. 56 sec. East tangent to said curve, a distance of 193.35 feet to the East line of the Southwest Quarter of said Section 3, from which a found 2" Maricopa County Aluminum cap on bar for the North Quarter corner of said Section 3 bears North 00 deg. 12 min. 58 sec. East - 3049.48 feet;

THENCE South 00 deg. 12 min. 58 sec. West along said East line, a distance of 1760.38 feet to the South Quarter corner of said Section 3;

THENCE South 00 deg. 22 min. 29 sec. West along the East line of the Northwest Quarter of said Section 10, a distance of 87.58 feet;

THENCE North 89 deg. 37 min. 31 sec. West departing said East line, a distance of 40.00 feet;

THENCE North 44 deg. 40 min. 57 sec. West, a distance of 42.38 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 57.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.89 feet;

THENCE North 82 deg. 53 min. 48 sec. West, a distance of 20.98 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 55.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 372.07 feet;

THENCE South 45 deg. 15 min. 38 sec. West, a distance of 42.43 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 85.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 27.50 feet;

THENCE South 00 deg. 15 min. 38 sec. West, a distance of 4.50 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 89.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 27.50 feet;

THENCE North 42 deg. 53 min. 32 sec. West, a distance of 43.86 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 59.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.86 feet;

THENCE North 82 deg. 53 min. 48 sec. West, a distance of 20.98 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 55.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 431.74 feet;

THENCE North 00 deg. 30 min. 00 sec. East along said West line, a distance of 55.00 feet to a found 1" iron pipe for the South 16th corner of said Section 3;

THENCE North 89 deg. 44 min. 22 sec. West along the South line of the Southwest Quarter of said Section 3, a distance of 1308.11 feet to the POINT OF BEGINNING, containing 6,583,112 square feet or 151.127 acres of land, more or less.

MASTER PLAT SOUTH ACREAGE DESCRIPTION

All that certain lot, tract, or parcel of land, situated in a portion of the Northwest Quarter of Section 10, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found 1/2" rebar stamped "RLS #38863" for the Northwest corner of said Section 10, from which a found 2" Maricopa County aluminum cap stamped "RLS #35832, dated 2004" for the West Quarter corner of said Section 10 bears South 00 deg. 37 min. 30 sec. West (Basis of Bearings) – 2631.24 feet;

THENCE South 89 deg. 44 min. 22 sec. East along the North line of the Northwest Quarter of said Section 10, a distance of 1308.11 feet to a found 1" iron pipe for the North 16th corner of the Northwest Quarter of said Section 10;

THENCE South 00 deg. 30 min. 00 sec. West along the West line of the Northeast Quarter of the Northwest Quarter of said Section 10, a distance of 55.00 feet to the TRUE POINT OF BEGINNING;

THENCE South 89 deg. 44 min. 22 sec. East being 55 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 431.74 feet;

THENCE South 82 deg. 53 min. 48 sec. East, a distance of 20.98 feet;

THENCE South 89 deg. 44 min. 22 sec. East being 59.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.86 feet;

THENCE South 42 deg. 53 min. 32 sec. East, a distance of 43.86 feet;

THENCE South 89 deg. 44 min. 22 sec. East, a distance of 27.50 feet;

THENCE North 00 deg. 15 min. 38 sec. East, a distance of 4.50 feet;

THENCE South 89 deg. 44 min. 22 sec. East, a distance of 27.50 feet;

THENCE North 45 deg. 15 min. 38 sec. East, a distance of 42.43 feet;

THENCE South 89 deg. 44 min. 22 sec. East being 55.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 372.07 feet;

THENCE South 82 deg. 53 min. 48 sec. East, a distance of 20.98 feet;

THENCE South 89 deg. 44 min. 22 sec. East being 57.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.89 feet;

THENCE South 44 deg. 40 min. 57 sec. East, a distance of 42.38 feet;

THENCE South 89 deg. 37 min. 31 sec. East, a distance of 40.00 feet to the East line of the Northwest Quarter of said Section 10;

THENCE South 00 deg. 22 min. 29 sec. West along said East line, a distance of 1198.51 feet;

THENCE North 89 deg. 43 min. 43 sec. West departing said East line, a distance of 1310.92 feet to a found 1/2" rebar stamped "RLS #38863" in the West line of the Northeast Quarter of the Northwest Quarter of said Section 10;

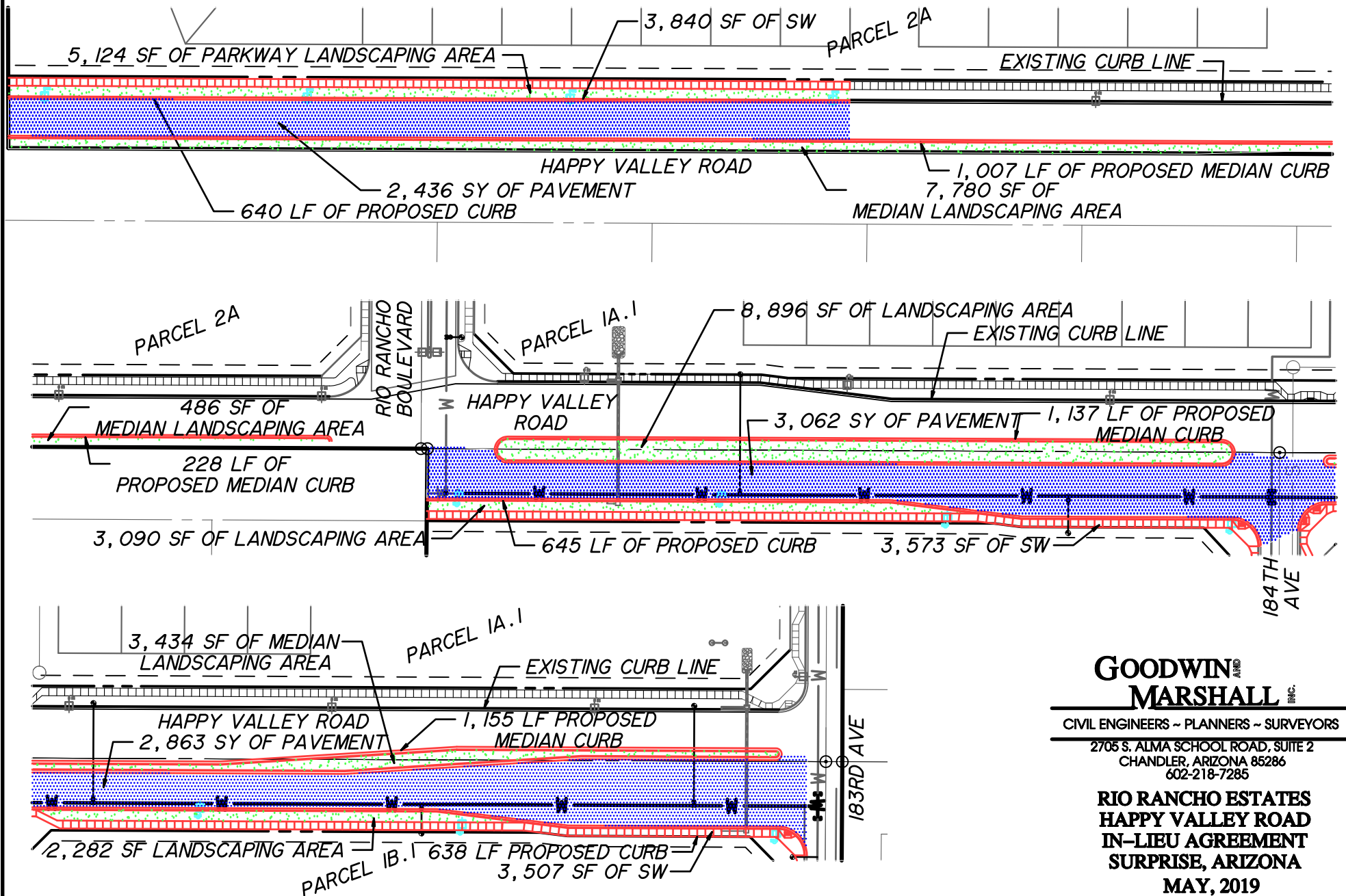
THENCE North 00 deg. 30 min. 00 sec. East along said West line, a distance of 1230.85 feet to the POINT OF BEGINNING, containing 1,606,684 square feet or 36.884 acres of land, more or less.

EXHIBIT B

Happy Valley Road Improvements



SCALE: 1" = 100'



GOODWIN AND MARSHALL INC.

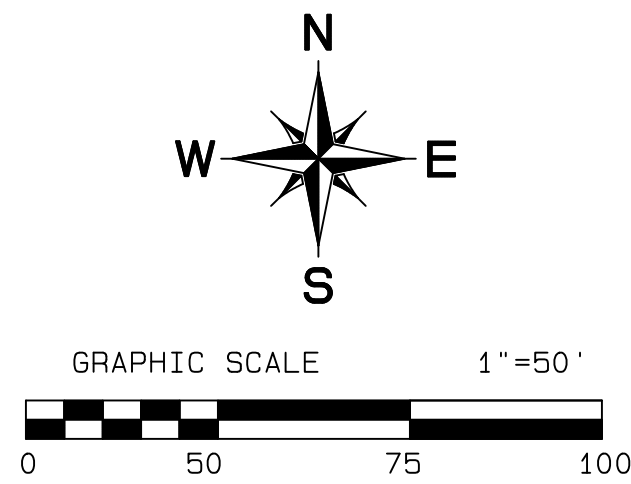
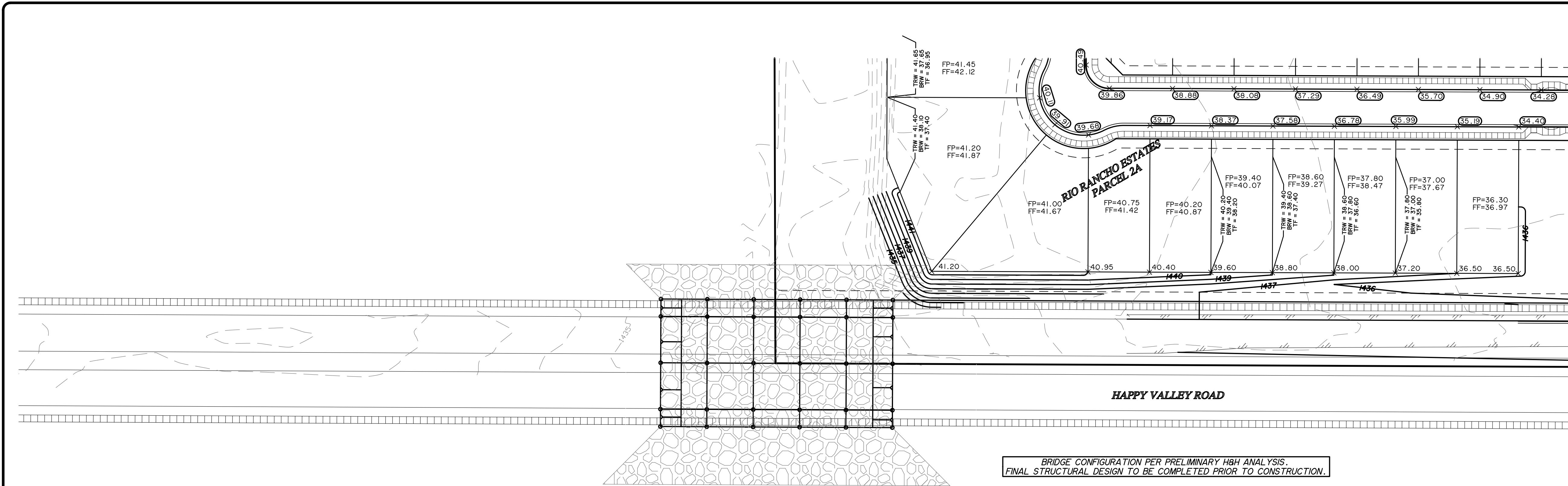
CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS

2705 S. ALMA SCHOOL ROAD, SUITE 2
CHANDLER, ARIZONA 85286
602-218-7285

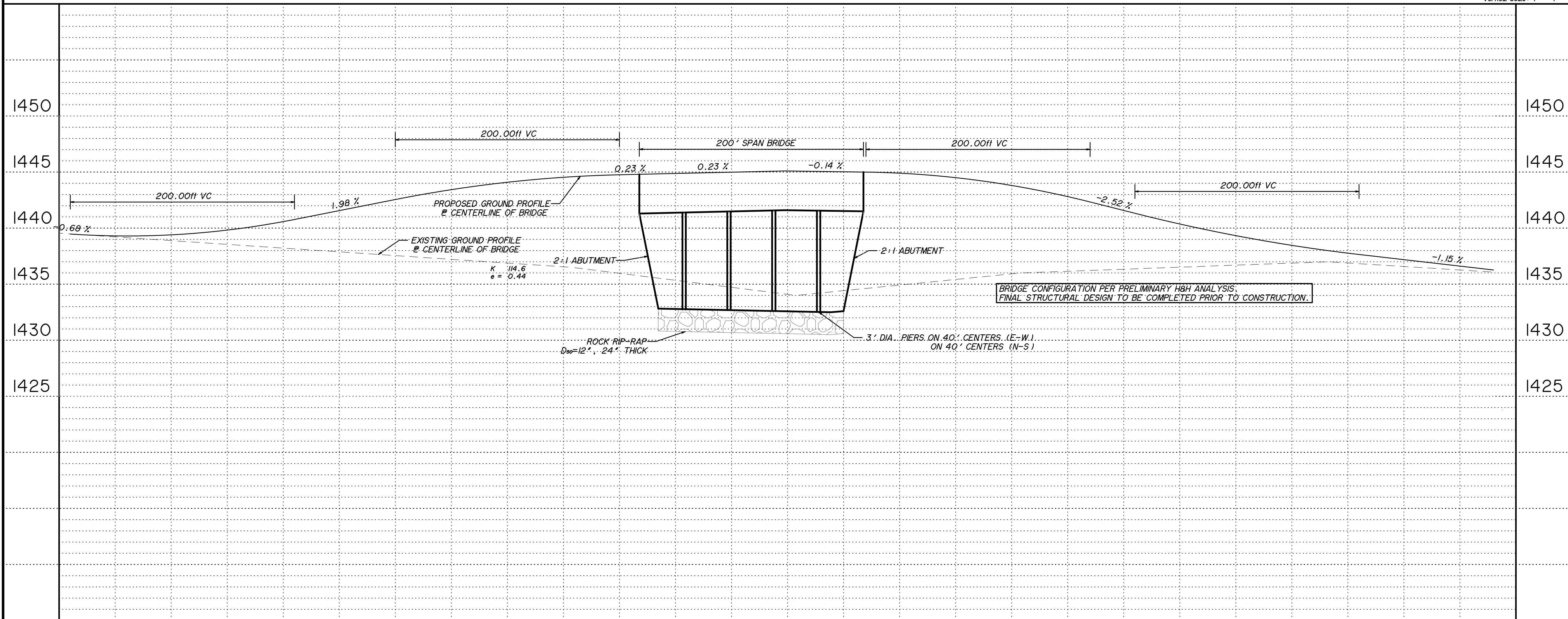
**RIO RANCHO ESTATES
HAPPY VALLEY ROAD
IN-LIEU AGREEMENT
SURPRISE, ARIZONA
MAY, 2019**

EXHIBIT C

187th Avenue Bridge



PROFILE SCALE
Horizontal Scale: 1" = 40'
Vertical Scale: 1" = 4'



Two working days before you dig
CALL FOR THE BLUE STAKES
602-263-1100
1-800-STAKE-IT
OUTSIDE MARICOPA COUNTY

RIO RANCHO ESTATES
SURPRISE, ARIZONA
HAPPY VALLEY ROAD
CONCEPTUAL BRIDGE DESIGN

Job No. : 10692A	Design : WCR
Date : JULY 2020	Draft : JEB
Scale : 1"=50' H, 1"=5' V	Review : WCR

CIVIL ENGINEERS-PLANNERS-SURVEYORS
2706 S. Alma School Rd., Suite #2, Chandler, Arizona 85226

SHEET 1

W:\10692A - Rio Rancho\Plans\Rio Rancho Grading.pro Mon Jul 20 11:34:05 2020

GOODWIN AND MARSHALL, INC.
PAVING & SEWER PLANS FOR RIO RANCHO ESTATES, PHASE 1A PLAN REVIEW#FS17-069

EXHIBIT D

Happy Valley Road Improvements Costs Estimate



Rio Rancho - Happy Valley Rd - In-Lieu

11/1/2020

GENERAL CONDITIONS						
1	CONSTRUCTION WATER CONVEYANCE	1	LS	\$	2,500.00	\$ 2,500.00
2	CONSTRUCTION WATER PURCHASE	1	LS	\$	12,000.00	\$ 12,000.00
3	DUST CONTROL (ALLOWANCE)	1	AL	\$	9,500.00	\$ 9,500.00
4	QUALITY CONTROL	1	AL	\$	10,000.00	\$ 10,000.00
5	CONSTRUCTION SURVEY	1	LS	\$	18,500.00	\$ 18,500.00
6	TRAFFIC CONTROL ALLOWANCE	1	AL	\$	20,000.00	\$ 20,000.00
7	OFF DUTY OFFICER ALLOWANCE	40	HRS	\$	75.00	\$ 3,000.00
8	LANDSCAPE (POWER/WATER)			\$	-	By Foremost
GENERAL CONDITIONS SUBTOTAL						\$ 75,500.00
SWPPP						
1	SWPPP INSPECTIONS	5	EA	\$	500.00	\$ 2,500.00
2	SILT FENCE	1,000	LF	\$	4.00	\$ 4,000.00
3	CONSTRUCTION ENTRANCE	2	EA	\$	1,800.00	\$ 3,600.00
4	CONSTRUCTION WASH OUT	1	EA	\$	1,000.00	\$ 1,000.00
SWPPP SUBTOTAL						\$ 11,100.00
Roadway Excavation						
1	MOBILIZATION	1	EA	\$	3,500.00	\$ 3,500.00
2	CLEAR & GRUB	1	LS	\$	1,500.00	\$ 1,500.00
3	ROADWAY EXCAVATION	2,650	CY	\$	10.00	\$ 26,500.00
GRADING SUBTOTAL						\$ 31,500.00
STORM DRAIN						
1	18 INCH RGRCP - CLASS V	65	LF	\$	75.00	\$ 4,875.00
2	CATCH BASIN - TYPE "M"	2	EA	\$	5,000.00	\$ 10,000.00
3	HEADWALL - U-1-15 W/ HR&TR, 501-1	2	EA	\$	5,000.00	\$ 10,000.00
4	RIP RAP, D50=6 INCH, 12 INCH THICK	74	CY	\$	62.50	\$ 4,625.00
STORM DRAIN SUBTOTAL						\$ 29,500.00
DRY UTILITIES						
1	DRY UTILITY TRENCHING	1,975	LF	\$	15.00	\$ 29,625.00
2	3 - 3" PRIMARY	1,975	LF	\$	15.00	\$ 29,625.00
3	1-2.5" STREETLIGHT	1,975	LF	\$	4.00	\$ 7,900.00
4	STREETLIGHTS	11	EA	\$	2,500.00	\$ 27,500.00
DRY UTILITIES SUBTOTAL						\$ 94,650.00
CONCRETE						
1	6 INCH VERTICAL CURB & GUTTER - MAG 220-A	5,525	LF	\$	16.00	\$ 88,400.00
2	6 FT VALLEY GUTTER & APRON - MAG 240	760	SF	\$	12.00	\$ 9,120.00
3	6 FT SIDEWALK - MAG 230	10,920	SF	\$	5.50	\$ 60,060.00
4	SIDEWALK RAMP - 6 INCH THICK - 236-2 SGL	3	EA	\$	5,400.00	\$ 16,200.00
5	TRUNCATED DOMES COMPOSITE	60	SF	\$	30.00	\$ 1,800.00
6	PARKWAY GRADING / BACKFILL CURB	1	LS	\$	3,500.00	\$ 3,500.00
7	MOBILIZATION	1	EA	\$	3,500.00	\$ 3,500.00
CONCRETE SUBTOTAL						\$ 182,580.00



Rio Rancho - Happy Valley Rd - In-Lieu

11/1/2020

PAVING						
1	MOBILIZATION	1	EA	\$	3,500.00	\$ 3,500.00
1a	SUBGRADE PREPARATION	8,445	SY	\$	5.00	\$ 42,225.00
2	5" AC ON 9" ABC	8,445	SY	\$	35.00	\$ 295,575.00
3	SURVEY MONUMENT TYPE "A"	2	EA	\$	395.00	\$ 790.00
4	ADJUST WATER VALVE	3	EA	\$	380.00	\$ 1,140.00
5	ADJUST STORM DRAIN MANHOLE	2	EA	\$	405.00	\$ 810.00
6	FIRE HYDRANT MARKER	6	EA	\$	20.00	\$ 120.00
7	SAWCUT PAVEMENT	200	LF	\$	1.20	\$ 240.00
8	REMOVE PAVEMENT	100	SY	\$	5.75	\$ 575.00
9	REMOVE EXISTING BARRICADE	27	LF	\$	5.95	\$ 160.65
10	REMOVE EXISTING CURB	548	LF	\$	4.20	\$ 2,301.60
PAVING SUBTOTAL						\$ 347,437.25
STRIPING						
1	OBLITERATE EXISTING PAVEMENT MARKINGS (4" EQUIVALE	500	LF	\$	1.00	\$ 500.00
2	4" WHITE PAINT	5,400	LF	\$	0.50	\$ 2,700.00
3	4" WHITE THERMOPLASTIC	5,400	LF	\$	0.50	\$ 2,700.00
4	8" WHITE PAINT	255	LF	\$	0.75	\$ 191.25
5	8" WHITE THERMOPLASTIC	255	LF	\$	1.00	\$ 255.00
6	ARROW SYMBOLS, PAINT	2	EA	\$	50.00	\$ 100.00
7	ARROW SYMBOLS, TYPE I TAPE	2	EA	\$	230.00	\$ 460.00
8	RAISED PAVEMENT MARKERS, TYPE D	150	EA	\$	5.00	\$ 750.00
9	SLURRY SEAL FOR STRIPE OBLITERATION (ALLOWANCE)	1	AL	\$	7,000.00	\$ 7,000.00
10	MOBILIZATION	3	EA	\$	1,500.00	\$ 4,500.00
STRIPING SUBTOTAL						\$ 19,156.25
SIGNAGE						
1	POST/FOUNDATION	5	EA	\$	250.00	\$ 1,250.00
2	REGULATORY SIGNS	5	EA	\$	650.00	\$ 3,250.00
SIGNAGE SUBTOTAL						\$ 4,500.00
LANDSCAPE						
1	36" BOX TREE	3	EA	\$	45.00	\$ 135.00
2	24" BOX TREE	6	EA	\$	150.00	\$ 900.00
3	16" OCOTILLO	1	EA	\$	150.00	\$ 150.00
4	15 GALLON TREE	5	EA	\$	80.00	\$ 400.00
5	15 GALLON ACCENT	5	EA	\$	70.00	\$ 350.00
6	10 GALLON SHRUB	5	EA	\$	50.00	\$ 250.00
7	10 GALLON ACCENT	5	EA	\$	50.00	\$ 250.00
8	5 GALLON SHRUB	125	EA	\$	12.00	\$ 1,500.00
9	5 GALLON ACCENT	125	EA	\$	12.00	\$ 1,500.00
10	5G GALLON CACTUS/AGAVE	100	EA	\$	25.00	\$ 2,500.00
11	5 GALLON GROUND COVER	100	EA	\$	12.00	\$ 1,200.00
12	5 GALLON GRASS	100	EA	\$	12.00	\$ 1,200.00
13	GRADING	1	LS	\$	2,000.00	\$ 2,000.00
14	GRANITE (\$30 PER TON PURCHASE ALLOWANCE)	100,000	SF	\$	0.30	\$ 30,000.00
15	IRRIGATION	1	LS	\$	30,000.00	\$ 30,000.00
16	MAINTENANCE	3	MOS	\$	365.00	\$ 1,095.00
17	MOBILIZATION	1	LS	\$	15,000.00	\$ 15,000.00
LANDSCAPE SUBTOTAL						\$ 88,430.00

Subtotal	\$884,353.50
Contingency @ 2%	\$17,687.07
Insurance @ 1.5%	\$13,530.61
Overhead & Profit @ 10.50%	\$96,134.97
Bond @ 1.5%	Excluded
Sales Tax @ 6.5%	\$65,760.90
TOTAL	\$1,077,467.05

EXHIBIT E

187th Avenue Bridge Costs Estimate

Rio Rancho - 187th Ave Bridge Cost Estimate

BID PRICE SUPPLEMENT



PROJECT: 187th Avenue and West Happy Valley Road - Bridge Crossing

SCOPE: Turnkey

DATE: 10/26/2020

CONTRACTOR: Rummel Construction, Inc.

Client Forestar (USA) Real Estate Group, Inc.

ITEM	ACTIVITY DESCRIPTION	UNIT TYPE	Est QTY	Contract QTY	CONTRACT PRICING	
					UNIT PRICE	SUBTOTAL
	General Conditions					
	MOBILIZATION	LS	1		\$285,000.00	\$285,000.00
	TRAFFIC CONTROL	AL	1		\$40,000.00	\$40,000.00
	TEMPORARY SHOEFLY (3" AC ON NATIVE)	AL	1		\$75,000.00	\$75,000.00
	CONSTRUCTION WATER STORAGE AND CONVEYANCE	LS	1		\$12,000.00	\$12,000.00
	CONSTRUCTION SURVEY	LS	1		\$36,000.00	\$36,000.00
	QUALITY CONTROL	LS	1		\$30,000.00	\$30,000.00
	BRIDGE / RETAINING WALL SPECIAL INSPECTION	AL	1		\$35,000.00	\$35,000.00
	SECURITY	MN	7		\$2,400.00	\$16,800.00
	UTILITY POTHOLING ALLOWANCE	AL	1		\$15,000.00	\$15,000.00
	PROJECT MANAGEMENT	MN	7		\$24,000.00	\$168,000.00
	FIELD OFFICE	MN	7		\$3,100.00	\$21,700.00
	GRAVEL ENTRANCE W/GRIZZLY	EA	2		\$4,350.00	\$8,700.00
	SWPPP/DUST CONTROL (ALLOWANCE)	AL	1		\$25,000.00	\$25,000.00
	SWEEPING	HR	110		\$90.00	\$9,900.00
	Subtotal General Conditions					\$778,100.00
	Grading					
	CLEAR AND GRUB	LS	1		\$18,000.00	\$18,000.00
	PREWET	LS	1		\$8,000.00	\$8,000.00
	ROADWAY EXCAVATION	CY	3,180		\$4.60	\$14,628.00
	ROUGH FINISH	SY	15,000		\$0.70	\$10,500.00
	Subtotal Grading					\$51,128.00
	Happy Valley Road Bridge					
	CLASS S 3,500 PSI STRUCTURAL CONCRETE (ABUTMENT)	CY	288		\$650.00	\$187,200.00
	CLASS S 4,500 PSI STRUCTURAL CONCRETE (SUPERSTRUCT	CY	392		\$1,185.00	\$464,520.00
	REINFORCEMENT STEEL (ABUTMENT AND SUPERSTRUCTURE)	LB	119,240		\$1.10	\$131,164.00
	ELASTOMERIC BEARING PADS	EA	50		\$497.00	\$24,850.00
	PRE-STRESSED AASHTO GIRDER TYPE III	LF	1,290		\$358.00	\$461,820.00
	VERTICAL RESTRAINERS	EA	56		\$320.00	\$17,920.00
	3'-6" DIA DRILLED SHAFTS (INCLUDING REINFORCEMENT)	LF	912		\$440.00	\$401,280.00
	DECK JOINT ADOT SD 3.01, 3X3 COMPRESSION SEAL	LF	168		\$294.00	\$49,392.00
	38" SGL SLOPE BRIDGE BARRIER ADOT SD 1.10	LF	230		\$141.00	\$32,430.00
	COMBO PED/TRAFFIC BRIDGE RAIL AND SIDEWALK - ADOT	LF	230		\$373.00	\$85,790.00
	APPROACH SLAB (ADOT SD2.01)	SF	1,200		\$35.00	\$42,000.00
	STRUCTURE EXCAVATION	LS	1		\$22,000.00	\$22,000.00
	STRUCTURE BACKFILL	LS	1		\$62,000.00	\$62,000.00
	Subtotal Happy Valley Road Bridge					\$1,982,366.00

Rio Rancho - 187th Ave Bridge Cost Estimate

BID PRICE SUPPLEMENT



PROJECT: 187th Avenue and West Happy Valley Road - Bridge Crossing

SCOPE: Turnkey

DATE: 10/26/2020

CONTRACTOR: Rummel Construction, Inc.

Client Forestar (USA) Real Estate Group, Inc.

ITEM	ACTIVITY DESCRIPTION	UNIT TYPE	Est QTY	Contract QTY	CONTRACT PRICING	
					UNIT PRICE	SUBTOTAL
	Concrete					
	6" VERTICAL CURB AND GUTTER M.A.G. 220 TYPE "A"	LF	4,000		\$19.35	\$77,400.00
	CURB TERMINATION M.A.G. DTL 222	EA	3		\$150.00	\$450.00
	SIDEWALK M.A.G. 230 TH=4" / M.A.G. 4,000 PSI CONCRE	SF	15,000		\$5.25	\$78,750.00
	SIDEWALK RAMP M.A.G. 237-1 W/DETECTABLE WARNING C.	EA	2		\$5,400.00	\$10,800.00
	SIDEWALK RAMP M.A.G. 237-3 W/DETECTABLE WARNING C.	EA	4		\$5,400.00	\$21,600.00
	TRUNCATED DOMES	SF	120		\$36.50	\$4,380.00
	6' VALLEY GUTTER AND APRON (4,000 PSI WITH FIBER M	SF	1,412		\$15.20	\$21,462.40
	DRIVEWAY M.A.G. DTL 250-2 (4,000 PSI CONCRETE)	SF	904		\$13.80	\$12,475.20
	CB M.A.G. 530 W/ INLET MARKER C.O.S. 5-01, 5-02B	EA	2		\$4,000.00	\$8,000.00
	CB M.A.G. 532 W/ INLET MARKER C.O.S. 5-01, 5-02B	EA	3		\$4,700.00	\$14,100.00
	PLAIN RIP RAP D50=6" TH=12"	SF	420		\$3.85	\$1,617.00
	RESTORE STREET SUBGRADE	SY	5,000		\$1.60	\$8,000.00
	PARKWAY GRADING / BACKFILL CURB	LS	1		\$5,000.00	\$5,000.00
	CONCRETE ESCALATOR ALLOWANCE	AL	1		\$5,000.00	\$5,000.00
	Subtotal Concrete					\$269,034.60
	Paving					
	5" AC ON 9" ABC	SY	7,500		\$35.00	\$262,500.00
	THICKENED EDGE M.A.G. 201 "A"	LF	2,040		\$6.10	\$12,444.00
	ADJUST MANHOLE (PVM T)	EA	4		\$650.00	\$2,600.00
	ADJUST MANHOLE (OS PVM T)	EA	5		\$600.00	\$3,000.00
	ADJUST WATER VALVE (PVM T)	EA	20		\$530.00	\$10,600.00
	SURVEY M.A.G. 120-1 "B"	EA	3		\$225.00	\$675.00
	STRIPING	LS	1		\$14,050.00	\$14,050.00
	SIGNAGE	LS	1		\$12,850.00	\$12,850.00
	HYDRANT MARKER	EA	5		\$30.00	\$150.00
	SAWCUT ASPHALT	LF	70		\$3.30	\$231.00
	REMOVE ASPHALT	SY	15		\$44.00	\$660.00
	CORTEN STEEL GUARDRAIL G4(W2) MCDOT 2801 AND 2807	LF	880		\$33.15	\$29,172.00
	GUARDRAIL END TERMINI	EA	6		\$2,765.00	\$16,590.00
	THRIE BEAM GUARDRAIL TRANSITION	EA	4		\$4,975.00	\$19,900.00
	Subtotal Paving					\$385,422.00

Summary

General Conditions	\$778,100.00
Grading	\$51,128.00
Happy Valley Road Bridge	\$1,982,366.00
Concrete	\$269,034.60
Paving	\$385,422.00
Project Subtotal	\$3,466,050.60
Sales Tax (County and State Only)	4.095% \$141,934.77
Project Grand Total	\$3,607,985.37

Notes:

Contract Quantity will be used to determine lump sum contract value.
Rio Ranch Estates prorated share is assumed to be ~25% of total cost presented.

EXHIBIT F

Depiction of the Easement Property

EXHIBIT "F"
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT

All that certain lot, tract, or parcel of land, situated in a portion of the Southwest Quarter of Section 3, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found 1/2" rebar stamped "RLS #38863" for the Southwest corner of said Section 3, from which a found 3" Maricopa County Department of Transportation brass cap in concrete for the West Quarter corner of said Section 3 bears North 00 deg. 09 min. 08 sec. West (Basis of Bearings) - 2,631.54;

THENCE North 00 deg. 09 min. 08 sec. West along the West line of the Southwest Quarter of said Section 3, a distance of 55.00 feet to the Southwest corner of Tract C of Rio Rancho Estates, Parcel 2A as shown in Book 1544 of Maps, Page 17 of Maricopa County Records (MCR) and being in the North right-of-way line of West Happy Valley Road as shown in Book 1513 of Maps, Page 23, MCR, said point being the **TRUE POINT OF BEGINNING**;

THENCE North 00 deg. 09 min. 08 sec. West departing said North right-of-way line and continue along the West line of the Southwest Quarter of said Section 3, same being the West line of said Tract C, a distance of 80.00 feet;

THENCE South 89 deg. 44 min. 22 sec. East departing said West line, a distance of 113.12 feet to the Northeast line of said Tract C and the Southwest line of Lot 26 of said Rio Rancho Estates, Parcel 2A;

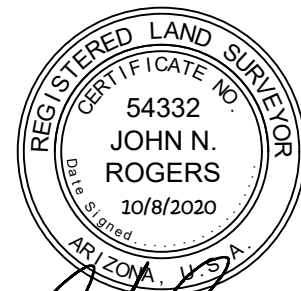
THENCE South 21 deg. 43 min. 08 sec. East along said Northeast and Southwest lines, a distance of 59.35 feet to the most southerly corner of said Lot 26 and the most westerly corner of Lot 27 of said Rio Rancho Estates, Parcel 2A;

THENCE South 89 deg. 46 min. 33 sec. East along the North line of said Tract C and the South line of said Lot 27, a distance of 46.28 feet;

THENCE South 00 deg. 15 min. 38 sec. West departing said North and South lines, a distance of 25.00 feet to the South line of said Tract C and the North right-of-way line of said West Happy Valley Road;

THENCE North 89 deg. 44 min. 22 sec. West along said South line and North right-of-way line and being 55.00 feet North of and parallel with the South line of the Southwest Quarter of said Section 3, a distance of 181.04 feet to the **POINT OF BEGINNING**, containing 11,349 square feet or 0.261 acres of land, more or less.

Exhibit map attached and made a part hereof.



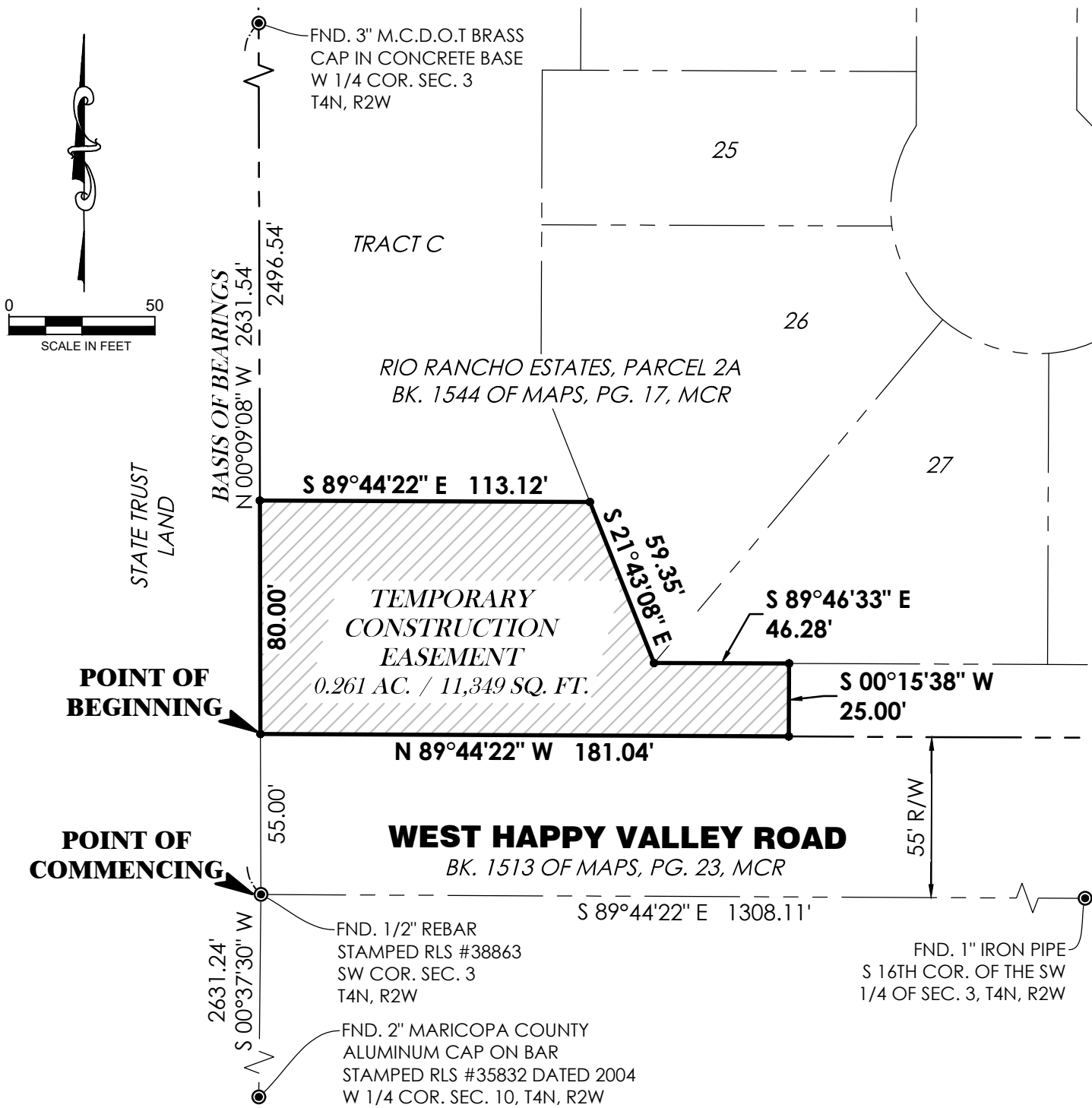
[Signature]

Sheet 1 of 2

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TEXAS • 2405 Mustang Drive • Grapevine, TX 76051 • 817.329.4373 • TxSurv Firm #10021700
ARIZONA • 2705 South Alma School Road, Suite 2 • Chandler, AZ 85286 • 602.218.7285

TENNESSEE • 6074 Apple Tree Drive • Memphis, TN 38115 • 901.881.9188
COLORADO • 8400 E. Prentice Ave. • Greenwood Village, CO 80111 • 303.459.4861



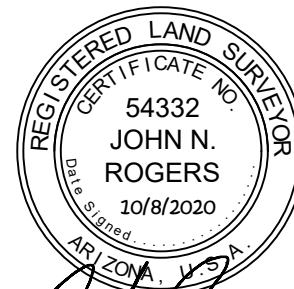
**EXHIBIT "F" MAP SHOWING
TEMPORARY CONSTRUCTION EASEMENT, SITUATED IN A PORTION
OF THE SOUTHWEST QUARTER OF SECTION 3, T4N, R2W
OF THE G.&S.R.B.&M., MARICOPA COUNTY, ARIZONA**

**GOODWIN AND
MARSHALL INC.**

CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS

2705 S. Alma School Road, Suite 2
Chandler, Arizona 85044
(602) 218-7285

Scale:	1" = 50'	Sheet
Date:	10/8/2020	2
Job No.:	10692A	of
Drafted:	J.N.R.	2
Checked:	J.N.R.	



When Recorded Return To:
CITY OF SURPRISE
Public Works Department
Engineering Development Services
16000 N. Civic Center Plaza
Surprise, Arizona 85374-7470

**PUBLIC IMPROVEMENTS
IN-LIEU PAYMENT AGREEMENT
(Rio Rancho)**

This Public Improvements In-Lieu Payment Agreement (Rio Rancho) (“**Agreement**”), shall be effective as of this ____ day of _____, 2020 (the “**Effective Date**”), and is entered into by and between the CITY OF SURPRISE, an Arizona municipal corporation (the “**City**”), and FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation (“**Owner**”). The City and Owner may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.”

RECITALS

A. Owner owns approximately 188 acres located both north and south of Happy Valley Road and west of 183rd Avenue, more particularly described on the attached **Exhibit A** (the “**Property**”), which description is incorporated herein by reference.

B. The Property is situated within the municipal boundaries of the City and is accessed by roadways that are located within and maintained by the City.

C. The City has advised Owner that certain street improvements must be constructed to accommodate traffic going to and from the Property when it is developed.

D. The City has also advised Owner that a regional bridge, a portion of which abuts the southwest corner of the Property located north of Happy Valley Road, will be needed in the future.

E. Owner has requested, and the City has agreed, that Owner may make in-lieu payments to the City with the funds to be applied by the City to the costs of construction when the City constructs the necessary improvements.

F. Owner has prepared plans and specifications for construction of the improvements that have been approved by the City.

G. The in-lieu payments will be made in accordance with the terms and provisions of this Agreement.

H. The City is willing to accept this Agreement and Owner's performance as described herein as full satisfaction of Owner's obligation to construct the required improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, representations, mutual covenants, promises and undertakings in this Agreement, the Parties agree as follows:

1. Happy Valley Road. Owner is responsible for designing and constructing the Happy Valley Road half-street improvements adjacent to the Property, as further described on the attached **Exhibit B** (the "**Happy Valley Road Improvements**"), which list is incorporated herein by reference.

2. 187th Avenue Bridge. A regional bridge is planned along Happy Valley Road at approximately the 187th Avenue alignment, as further described on the attached **Exhibit C** (the "**187th Avenue Bridge**"), which is incorporated herein by reference.

3. Happy Valley Road Improvements Costs. The estimated costs for the Happy Valley Road Improvements are One million Seventy-Seven Thousand Four Hundred Sixty-Seven and 05/100 Dollars (\$1,077,467.05) (the "**In Lieu Payment**"), which is acceptable to Owner. The In Lieu Payment has been approved by the City's Public Works Director/Engineer or designee and is based upon estimates more fully itemized in **Exhibit D** attached hereto and incorporated by this reference. The In Lieu Payment shall be paid to the City by Owner or its successor on or before the date on which the City issues the first permits for the construction of the grading, utility and/or other horizontal improvements to the Property. Payment in full of the In Lieu Payment shall constitute full satisfaction of Owner's or its successors' obligation to design and construct the Happy Valley Road Improvements, and Owner shall then have no further obligation with respect to the design and construction and installation of the Happy Valley Road Improvements or payment of any costs thereof.

4. 187th Avenue Bridge Costs. The estimated costs for the portion of the 187th Avenue Bridge that abuts the Property are Nine Hundred One Thousand Nine Hundred Ninety-Six and 34/100 Dollars (\$901,996.34) (the "**In Lieu Obligation**"), which is acceptable to Owner. The In Lieu Obligation has been approved by the City's Public Works Director/Engineer or designee and is based upon estimates more fully itemized in **Exhibit E** attached hereto and incorporated by this reference. In the event: (1) the City does not adopt an impact fee or approve some form of public financing to fund the design and construction costs of the 187th Avenue Bridge (including the In Lieu Obligation), and (2) the City has either (i) collected in-lieu payments from the other properties abutting to the 187th Avenue Bridge, or (ii) another property owner has designed and is prepared to construct the 187th Avenue Bridge, then Owner shall pay the City the In Lieu Obligation. Owner shall pay the In Lieu Obligation within ten (10) business days following receipt of written notice from the City requesting the In Lieu Obligation and evidence that the above have been satisfied. Payment in full of the In Lieu Obligation shall constitute full satisfaction of Owner's or its successors' obligation to design and construct the 187th Avenue Bridge, and Owner shall have no

further obligation with respect to the design and construction and installation of the 187th Avenue Bridge or payment of any costs thereof. If within twenty (20) years from the Effective Date, (2) above has not occurred, then Owner's obligation to pay the In Lieu Obligation shall expire and Owner shall have no further obligation with respect to the design and construction and installation of the 187th Avenue Bridge or payment of any costs thereof.

5. City Maintenance of Funds. The monies received by the City from Owner pursuant to this Agreement shall be placed in a separate fund and accounted for separately and shall only be used by the City for the purpose of completing the Happy Valley Road Improvements, and if applicable the 187th Avenue Bridge, at a future date as determined by the City. If the costs of completing either the Happy Valley Road Improvements, or if applicable the 187th Avenue Bridge, is greater than the amount of the In Lieu Payment or the In Lieu Obligation, then such excess costs shall be paid by the City and neither Owner nor any of its successors shall have any obligations with respect to such excess costs.

6. Owner Representation. Owner represents and warrants that Owner is the owner in fee of the Property. As the owner of the above-described Property, Owner hereby grants to the City, at no cost to the City, a construction easement over the portion of the Property described on **Exhibit F** attached hereto and incorporated by this reference (the "**Easement Property**"), giving the City the right to use the Easement Property to the extent determined by the City at the time of construction to be necessary to complete the construction of either the Happy Valley Road Improvements or the 187th Avenue Bridge (collectively the "**Improvements**"). This right of use is a temporary use which is granted to the City, to be used and exercised, during the period of time when the Improvements are being constructed and shall expire upon the first to occur of (i) completion of the Improvements, or (ii) the recordation of a final plat for the Property, in a form approved by the City, that dedicates right of way to the City in substantially the area of the Easement Property. This easement granting such use shall run with the land and is intended to survive and be in effect beyond the date that Owner pays the In Lieu Payment and if applicable, the In Lieu Obligation.

7. Prop 207. Owner hereby waives and releases the City from any and all claims under A.R.S. §12-1134, et seq., including any right to compensation for reduction in the fair market value of the real property that is the subject of this Agreement, as a result of the City's approval of this Agreement. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners and shall survive the expiration or other termination of this Agreement.

8. Conflict of Interest. This Agreement is subject to cancellation for conflict of interest. Pursuant to A.R.S. §38-503 and § 38-511, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

9. Assignments. The provisions of this Agreement are binding upon and shall inure to the benefit and burden of the Parties and their successors-in-interest and assigns. Owner shall

use commercially reasonable efforts to provide the City with at least ten (10) business days' written notice in the event that title to all or any part of the Property is conveyed or otherwise transferred to a third party that is not related to or an affiliate of Owner provided, however, that the failure to give such notice shall not affect such successor's obligations hereunder or right to rely upon the benefits granted hereby. Upon the conveyance of all or a portion of the Property by Owner or its successors in title, Owner or its successor shall automatically be released from further obligations with regard to such portion of the Property, but its successor-in-title shall be bound thereby. Notwithstanding the foregoing, Owner's obligation to make the In Lieu Obligation may only be assigned with the prior written approval of the City, such approval not to be unreasonably conditioned, withheld or delayed.

10. Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are hereby superseded and merged herein.

11. Applicable Law. The laws of the State of Arizona shall govern any dispute, controversy, claim or cause of action arising out of or related to this Agreement. The venue for any such dispute shall be Maricopa County, Arizona, and each Party waives the right to object to venue in Maricopa County for any reason. Neither Party shall be entitled to recover any of its attorneys' fees or other costs from the other Party incurred in any such dispute, controversy, claim, or cause of action, but each Party shall bear its own attorneys' fees and costs, whether the same is resolved through arbitration, litigation in a court, or otherwise.

12. Enforcement. This Agreement may be enforced by either Party in a court of law or equity. Nothing herein shall prevent or prohibit the City from enforcing this Agreement through such other non-judicial means as may be permitted by law, including, but not limited to, the withholding of building permits. In any action brought to enforce this Agreement, the only available remedies shall be specific performance, declaratory judgment, and injunction. No monetary damages may be sought or awarded other than payments required by this Agreement.

13. Time is of the Essence. Time is of the essence in this Agreement.

14. Gender and Case. In this Agreement, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

15. Running with the Land. This Agreement shall run with the land and inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns.

16. Amendments. Any amendment to this Agreement shall be in writing and approved by both Parties.

17. Third Party Beneficiaries. There are no third-party beneficiaries to this Agreement and no person or entity not a Party shall have any right or cause of action hereunder.

18. Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.

19. Recordation. This Agreement and any amendment or cancellation of this Agreement must be recorded in its entirety in the official records of the Maricopa County Arizona Recorder's Office no later than ten (10) days after the City and Owner execute such Agreement, amendment or cancellation.

20. Notices. All notices, filings, consents approvals and other communications provided or herein or given in connection herewith shall be made in writing and delivered personally, emailed or sent by registered certified United States Postal Service mail to:

City:	City of Surprise Attention: Public Works Director 16000 N. Civic Center Plaza Surprise, Arizona 85374 Email: mike.gent@surpriseaz.gov
With Copy to:	Surprise City Attorney's Office 16000 N. Civic Center Plaza Surprise, Arizona 85374 Email: robert.wingo@surpriseaz.gov
Owner:	Forestar (USA) Real Estate Group, Inc. Attention: Brian Konderik 20410 North 19 th Avenue, Suite #100 Phoenix, Arizona 85027 Email: briankonderik@forestar.com Forestar (USA) Real Estate Group, Inc. Attention: Matt Stark 10700 Pecan Park Boulevard, Suite #150 Austin, Texas 78750 Forestar (USA) Real Estate Group, Inc. Attention: Tom Burleson 2221 East Lamar Boulevard, Suite #700 Arlington, Texas 76006
With Copy to:	Beus Gilbert McGroder PLLC Attention: Jeffrey Blilie 701 N. 44 th Street Phoenix, AZ 85396 Email: jblilie@beusgilbert.com

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY:
CITY OF SURPRISE, an Arizona municipal corporation

By: _____
Skip Hall, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk

APPROVED AS TO FORM:

Robert Wingo, City Attorney

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2020, before me personally appeared _____, Skip Hall the Mayor of the City of Surprise, an Arizona municipal corporation, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above/attached document.

[Affix notary seal here]

Notary Public

OWNER:

**FORESTAR (USA) REAL ESTATE GROUP,
INC.,**

By: 

Name:

Title:

BRIAN KONDERIK
DIVISION PRESIDENT

STATE OF ARIZONA
County of Maricopa

On this 6th day of November, 2020, before me personally appeared Brian Konderik, Division President of Forestar (USA) Real Estate Group, Inc., ,
for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence
to be the person who he claims to be, and acknowledged that he signed the above/attached
document.

[Affix notary seal here]


Notary Public

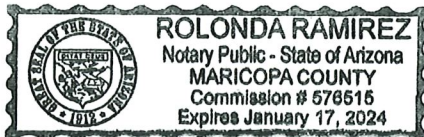


EXHIBIT A

Legal Description of the Property

Exhibit A

MASTER PLAT NORTH ACREAGE DESCRIPTION

All that certain lot, tract, or parcel of land, situated in a portion of the Southwest Quarter of Section 3 and the Northwest Quarter of Section 10, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

BEGINNING at a found 1/2" rebar with cap stamped "RLS #38863" for the Southwest corner of said Section 3;

THENCE North 00 deg. 09 min. 08 sec. West (Basis of Bearings) along the West line of the Southwest Quarter of said Section 3, a distance of 2631.54 feet to a found 3" Maricopa County Department of Transportation brass cap on concrete base for the West Quarter corner of said Section 3;

THENCE South 89 deg. 46 min. 33 sec. East along the North line of the Southwest Quarter of said Section 3, a distance of 2137.51 feet, from which a found 2" Maricopa County Aluminum cap on bar for the East Quarter corner of said Section 3 bears South 89 deg. 46 min. 33 sec. East - 3130.52 feet;

THENCE South 01 deg. 01 min. 16 sec. West departing said North line, a distance of 545.88 feet;

THENCE South 43 deg. 22 min. 03 sec. West, a distance of 49.90 feet;

THENCE South 46 deg. 37 min. 57 sec. East, a distance of 403.84 feet to a Point of Curvature of a circular curve to the left, having a radius of 70.00 feet, a central angle of 44 deg. 29 min. 10 sec., and being subtended by a chord which bears South 68 deg. 52 min. 32 sec. East - 53.00 feet;

THENCE in a southeasterly along said curve to the left, a distance of 54.35 feet;

THENCE North 88 deg. 52 min. 56 sec. East tangent to said curve, a distance of 193.35 feet to the East line of the Southwest Quarter of said Section 3, from which a found 2" Maricopa County Aluminum cap on bar for the North Quarter corner of said Section 3 bears North 00 deg. 12 min. 58 sec. East - 3049.48 feet;

THENCE South 00 deg. 12 min. 58 sec. West along said East line, a distance of 1760.38 feet to the South Quarter corner of said Section 3;

THENCE South 00 deg. 22 min. 29 sec. West along the East line of the Northwest Quarter of said Section 10, a distance of 87.58 feet;

THENCE North 89 deg. 37 min. 31 sec. West departing said East line, a distance of 40.00 feet;

THENCE North 44 deg. 40 min. 57 sec. West, a distance of 42.38 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 57.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.89 feet;

THENCE North 82 deg. 53 min. 48 sec. West, a distance of 20.98 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 55.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 372.07 feet;

THENCE South 45 deg. 15 min. 38 sec. West, a distance of 42.43 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 85.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 27.50 feet;

THENCE South 00 deg. 15 min. 38 sec. West, a distance of 4.50 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 89.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 27.50 feet;

THENCE North 42 deg. 53 min. 32 sec. West, a distance of 43.86 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 59.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.86 feet;

THENCE North 82 deg. 53 min. 48 sec. West, a distance of 20.98 feet;

THENCE North 89 deg. 44 min. 22 sec. West being 55.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 431.74 feet;

THENCE North 00 deg. 30 min. 00 sec. East along said West line, a distance of 55.00 feet to a found 1" iron pipe for the South 16th corner of said Section 3;

THENCE North 89 deg. 44 min. 22 sec. West along the South line of the Southwest Quarter of said Section 3, a distance of 1308.11 feet to the POINT OF BEGINNING, containing 6,583,112 square feet or 151.127 acres of land, more or less.

MASTER PLAT SOUTH ACREAGE DESCRIPTION

All that certain lot, tract, or parcel of land, situated in a portion of the Northwest Quarter of Section 10, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found 1/2" rebar stamped "RLS #38863" for the Northwest corner of said Section 10, from which a found 2" Maricopa County aluminum cap stamped "RLS #35832, dated 2004" for the West Quarter corner of said Section 10 bears South 00 deg. 37 min. 30 sec. West (Basis of Bearings) – 2631.24 feet;

THENCE South 89 deg. 44 min. 22 sec. East along the North line of the Northwest Quarter of said Section 10, a distance of 1308.11 feet to a found 1" iron pipe for the North 16th corner of the Northwest Quarter of said Section 10;

THENCE South 00 deg. 30 min. 00 sec. West along the West line of the Northeast Quarter of the Northwest Quarter of said Section 10, a distance of 55.00 feet to the TRUE POINT OF BEGINNING;

THENCE South 89 deg. 44 min. 22 sec. East being 55 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 431.74 feet;

THENCE South 82 deg. 53 min. 48 sec. East, a distance of 20.98 feet;

THENCE South 89 deg. 44 min. 22 sec. East being 59.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.86 feet;

THENCE South 42 deg. 53 min. 32 sec. East, a distance of 43.86 feet;

THENCE South 89 deg. 44 min. 22 sec. East, a distance of 27.50 feet;

THENCE North 00 deg. 15 min. 38 sec. East, a distance of 4.50 feet;

THENCE South 89 deg. 44 min. 22 sec. East, a distance of 27.50 feet;

THENCE North 45 deg. 15 min. 38 sec. East, a distance of 42.43 feet;

THENCE South 89 deg. 44 min. 22 sec. East being 55.00 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 372.07 feet;

THENCE South 82 deg. 53 min. 48 sec. East, a distance of 20.98 feet;

THENCE South 89 deg. 44 min. 22 sec. East being 57.50 feet South of and parallel with the North line of the Northwest Quarter of said Section 10, a distance of 138.89 feet;

THENCE South 44 deg. 40 min. 57 sec. East, a distance of 42.38 feet;

THENCE South 89 deg. 37 min. 31 sec. East, a distance of 40.00 feet to the East line of the Northwest Quarter of said Section 10;

THENCE South 00 deg. 22 min. 29 sec. West along said East line, a distance of 1198.51 feet;

THENCE North 89 deg. 43 min. 43 sec. West departing said East line, a distance of 1310.92 feet to a found 1/2" rebar stamped "RLS #38863" in the West line of the Northeast Quarter of the Northwest Quarter of said Section 10;

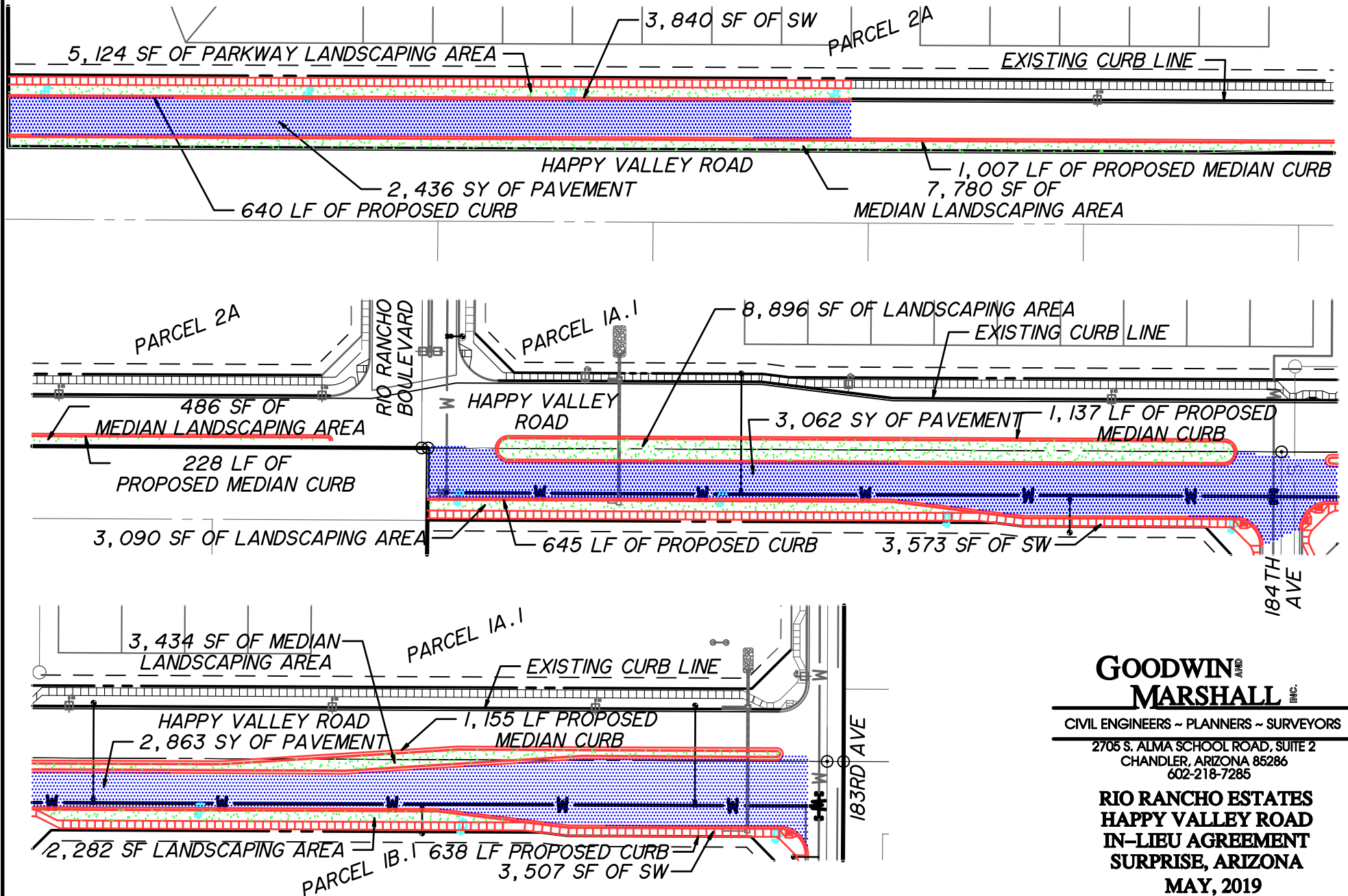
THENCE North 00 deg. 30 min. 00 sec. East along said West line, a distance of 1230.85 feet to the POINT OF BEGINNING, containing 1,606,684 square feet or 36.884 acres of land, more or less.

EXHIBIT B

Happy Valley Road Improvements



SCALE: 1" = 100'



GOODWIN AND MARSHALL INC.

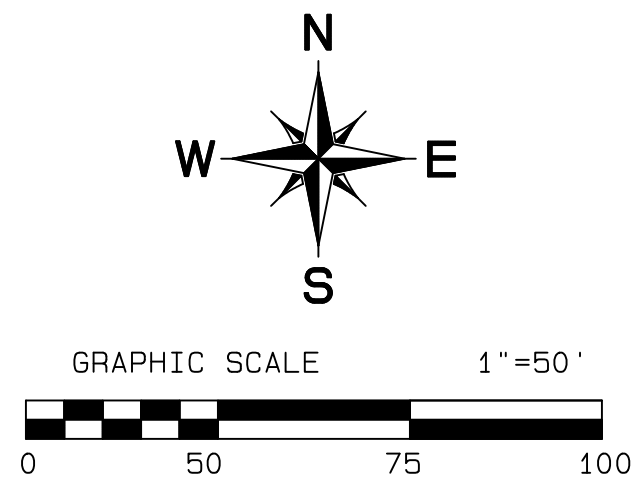
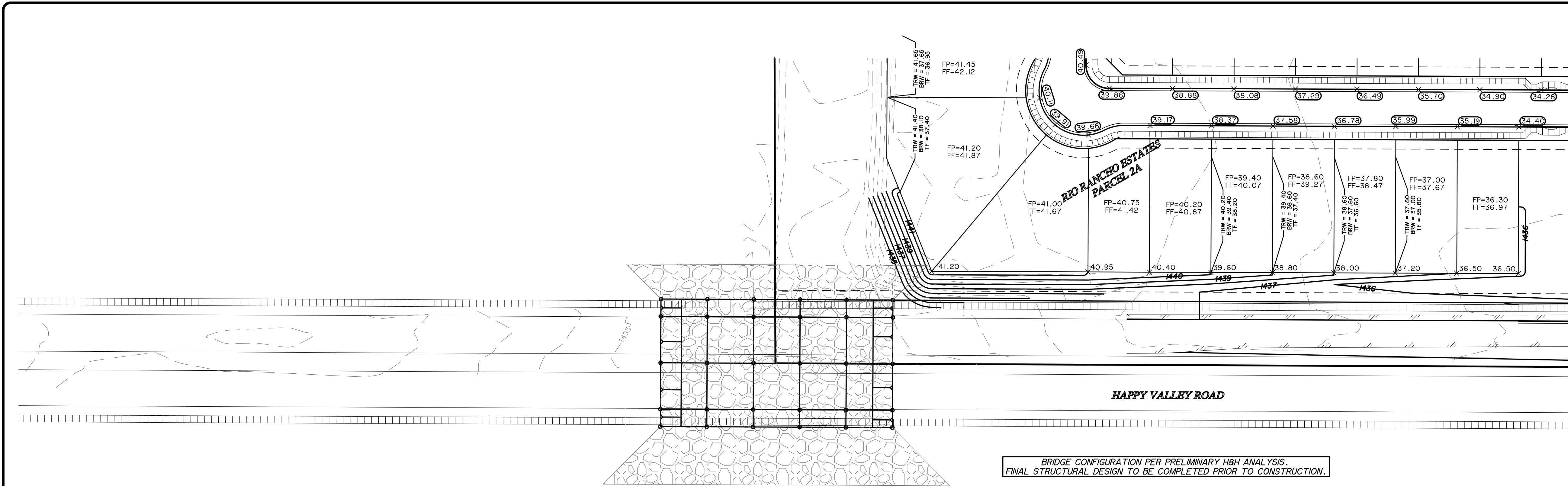
CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS

2705 S. ALMA SCHOOL ROAD, SUITE 2
CHANDLER, ARIZONA 85286
602-218-7285

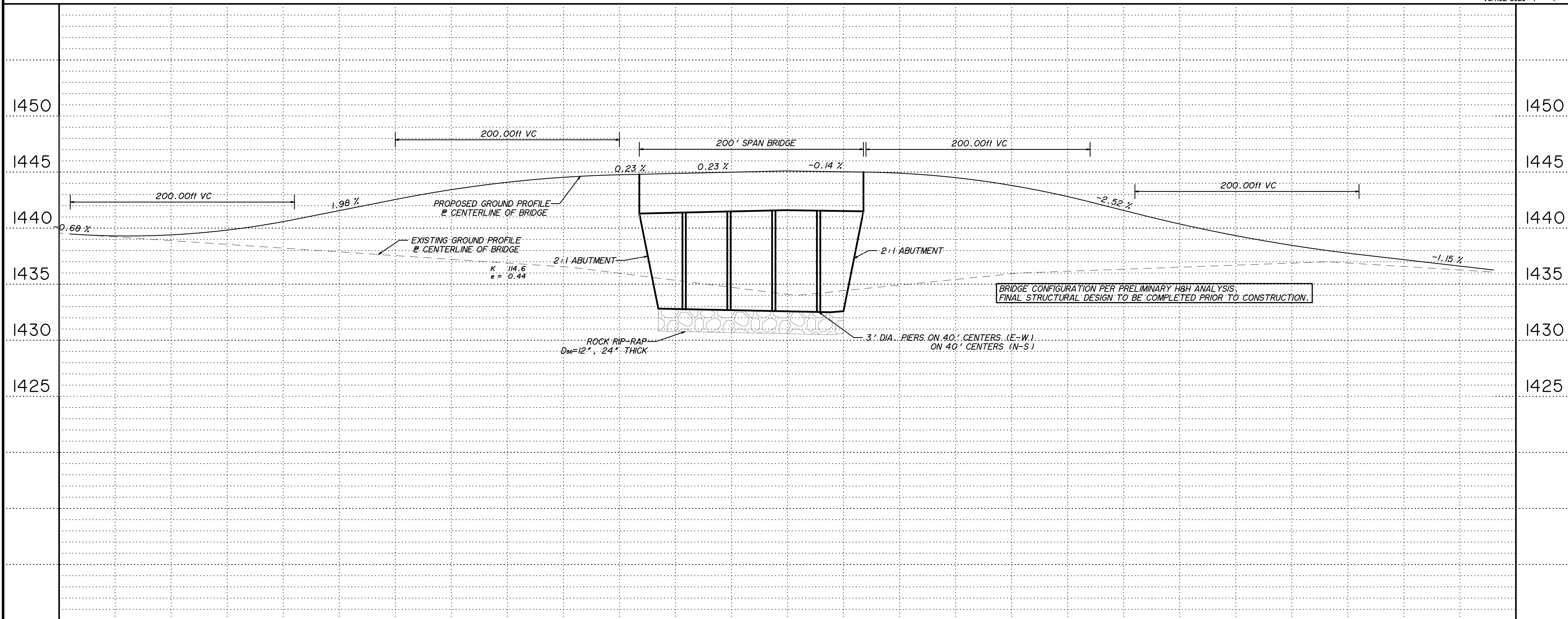
**RIO RANCHO ESTATES
HAPPY VALLEY ROAD
IN-LIEU AGREEMENT
SURPRISE, ARIZONA
MAY, 2019**

EXHIBIT C

187th Avenue Bridge



PROFILE SCALE
Horizontal Scale: 1" = 40'
Vertical Scale: 1" = 4'



Two working days before you dig
CALL FOR THE BLUE STAKES
602-263-1100
1-800-STAKE-IT
OUTSIDE MARICOPA COUNTY

RIO RANCHO ESTATES
SURPRISE, ARIZONA
HAPPY VALLEY ROAD
CONCEPTUAL BRIDGE DESIGN

Job No. : 10692A	Design : WCR
Date : JULY 2020	Draft : JEB
Scale : 1"=50' H, 1"=5' V	Review : WCR

CIVIL ENGINEERS-PLANNERS-SURVEYORS
2706 S. Alma School Rd., Suite #2, Chandler, Arizona 85226

SHEET 1

W:\10692A - Rio Rancho\Plans\Rio Rancho Grading.pro Mon Jul 20 11:34:05 2020

GOODWIN AND MARSHALL, INC.
PAVING & SEWER PLANS FOR RIO RANCHO ESTATES, PHASE 1A PLAN REVIEW#FS17-069

EXHIBIT D

Happy Valley Road Improvements Costs Estimate



Rio Rancho - Happy Valley Rd - In-Lieu

11/1/2020

GENERAL CONDITIONS						
1	CONSTRUCTION WATER CONVEYANCE	1	LS	\$	2,500.00	\$ 2,500.00
2	CONSTRUCTION WATER PURCHASE	1	LS	\$	12,000.00	\$ 12,000.00
3	DUST CONTROL (ALLOWANCE)	1	AL	\$	9,500.00	\$ 9,500.00
4	QUALITY CONTROL	1	AL	\$	10,000.00	\$ 10,000.00
5	CONSTRUCTION SURVEY	1	LS	\$	18,500.00	\$ 18,500.00
6	TRAFFIC CONTROL ALLOWANCE	1	AL	\$	20,000.00	\$ 20,000.00
7	OFF DUTY OFFICER ALLOWANCE	40	HRS	\$	75.00	\$ 3,000.00
8	LANDSCAPE (POWER/WATER)			\$	-	By Foremost
GENERAL CONDITIONS SUBTOTAL						\$ 75,500.00
SWPPP						
1	SWPPP INSPECTIONS	5	EA	\$	500.00	\$ 2,500.00
2	SILT FENCE	1,000	LF	\$	4.00	\$ 4,000.00
3	CONSTRUCTION ENTRANCE	2	EA	\$	1,800.00	\$ 3,600.00
4	CONSTRUCTION WASH OUT	1	EA	\$	1,000.00	\$ 1,000.00
SWPPP SUBTOTAL						\$ 11,100.00
Roadway Excavation						
1	MOBILIZATION	1	EA	\$	3,500.00	\$ 3,500.00
2	CLEAR & GRUB	1	LS	\$	1,500.00	\$ 1,500.00
3	ROADWAY EXCAVATION	2,650	CY	\$	10.00	\$ 26,500.00
GRADING SUBTOTAL						\$ 31,500.00
STORM DRAIN						
1	18 INCH RGRCP - CLASS V	65	LF	\$	75.00	\$ 4,875.00
2	CATCH BASIN - TYPE "M"	2	EA	\$	5,000.00	\$ 10,000.00
3	HEADWALL - U-1-15 W/ HR&TR, 501-1	2	EA	\$	5,000.00	\$ 10,000.00
4	RIP RAP, D50=6 INCH, 12 INCH THICK	74	CY	\$	62.50	\$ 4,625.00
STORM DRAIN SUBTOTAL						\$ 29,500.00
DRY UTILITIES						
1	DRY UTILITY TRENCHING	1,975	LF	\$	15.00	\$ 29,625.00
2	3 - 3" PRIMARY	1,975	LF	\$	15.00	\$ 29,625.00
3	1-2.5" STREETLIGHT	1,975	LF	\$	4.00	\$ 7,900.00
4	STREETLIGHTS	11	EA	\$	2,500.00	\$ 27,500.00
DRY UTILITIES SUBTOTAL						\$ 94,650.00
CONCRETE						
1	6 INCH VERTICAL CURB & GUTTER - MAG 220-A	5,525	LF	\$	16.00	\$ 88,400.00
2	6 FT VALLEY GUTTER & APRON - MAG 240	760	SF	\$	12.00	\$ 9,120.00
3	6 FT SIDEWALK - MAG 230	10,920	SF	\$	5.50	\$ 60,060.00
4	SIDEWALK RAMP - 6 INCH THICK - 236-2 SGL	3	EA	\$	5,400.00	\$ 16,200.00
5	TRUNCATED DOMES COMPOSITE	60	SF	\$	30.00	\$ 1,800.00
6	PARKWAY GRADING / BACKFILL CURB	1	LS	\$	3,500.00	\$ 3,500.00
7	MOBILIZATION	1	EA	\$	3,500.00	\$ 3,500.00
CONCRETE SUBTOTAL						\$ 182,580.00



Rio Rancho - Happy Valley Rd - In-Lieu

11/1/2020

PAVING						
1	MOBILIZATION	1	EA	\$	3,500.00	\$ 3,500.00
1a	SUBGRADE PREPARATION	8,445	SY	\$	5.00	\$ 42,225.00
2	5" AC ON 9" ABC	8,445	SY	\$	35.00	\$ 295,575.00
3	SURVEY MONUMENT TYPE "A"	2	EA	\$	395.00	\$ 790.00
4	ADJUST WATER VALVE	3	EA	\$	380.00	\$ 1,140.00
5	ADJUST STORM DRAIN MANHOLE	2	EA	\$	405.00	\$ 810.00
6	FIRE HYDRANT MARKER	6	EA	\$	20.00	\$ 120.00
7	SAWCUT PAVEMENT	200	LF	\$	1.20	\$ 240.00
8	REMOVE PAVEMENT	100	SY	\$	5.75	\$ 575.00
9	REMOVE EXISTING BARRICADE	27	LF	\$	5.95	\$ 160.65
10	REMOVE EXISTING CURB	548	LF	\$	4.20	\$ 2,301.60
PAVING SUBTOTAL					\$	347,437.25
STRIPING						
1	OBLITERATE EXISTING PAVEMENT MARKINGS (4" EQUIVALE	500	LF	\$	1.00	\$ 500.00
2	4" WHITE PAINT	5,400	LF	\$	0.50	\$ 2,700.00
3	4" WHITE THERMOPLASTIC	5,400	LF	\$	0.50	\$ 2,700.00
4	8" WHITE PAINT	255	LF	\$	0.75	\$ 191.25
5	8" WHITE THERMOPLASTIC	255	LF	\$	1.00	\$ 255.00
6	ARROW SYMBOLS, PAINT	2	EA	\$	50.00	\$ 100.00
7	ARROW SYMBOLS, TYPE I TAPE	2	EA	\$	230.00	\$ 460.00
8	RAISED PAVEMENT MARKERS, TYPE D	150	EA	\$	5.00	\$ 750.00
9	SLURRY SEAL FOR STRIPE OBLITERATION (ALLOWANCE)	1	AL	\$	7,000.00	\$ 7,000.00
10	MOBILIZATION	3	EA	\$	1,500.00	\$ 4,500.00
STRIPING SUBTOTAL					\$	19,156.25
SIGNAGE						
1	POST/FOUNDATION	5	EA	\$	250.00	\$ 1,250.00
2	REGULATORY SIGNS	5	EA	\$	650.00	\$ 3,250.00
SIGNAGE SUBTOTAL					\$	4,500.00
LANDSCAPE						
1	36" BOX TREE	3	EA	\$	45.00	\$ 135.00
2	24" BOX TREE	6	EA	\$	150.00	\$ 900.00
3	16" OCOTILLO	1	EA	\$	150.00	\$ 150.00
4	15 GALLON TREE	5	EA	\$	80.00	\$ 400.00
5	15 GALLON ACCENT	5	EA	\$	70.00	\$ 350.00
6	10 GALLON SHRUB	5	EA	\$	50.00	\$ 250.00
7	10 GALLON ACCENT	5	EA	\$	50.00	\$ 250.00
8	5 GALLON SHRUB	125	EA	\$	12.00	\$ 1,500.00
9	5 GALLON ACCENT	125	EA	\$	12.00	\$ 1,500.00
10	5G GALLON CACTUS/AGAVE	100	EA	\$	25.00	\$ 2,500.00
11	5 GALLON GROUND COVER	100	EA	\$	12.00	\$ 1,200.00
12	5 GALLON GRASS	100	EA	\$	12.00	\$ 1,200.00
13	GRADING	1	LS	\$	2,000.00	\$ 2,000.00
14	GRANITE (\$30 PER TON PURCHASE ALLOWANCE)	100,000	SF	\$	0.30	\$ 30,000.00
15	IRRIGATION	1	LS	\$	30,000.00	\$ 30,000.00
16	MAINTENANCE	3	MOS	\$	365.00	\$ 1,095.00
17	MOBILIZATION	1	LS	\$	15,000.00	\$ 15,000.00
LANDSCAPE SUBTOTAL					\$	88,430.00

Subtotal	\$884,353.50
Contingency @ 2%	\$17,687.07
Insurance @ 1.5%	\$13,530.61
Overhead & Profit @ 10.50%	\$96,134.97
Bond @ 1.5%	Excluded
Sales Tax @ 6.5%	\$65,760.90
TOTAL	\$1,077,467.05

EXHIBIT E

187th Avenue Bridge Costs Estimate

Rio Rancho - 187th Ave Bridge Cost Estimate

BID PRICE SUPPLEMENT



PROJECT: 187th Avenue and West Happy Valley Road - Bridge Crossing

SCOPE: Turnkey

DATE: 10/26/2020

CONTRACTOR: Rummel Construction, Inc.

Client Forestar (USA) Real Estate Group, Inc.

ITEM	ACTIVITY DESCRIPTION	UNIT TYPE	Est QTY	Contract QTY	CONTRACT PRICING	
					UNIT PRICE	SUBTOTAL
	General Conditions					
	MOBILIZATION	LS	1		\$285,000.00	\$285,000.00
	TRAFFIC CONTROL	AL	1		\$40,000.00	\$40,000.00
	TEMPORARY SHOEFLY (3" AC ON NATIVE)	AL	1		\$75,000.00	\$75,000.00
	CONSTRUCTION WATER STORAGE AND CONVEYANCE	LS	1		\$12,000.00	\$12,000.00
	CONSTRUCTION SURVEY	LS	1		\$36,000.00	\$36,000.00
	QUALITY CONTROL	LS	1		\$30,000.00	\$30,000.00
	BRIDGE / RETAINING WALL SPECIAL INSPECTION	AL	1		\$35,000.00	\$35,000.00
	SECURITY	MN	7		\$2,400.00	\$16,800.00
	UTILITY POTHOLING ALLOWANCE	AL	1		\$15,000.00	\$15,000.00
	PROJECT MANAGEMENT	MN	7		\$24,000.00	\$168,000.00
	FIELD OFFICE	MN	7		\$3,100.00	\$21,700.00
	GRAVEL ENTRANCE W/GRIZZLY	EA	2		\$4,350.00	\$8,700.00
	SWPPP/DUST CONTROL (ALLOWANCE)	AL	1		\$25,000.00	\$25,000.00
	SWEEPING	HR	110		\$90.00	\$9,900.00
	Subtotal General Conditions					\$778,100.00
	Grading					
	CLEAR AND GRUB	LS	1		\$18,000.00	\$18,000.00
	PREWET	LS	1		\$8,000.00	\$8,000.00
	ROADWAY EXCAVATION	CY	3,180		\$4.60	\$14,628.00
	ROUGH FINISH	SY	15,000		\$0.70	\$10,500.00
	Subtotal Grading					\$51,128.00
	Happy Valley Road Bridge					
	CLASS S 3,500 PSI STRUCTURAL CONCRETE (ABUTMENT)	CY	288		\$650.00	\$187,200.00
	CLASS S 4,500 PSI STRUCTURAL CONCRETE (SUPERSTRUCT	CY	392		\$1,185.00	\$464,520.00
	REINFORCEMENT STEEL (ABUTMENT AND SUPERSTRUCTURE)	LB	119,240		\$1.10	\$131,164.00
	ELASTOMERIC BEARING PADS	EA	50		\$497.00	\$24,850.00
	PRE-STRESSED AASHTO GIRDER TYPE III	LF	1,290		\$358.00	\$461,820.00
	VERTICAL RESTRAINERS	EA	56		\$320.00	\$17,920.00
	3'-6" DIA DRILLED SHAFTS (INCLUDING REINFORCEMENT)	LF	912		\$440.00	\$401,280.00
	DECK JOINT ADOT SD 3.01, 3X3 COMPRESSION SEAL	LF	168		\$294.00	\$49,392.00
	38" SGL SLOPE BRIDGE BARRIER ADOT SD 1.10	LF	230		\$141.00	\$32,430.00
	COMBO PED/TRAFFIC BRIDGE RAIL AND SIDEWALK - ADOT	LF	230		\$373.00	\$85,790.00
	APPROACH SLAB (ADOT SD2.01)	SF	1,200		\$35.00	\$42,000.00
	STRUCTURE EXCAVATION	LS	1		\$22,000.00	\$22,000.00
	STRUCTURE BACKFILL	LS	1		\$62,000.00	\$62,000.00
	Subtotal Happy Valley Road Bridge					\$1,982,366.00

Rio Rancho - 187th Ave Bridge Cost Estimate

BID PRICE SUPPLEMENT



PROJECT: 187th Avenue and West Happy Valley Road - Bridge Crossing

SCOPE: Turnkey

DATE: 10/26/2020

CONTRACTOR: Rummel Construction, Inc.

Client Forestar (USA) Real Estate Group, Inc.

ITEM	ACTIVITY DESCRIPTION	UNIT TYPE	Est QTY	Contract QTY	CONTRACT PRICING	
					UNIT PRICE	SUBTOTAL
	Concrete					
	6" VERTICAL CURB AND GUTTER M.A.G. 220 TYPE "A"	LF	4,000		\$19.35	\$77,400.00
	CURB TERMINATION M.A.G. DTL 222	EA	3		\$150.00	\$450.00
	SIDEWALK M.A.G. 230 TH=4" / M.A.G 4,000 PSI CONCRE	SF	15,000		\$5.25	\$78,750.00
	SIDEWALK RAMP M.A.G. 237-1 W/DETECTABLE WARNING C.	EA	2		\$5,400.00	\$10,800.00
	SIDEWALK RAMP M.A.G. 237-3 W/DETECTABLE WARNING C.	EA	4		\$5,400.00	\$21,600.00
	TRUNCATED DOMES	SF	120		\$36.50	\$4,380.00
	6' VALLEY GUTTER AND APRON (4,000 PSI WITH FIBER M	SF	1,412		\$15.20	\$21,462.40
	DRIVEWAY M.A.G. DTL 250-2 (4,000 PSI CONCRETE)	SF	904		\$13.80	\$12,475.20
	CB M.A.G. 530 W/ INLET MARKER C.O.S. 5-01, 5-02B	EA	2		\$4,000.00	\$8,000.00
	CB M.A.G. 532 W/ INLET MARKER C.O.S. 5-01, 5-02B	EA	3		\$4,700.00	\$14,100.00
	PLAIN RIP RAP D50=6" TH=12"	SF	420		\$3.85	\$1,617.00
	RESTORE STREET SUBGRADE	SY	5,000		\$1.60	\$8,000.00
	PARKWAY GRADING / BACKFILL CURB	LS	1		\$5,000.00	\$5,000.00
	CONCRETE ESCALATOR ALLOWANCE	AL	1		\$5,000.00	\$5,000.00
	Subtotal Concrete					\$269,034.60
	Paving					
	5" AC ON 9" ABC	SY	7,500		\$35.00	\$262,500.00
	THICKENED EDGE M.A.G. 201 "A"	LF	2,040		\$6.10	\$12,444.00
	ADJUST MANHOLE (PVMT)	EA	4		\$650.00	\$2,600.00
	ADJUST MANHOLE (OS PVMT)	EA	5		\$600.00	\$3,000.00
	ADJUST WATER VALVE (PVMT)	EA	20		\$530.00	\$10,600.00
	SURVEY M.A.G. 120-1 "B"	EA	3		\$225.00	\$675.00
	STRIPING	LS	1		\$14,050.00	\$14,050.00
	SIGNAGE	LS	1		\$12,850.00	\$12,850.00
	HYDRANT MARKER	EA	5		\$30.00	\$150.00
	SAWCUT ASPHALT	LF	70		\$3.30	\$231.00
	REMOVE ASPHALT	SY	15		\$44.00	\$660.00
	CORTEN STEEL GUARDRAIL G4(W2) MCDOT 2801 AND 2807	LF	880		\$33.15	\$29,172.00
	GUARDRAIL END TERMINI	EA	6		\$2,765.00	\$16,590.00
	THRIE BEAM GUARDRAIL TRANSITION	EA	4		\$4,975.00	\$19,900.00
	Subtotal Paving					\$385,422.00

Summary

General Conditions	\$778,100.00
Grading	\$51,128.00
Happy Valley Road Bridge	\$1,982,366.00
Concrete	\$269,034.60
Paving	\$385,422.00
Project Subtotal	\$3,466,050.60
Sales Tax (County and State Only)	\$141,934.77
Project Grand Total	\$3,607,985.37

Notes:

Contract Quantity will be used to determine lump sum contract value.
Rio Ranch Estates prorated share is assumed to be ~25% of total cost presented.

EXHIBIT F

Depiction of the Easement Property

EXHIBIT "F"
LEGAL DESCRIPTION FOR
TEMPORARY CONSTRUCTION EASEMENT

All that certain lot, tract, or parcel of land, situated in a portion of the Southwest Quarter of Section 3, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found 1/2" rebar stamped "RLS #38863" for the Southwest corner of said Section 3, from which a found 3" Maricopa County Department of Transportation brass cap in concrete for the West Quarter corner of said Section 3 bears North 00 deg. 09 min. 08 sec. West (Basis of Bearings) - 2,631.54;

THENCE North 00 deg. 09 min. 08 sec. West along the West line of the Southwest Quarter of said Section 3, a distance of 55.00 feet to the Southwest corner of Tract C of Rio Rancho Estates, Parcel 2A as shown in Book 1544 of Maps, Page 17 of Maricopa County Records (MCR) and being in the North right-of-way line of West Happy Valley Road as shown in Book 1513 of Maps, Page 23, MCR, said point being the **TRUE POINT OF BEGINNING**;

THENCE North 00 deg. 09 min. 08 sec. West departing said North right-of-way line and continue along the West line of the Southwest Quarter of said Section 3, same being the West line of said Tract C, a distance of 80.00 feet;

THENCE South 89 deg. 44 min. 22 sec. East departing said West line, a distance of 113.12 feet to the Northeast line of said Tract C and the Southwest line of Lot 26 of said Rio Rancho Estates, Parcel 2A;

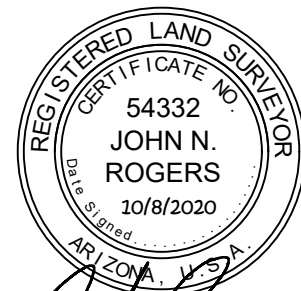
THENCE South 21 deg. 43 min. 08 sec. East along said Northeast and Southwest lines, a distance of 59.35 feet to the most southerly corner of said Lot 26 and the most westerly corner of Lot 27 of said Rio Rancho Estates, Parcel 2A;

THENCE South 89 deg. 46 min. 33 sec. East along the North line of said Tract C and the South line of said Lot 27, a distance of 46.28 feet;

THENCE South 00 deg. 15 min. 38 sec. West departing said North and South lines, a distance of 25.00 feet to the South line of said Tract C and the North right-of-way line of said West Happy Valley Road;

THENCE North 89 deg. 44 min. 22 sec. West along said South line and North right-of-way line and being 55.00 feet North of and parallel with the South line of the Southwest Quarter of said Section 3, a distance of 181.04 feet to the **POINT OF BEGINNING**, containing 11,349 square feet or 0.261 acres of land, more or less.

Exhibit map attached and made a part hereof.



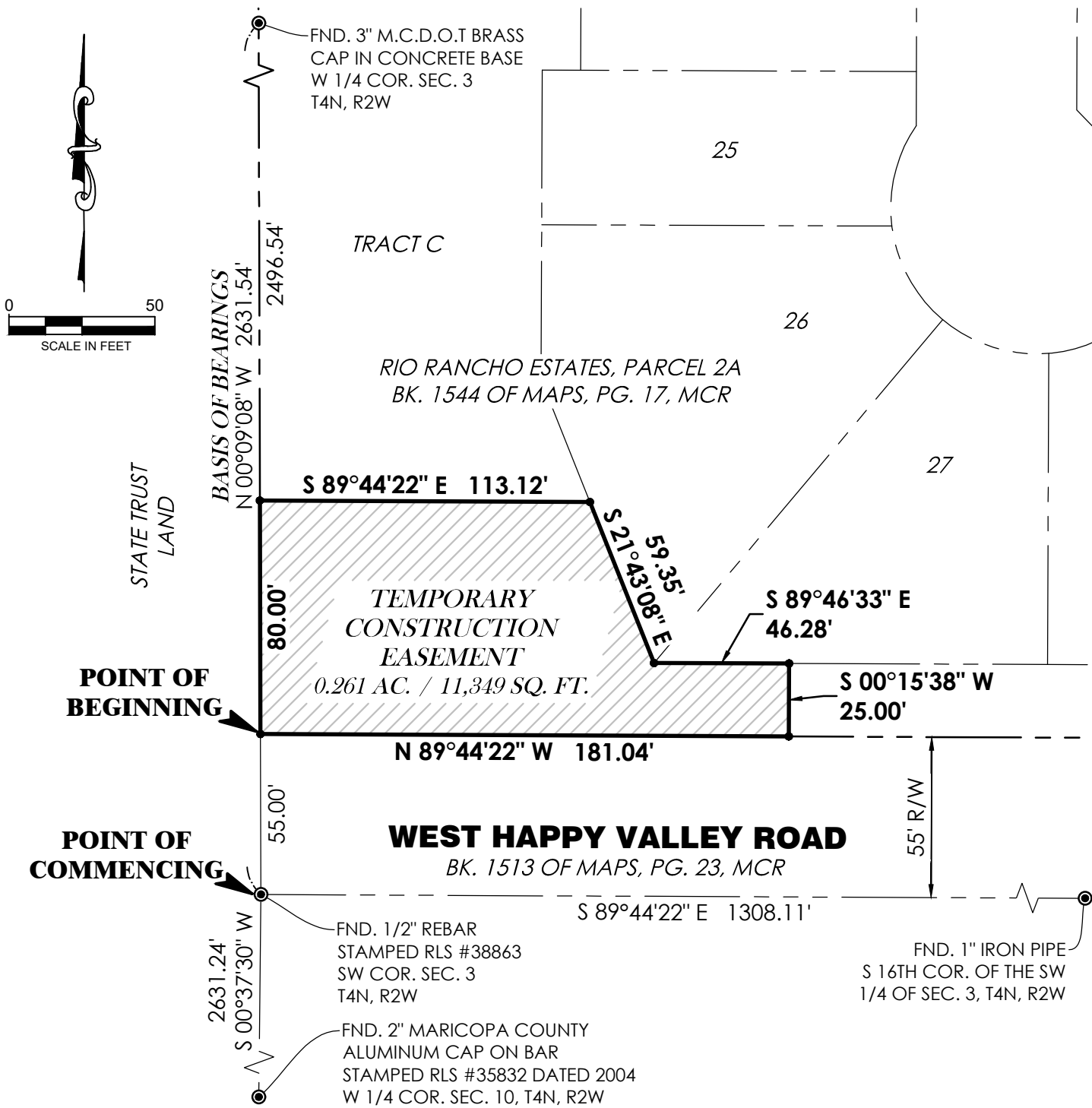
[Signature]

Sheet 1 of 2

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TEXAS • 2405 Mustang Drive • Grapevine, TX 76051 • 817.329.4373 • TxSurv Firm #10021700
ARIZONA • 2705 South Alma School Road, Suite 2 • Chandler, AZ 85286 • 602.218.7285

TENNESSEE • 6074 Apple Tree Drive • Memphis, TN 38115 • 901.881.9188
COLORADO • 8400 E. Prentice Ave. • Greenwood Village, CO 80111 • 303.459.4861



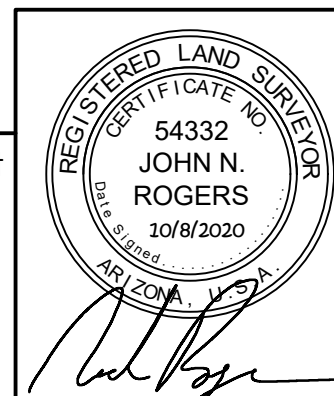
**EXHIBIT "F" MAP SHOWING
TEMPORARY CONSTRUCTION EASEMENT, SITUATED IN A PORTION
OF THE SOUTHWEST QUARTER OF SECTION 3, T4N, R2W
OF THE G.&S.R.B.&M., MARICOPA COUNTY, ARIZONA**

**GOODWIN AND
MARSHALL INC.**

CIVIL ENGINEERS ~ PLANNERS ~ SURVEYORS

2705 S. Alma School Road, Suite 2
Chandler, Arizona 85044
(602) 218-7285

Scale:	1" = 50'	Sheet
Date:	10/8/2020	2
Job No.:	10692A	of
Drafted:	J.N.R.	2
Checked:	J.N.R.	





CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020
Submitting Department: Public Works
Staff Recommendations: None

Contact Person: Mike Gent, DIRECTOR - PW
District: District 1

Consent: Yes	Regular: No	Public Hearing: No	Report/Discussion: No
--------------	-------------	--------------------	-----------------------

Agenda Wording:

Consideration and action conditionally accepting certain streets and public utility improvements at Austin Ranch East Phase 1B – Parcels 12A and 12C; Resolution # 2020-163.

Motion:

I move to approve Resolution # 2020-163.

Background:

The Public Works Department conducted the final inspection of the public improvements for Austin Ranch East Phase 1B – Parcels 12A and 12C on or about November 5, 2020, totaling 23,240 SY (approximately 7,030 LF) and determined that the infrastructure was compliant and acceptable to the city. The infrastructure includes asphalt pavement, concrete, storm drain and wastewater lines. Domestic water lines are located within the Beardsley Water jurisdiction.

Objective Analysis:

The improvements for this property provide roadways for conveyance through the property, storm drains to convey stormwater to retention basins, and sewer lines to convey wastewater from the property to the City's public system. This action will accept the required infrastructure. The domestic water serving the property is within Beardsley Water jurisdiction.

Policy Compliant:

City Code generally requires development to install public infrastructure required to serve the development. Upon completion and acceptance of such infrastructure, the infrastructure becomes the property of the City. Acceptance of this infrastructure will officially transfer ownership and future maintenance to the City.

Financial Impact:

Acceptance of streets, sewer, and storm drain infrastructure increases the city's asset base and adds to future maintenance commitments. The total acceptance value of the infrastructure included with this item is \$1,333,550.00.

Budget Impact:

Funding for the infrastructure maintenance now and in the future will be supported from the city's HURF, Water Operations, incremental additional maintenance expense associated with the acceptance of these infrastructure items will be incorporated in future year budgets.

FTE Impact:

This action does not change the full time equivalent count.

ATTACHMENTS:

1. 01_Res. 2020-163 Austin Ranch East Phase 1B Parcels 12A&12C-Final
 2. 03_Inspector sign off form
 3. FS18-283 - AUSTIN RANCH EAST PH 1B PAR 12A & 12C NOC LETTER-signed
-

RESOLUTION # 2020-163

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO CONDITIONALLY ACCEPT THE STREET AND PUBLIC UTILITY IMPROVEMENTS AND COMMENCE MAINTENANCE AFTER ONE YEAR WARRANTY AT AUSTIN RANCH EAST PHASE 1B - PARCELS 12 A AND 12C, GENERALLY LOCATED AT N. CITRUS ROAD AND W. WILLIAMS ROAD.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled "Austin Ranch East Phase 1B – Parcels 12A & 12C" on, October 16th, 2018;

WHEREAS, Courtland Homes Inc., an Arizona Corporation, the developer of Austin Ranch East Phase 1B – Parcels 12A and 12C, dedicated to the City the street and public utility improvements, generally located at N. Citrus Road and W. Williams Road;

WHEREAS, on or about November 5, 2020, the City of Surprise Public Works Department Engineering Division completed an inspection of the public improvements described in this resolution and found the improvements to be in substantial compliance with the approved plans and specifications;

WHEREAS, the City of Surprise notes that the one-year warranty period will commence upon conditional acceptance by the City; and

WHEREAS, after the conclusion of the one-year warranty period, the City of Surprise will release the warranty and begin maintenance of the street and public utility improvements.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. The City of Surprise conditionally accepts the street and public utility improvements generally located as depicted on the map attached as Exhibit A and listed on Exhibit B.

Section 2. Upon final acceptance by the City Engineer, the City Council hereby directs the City to release warranty and begin maintenance of the street and public utility improvements.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this _____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

Exhibit A

Map of Infrastructure

AUSTIN RANCH PHASE 1B

PARCELS 12A, 12C

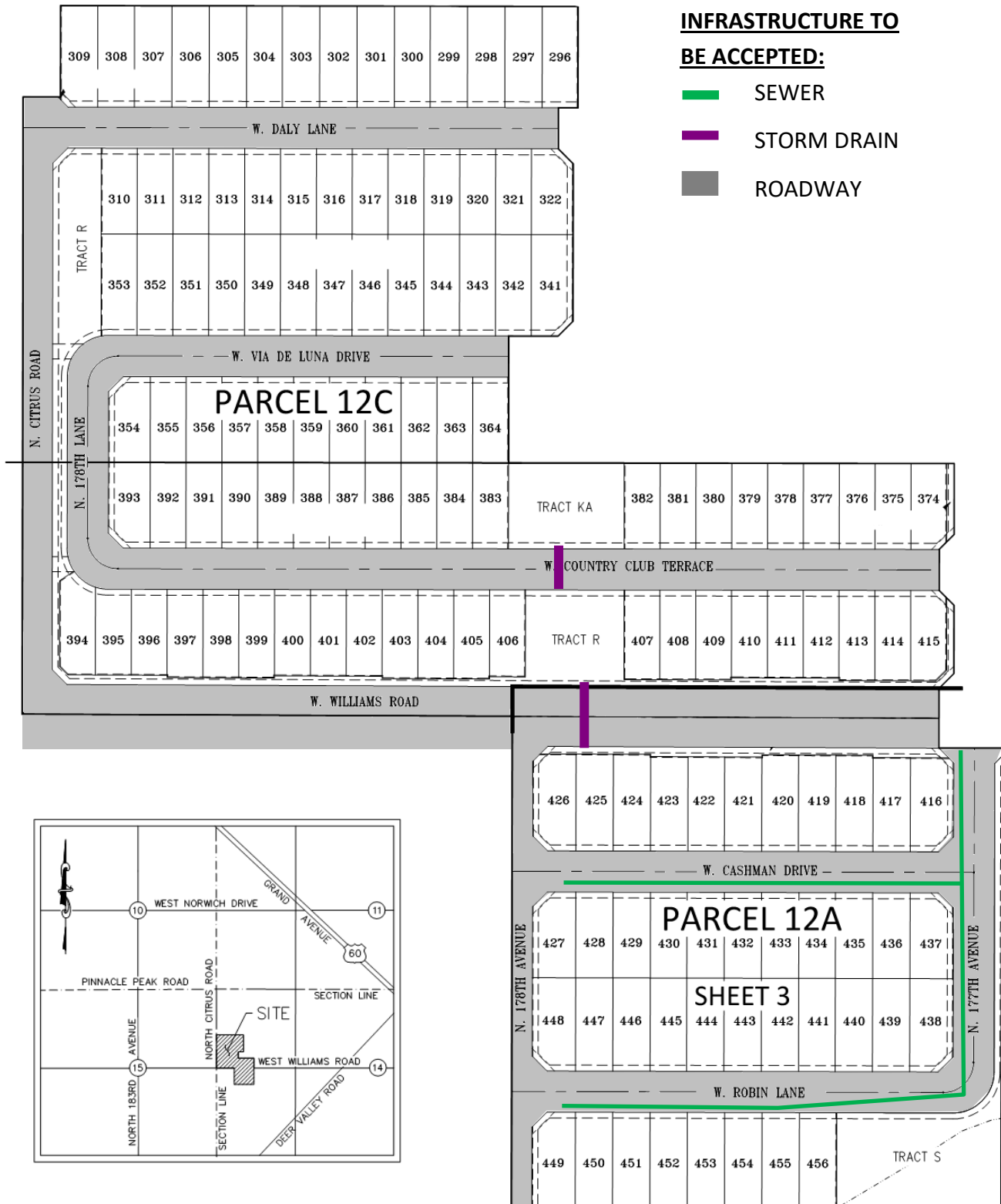


EXHIBIT B

List and Cost of Improvements



EXHIBIT B

ENGINEERING DIVISION
PUBLIC WORKS
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-6150

Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 11/19/2020
Re: Austin Ranch East Phase 1B - Parcels 12A and 12C

The public improvements for the above project have been completed and are tentatively scheduled for the December 15, 2020 council agenda for acceptance. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting:

City Paving - \$538,590.00
City Concrete - \$478,361.00
City Storm Drain - \$9,480.00
City Sewer - \$307,119.00

Total: \$1,333,550.00



PROJECT SIGN OFF FORM

PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 11/5/2020 Commercial ☐ Commercial w/Offsite ☒ Residential

☒ COMPLETION ACCEPTANCE (End of Construction) ☐ FINAL ACCEPTANCE (End of Warranty)

5/27/2020 Date of Punch-List Walk 9/30/2020 Date Punch-List Completed

FS Number: FS18-283 Permit Number(s): E18P-0638,E18P-0762,E18P-0804,E18P-0801,E18P-0799,E18P-0803

Project Name: Austin Ranch East Phase 1B - Parcels 12A & 12C

Project Developer/Builder: (Name, Address, and Phone #)

Courtland Homes Inc. 4160 West Kitty Hawk, Chandler, Arizona 85226

Sheet 1 of 2

MAG TIP Reporting:

Street Name	Classification	Begin Limits	End Limits	# Lanes	Length to nearest 1/4 mi.	Features
Robin Lane	Local	177th Ave	178th Ave	2	1/4	
Cashman Dr	Local	177th Ave	178th Ave	2	1/4	
Williams Rd	Collector	Sta 72+40.00	Citrus Rd	2	1/4	
Country Club Terrace	Local	Sta 61+60.00	178th Ln	2	1/4	
Via De Luna	Local	Sta 45+63.50	178th Ln	2	1/4	

MATERIALS:

Asphalt: Markham Supplier 4.5 Total Lane Miles 22,404 Total Square Yards

Water: 8" PVC Size/Type 3,342 Total Linear Feet 6" DIP Size/Type 72 Total Linear Feet

Sewer: 6" PVC Size/Type 667 Total Linear Feet 4" Size/Type 1,230 Total Linear Feet

Storm: 8" PVC Size/Type 878 Total Linear Feet 18" RGRCP Size/Type 154 Total Linear Feet

Fire Ln: N/A Size/Type 0 Total Linear Feet

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

☒ Copy of Punch List

☒ Final Certification Letter from Engineer of Record

☒ Complete Geotechnical Testing Packet

☒ Sewer Pressure Testing Results

☒ Sewer Manhole Vacuum Testing Certification

☒ Sewer Manhole Insecticide Certification

☒ Sewer Videos with Operators Notes (inc. re-videos)

☐ Other Water Purveyor is Beardsley Water Co. (Specify)

☒ AOC

☒ Asphalt Concrete Ticket w/ Name of Contractor

☒ Streetlight Energize Letter

☒ As built Documents (PDF copy on CD)

☒ As Built Documents in PDF format (copy on CD)

☒ Updated asbuilt CAD base files (copy on CD)

APPROVAL:

Civil Inspector: William Valdez

Date: 11/5/2020

Civil Engineering Supervisor: Munir Zerk

Date: 11/06/2020



PROJECT SIGN OFF FORM

PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 11/5/2020 Commercial Commercial w/Offsite XX Residential

XX COMPLETION ACCEPTANCE (End of Construction) FINAL ACCEPTANCE (End of Warranty)

5/27/2020 Date of Punch-List Walk 9/30/2020 Date Punch-List Completed

FS Number: FS18-283 Permit Number(s): See sheet 1

Project Name: See Sheet1

Project Developer/Builder: (Name, Address, and Phone #)

See Sheet 1

Sheet 2 of 2

MAG TIP Reporting:

Street Name	Classification	Begin Limits	End Limits	# Lanes	Length to nearest ¼ mi.	Features
W Daley Ln	Local	Sta 17+24.57	Citrus Rd	2	1/4	
177th Ave	Local	Robin Ln	Sta 104+62.57	2	1/4	
178th Ave	Local	Sta 90+00.00	Williams Rd	2	1/4	
Citrus Rd	Collector	Williams Rd	Sta 78+27.22	2	1/4	

MATERIALS:

Asphalt: See Sheet 1 Supplier _____ Total Lane Miles _____ Total Square Yards _____

Water: _____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Sewer: _____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Storm: _____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Fire Ln: _____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

- _____ Copy of Punch List
- _____ Final Certification Letter from Engineer of Record
- _____ Complete Geotechnical Testing Packet
- _____ Sewer Pressure Testing Results
- _____ Sewer Manhole Vacuum Testing Certification
- _____ Sewer Manhole Insecticide Certification
- _____ Sewer Videos with Operators Notes (inc. re-videos)
- _____ Other Sheet 2 of 2 (Specify)
- _____ AOC
- _____ Asphalt Concrete Ticket w/ Name of Contractor
- _____ Streetlight Energize Letter
- _____ As built Documents (PDF copy on CD)
- _____ As Built Documents in PDF format (copy on CD)
- _____ Updated asbuilt CAD base files (copy on CD)

APPROVAL:

Civil Inspector: William Valdez

Date: 11/5/2020

Civil Engineering Supervisor: [Signature]

Date: 11/06/2020

November 18, 2020

Courtland Homes Inc.
4160 W Kitty Hawk
Chandler, AZ 85226

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR AUSTIN RANCH
EAST PHASE 1B PARCELS 12A & 12C – FS18-283**

The City of Surprise Public Works Department has completed the inspection of the public utility improvements for the above referenced project. These improvements are in substantial compliance with the approved plans and specifications. Council action is required prior to conditional acceptance and the official beginning of the warranty period. The time frame for Council action is approximately 90 days after the following items have been submitted:

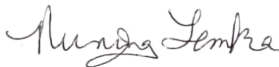
- A copy of all lien releases or a title report
- Actual construction cost for related civil permits issued
- Warranty assurance in a format acceptable by the City

A notice of the required assurance amount and acceptable formats will be sent via email once actual construction costs have been submitted by the applicant. The warranty period starts upon council acceptance for a period of one (1) year; please ensure warranty assurance will not expire prior to this date. The applicant will be notified of the council date as soon as it is scheduled and the warranty financial assurance is required to be submitted to the city 10 calendar days prior to the council date. If a warranty financial assurance is not received within 10 calendar days, council action and start of the warranty period will be delayed, at a minimum, an additional two (2) weeks.

A letter of conditional acceptance and notification that the warranty period has begun will be forwarded upon the completion of council acceptance. Also, a request to release the associated completion assurance will be made; notification will be sent when assurance document is available for pick up.

If you have any questions or concerns, you can reach me at 623-222-6148 or at nuning.lemka@surpriseaz.gov.

Sincerely,



Nuning Lemka, P.E.
Engineering Manager

cc: Kristin Tytler, Assistant PW Director/City Engineer
David Mobley, PW Field Engineering Supervisor
Lynn Stone, PW Business Manager
Lee Lambert, Water Resource Management
Warren Bert, GIS

Mike Gent, Deputy City Manager/PW Director
John McFarland, PW Streets Manager
Jon Gake, Finance
Michael Boule, Water Resource Management
William Valdez, PW Civil Inspector



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020

Contact Person: Robert Wingo, CITY
ATTORNEY

Submitting Department: Legal
Staff Recommendations: None

District: Internal

Consent: Yes	Regular: No	Public Hearing: No	Report/Discussion: No
--------------	-------------	--------------------	-----------------------

Agenda Wording:

Consideration and action pertaining to authorizing submission of the annual Request for Exemption from posting deposit to the Industrial Commission of Arizona.

Motion:

I move to approve and authorize submission of the Request for Exemption from Requirement to Post Statutory Deposit to the Industrial Commission of Arizona.

Background:

On January 30, 2017, Council approved by Resolution # 2017-03 the funding of a self-insured workers' Compensation program. With establishment of the self-insurance program comes certain regulatory compliance measures in addition to an annual application to the Industrial Commission of Arizona requesting authority to self insure.

In lieu of posting securities for outstanding workers' compensation liabilities, Arizona Administrative Code R-20-5-1114, affords public entities the opportunity to request waiver of a security deposit. This request for waiver must be submitted annually as part of the application process for renewal of Workers' Compensation self-insured status considered by the Industrial Commission of Arizona. The waiver must include the signatures of the majority of Council requesting such exemption be granted.

Objective Analysis:

This action is to obtain consent from City Council to submit an exemption letter to the Industrial Commission of Arizona, seeking approval to waive the requirement to post a security deposit for outstanding workers' compensation liabilities. Council has approved, and an exemption letter has been submitted to the ICA, every year since the City initiated its self-insured Workers' Compensation program.

Policy Compliant:

This action complies with all applicable statutes and codes and furthers the City Council's continuing agenda to be fiscally responsible and proactive.

Financial Impact:

The action aims to avoid posting of statutory securities; thus preserving contingency funds held within

the Workers' Compensation Trust.

Budget Impact:

The action aims to avoid posting of statutory securities; thus preserving contingency funds held within the Workers' Compensation Trust.

FTE Impact:

No FTE impact associated with this action.

ATTACHMENTS:

1. Request for Exemption from Requirement to Post Statutory Deposit
 2. City Clerk jurat
-

Request for Exemption from Requirement to Post Statutory Deposit

Pursuant to the Arizona Administrative Code subsection R20-5-1114 (A & B), this document constitutes a certified statement from the City of Surprise, an Arizona Municipal Corporation, duly qualified and authorized Arizona Workers Compensation self-insurer.

The City of Surprise hereby requests the Industrial Commission of Arizona (ICA) approve an alternate (exemption) from the posting of a statutory deposit, of which the current approved types are as follows: Letter of credit; a surety bond; U.S. Treasury notes or establishing a local government investment pool (LGIP) account. This request is made in accordance with A.A.C § R20-5-1114 and shall cover the City of Surprise unpaid Workers Compensation claims liability, as outlined in the foregoing statement.

The City of Surprise, Arizona states:

- 1) The City of Surprise has established a self-insurance trust pursuant to A.R.S § 11-981 (A-F), Section 4-4 of the Surprise Municipal Code, and expressly authorized by the Surprise City Council.
- 2) The City of Surprise shall conduct an actuary report on an annual basis. The confidence level shall be no less than 55%. The discount for investments shall be no more than 3.0% annually.
- 3) The Workers Compensation Trust Fund is sufficient to cover actuarial liabilities for workers compensation as determined by the self-insurer in accordance with Government Accounting Standards Board Statement #10 (replaced by GASB No.30).
- 4) The City of Surprise provides funding to the Workers Compensation Trust Fund established pursuant to A.R.S. § 11-981 (A-F) each year. The amount held for workers compensation purposes within the trust is sufficient to cover actuarial liabilities for workers compensation claims as determined by the self-insurer's actuary in accordance with GASB Statement #10, as well as, workers compensation reserves multiplied by 125% pursuant to the A.A.C.
- 5) The City of Surprise governing body, or designee, shall immediately notify the ICA and provide security as provided by and in this Article, if the governing body, or designee, learns that the risk management internal service fund and/or trust has insufficient funds to cover all workers compensation liabilities of the City of Surprise.
- 6) Pursuant to items 1 through 4, the City of Surprise meets the conditions required under A.R.S § 11-981 (A-F) and the A.A.C., subsection R20-5-1114 (A&B).
- 7) The signatures below represent a majority of the City of Surprise City Council members.

Signed _____	Date _____
Signed _____	Date _____
Signed _____	Date _____
Signed _____	Date _____
Signed _____	Date _____
Signed _____	Date _____
Signed _____	Date _____



CITY CLERK
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-1200

City of Surprise)
) ss.
COUNTY OF MARICOPA)

I, Sherry Aguilar, City Clerk of the City of Surprise, County of Maricopa, within the State of Arizona, do hereby and attest that the attached is the original Request for Exemption from Requirement to Post Statutory Deposit for the City of Surprise in accordance with the Arizona Administrative Code and for its Self- Insured Workers Compensation program, has been duly approved and signed by the Surprise City Council on _____.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Surprise to be affixed hereunto this _____ day of December, 2020.

Sherry Aguilar, City Clerk of the City of Surprise



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Joshua Mike
Submitting Department: Community Development District: Citywide
Staff Recommendations: None

Consent: No Regular: No Public Hearing: Yes Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to adoption of the Land Development Ordinances that will replace Chapters 101-122 of the Surprise Municipal Code, which comprise the Surprise Unified Development Code ;Ordinance # 2020-38.

Motion:

I move to approve Ordinance # 2020-38 to repeal the Surprise Unified Development Code (SUDC) and replace it with the Land Development Ordinances (LDO), including the Planning and Engineering Design Standards (PEDS).

Background:

Staff has prepared changes to the Land Development Ordinances that will implement the General Plan 2035. This code update includes feedback from residents, stakeholders from the development community, the Planning and Zoning Commission, and City Council.

The proposed comprehensive update will replace the existing Surprise Unified Development Code (SUDC) with Land Development Ordinances (LDO) within the City's Municipal Code and establish the Planning and Engineering Design Standards (PEDS). This presentation will be an overview of the proposed LDO and stakeholder outreach process.

This presentation will include alternative language received from the stakeholders regarding various standards and regulations as it pertains to the recent public drafts published on www.surpriseaz.gov/developnext.

Objective Analysis:

The Land Development Ordinances (LDO) and Planning and Engineering Design Standards (PEDS) will incorporate changes to the whole development code, replacing the current SUDC, while clarifying the standards for site planning, open space, and general development regulations.

Policy Compliant:

This development code update will implement the General Plan 2035.

Financial Impact:

There is no direct financial impact. The one-time cost to update Municode will be covered by the existing operating budget.

Budget Impact:

There is no budget impact related to the approval of this item.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. 00 FS18-296 LDO Code Update-CC Staff Report - 12.15.2020
 2. 01 FS18-296 Surprise LDO November 23, 2020 CLEAN DRAFT)
 3. 02 FS18-296 Surprise PEDS (November 23, 2020 CLEAN DRAFT)
 4. 03 FS18-296 SUDC vs LDO Comparison Table
 5. 04 FS18-296 Citizen Participation Report
 6. 05 FS18-296 Gammage and Burnham Letter re Proposed Revisions to LDO
 7. 06 FS18-296 20201030 TaylorMorrison LDO Letter Executed
 8. 07 FS18-296 HBACA_LDO PZ Comment Letter_FINAL_11.16.2020
 9. 08 FS18-296 Pulte LDO Comment Ltr 11-12-20
 10. 09 FS18-296 - Surprise LDO Ordinance 20-38
 11. FS18-296 LDO Presentation 12.15.2020
-

ZONING TEXT AMENDMENT

REPORT TO CITY COUNCIL

1	Case:	FS18-296
2		
3	Project Name:	Development Code Update
4		
5	Council District:	Citywide
6		
7	Meeting Date:	December 15, 2020
8		
9	Planner:	Joshua Mike, AICP
10		
11		
12	Applicant:	City of Surprise
13		
14	Request:	Repeal Chapters 101-122 of the Surprise Municipal Code, including
15		the Surprise Unified Development Code (SUDC) and replace with
16		the Chapters 101-111, known as the Land Development
17		Ordinances.
18		
19	General Plan Conformance:	The proposal is consistent with the Surprise General Plan 2035
20		
21	Support/Opposition:	Stakeholders provided collaboration and general support with
22		alternative suggestions outlined within this staff report.
23		
24		
25	P&Z Recommendation:	The Planning and Zoning Commission recommends approval of the
26		Land Development Ordinances (LDO) and Planning and Engineering
27		Design Standards (PEDS) to the Mayor and City Council.
28		

29 **PROJECT DESCRIPTION:**

30
31 The City of Surprise requests a Text Amendment to the Surprise Municipal Code to replace the
32 Surprise Unified Development Code (SUDC) and other development standards with the Land
33 Development Ordinances (LDO) and Planning and Engineering Design Standards (PEDS).

34
35 **BACKGROUND:**

36
37 It has been over 10 years since the City has completed a comprehensive update to the existing
38 Surprise Unified Development Code (SUDC), which effectively acts as the City's Zoning Code.
39 Based on previous discussions with City Council and the Planning and Zoning Commission,
40 Community Development has been working with City Staff to research updates that will better
41 implement the vision of the General Plan 2035.

42
43 **STAKEHOLDER AND CITIZEN OUTREACH:**

44
45 This code update included across-the-board teamwork from all disciplines of the development
46 community; homebuilders, architects, engineers, landscape architects, planners, etc. During the first
47 few months of this year, Staff presented many of the draft chapters for discussion at stakeholder
48 meetings, Planning and Zoning Commission meetings, and City Council Work Sessions. Since April
49 2020, after the stay-at-home order, staff continued to revise the drafts based on those meetings and
50 other feedback such as phone calls and emailed suggestions.

51
52 Hybrid stakeholder meetings resumed on a bi-monthly basis between August-November 2020. Each
53 meeting discussed topics that were important to the stakeholders. Based off the stakeholder
54 feedback received, Staff then presented options at multiple Planning and Zoning Commission
55 meetings and City Council work sessions, requesting further feedback and direction.

56
57 The City held two Citizen Outreach meetings in a virtual format on September 22 and 29, 2020. There
58 was a total of 2 members of the public present at these meetings. The City advertised Outreach
59 meetings, along with the Planning and Zoning Commission and City Council public hearings, in
60 accordance with state and local requirements. The City's Communications department also sent out
61 regular press releases, email notifications, and updates on social media that corresponded with the
62 publishing of draft copies of the LDO and PEDS on the City's website.

63
64 The City received digital feedback from the online entry forms made available, as it pertained to the
65 public drafts. Concerns received include:

- 66 • Pre-existing conditions and potential cost associated with enforcing new standards
67 retroactively. Staff comment: legal, non-conforming uses are protected under the LDO
68 • A requirement to develop an open space or greenway into the overall site design and
69 compensating lands set aside for a park, trailhead, etc. Staff comment: requiring open space
70 and regulating the form is a standard land development practice

- The PEDS prohibits using overhead electric power but it should permit temporary overhead during initial construction of the project. Staff comment: this regulation is for permanent dry utilities. That same policy for temporary power will remain as part of standard development practices.

ANALYSIS AND DISCUSSION:

The Land Development Ordinances (LDO) will incorporate changes to the whole development code and replace the current SUDC. The LDO is the tool that implements the policies and goals of the Surprise General Plan 2035 and provides clarity as it pertains to the standards for site design, open space requirements, and general development regulations.

Existing Planned Area Developments (PAD)

Approved and vested Planned Area Developments (PAD) zoning districts may retain entitlements, densities, plats, and regulations specifically granted in the adopting ordinance(s). Only where a provision in a PAD zoning district varies from this Ordinance, the provisions in the PAD zoning district shall govern. The LDO does not permit the establishment of new PAD zoning districts, but allows requests to amend an existing PAD as a rezoning application.

Chapter 101: Administrative Provisions

Chapter 101 contains the legal establishment of the City's development regulations, the purpose and interpretation of the regulations, and the definitions of the specific terms. The majority of this text is in multiple Articles within the SUDC and has been consolidated into one chapter of the LDO.

The majority of the proposed revised text in the LDO is within the definitions section. Some of the deleted terms are common language or were not used in the LDO update. Some of the revised terms have new definitions to provide clear interpretation for implementing the LDO. Some of the new terms match the terminology in the LDO and proposed Land Use Matrix within Chapter 106.

Chapter 102: Review Process and Applications

Chapter 102 describes the development review process and the variety of development applications offered by the City of Surprise. The LDO update will maintain the "Procedure Type" regulations that currently make up the SUDC, but will provide a revised description of each procedure and the relevant applications.

Procedure Types:

The procedure type assigned to each application governs the requirements of a public meeting, public hearing, public outreach, public notification, and the authoritative body, except to the extent otherwise required by applicable state or federal law. There are three (3) types of decision-making procedures.

- Type 1 is for primarily administrative decisions
- Type 2 is for public meetings that require limited outreach
- Type 3 is for public hearings that generally require full public notice and outreach

Development Applications:

The variety of development applications are listed in a table that describes the level of public outreach required, decision-making authority, and the appeal authority for the applications processed and the approvals that may be granted under this Ordinance. The remaining sections outline the submittal process; identifying the formal Public Outreach process and providing further details for applications associated with each Procedure Type.

Public Outreach:

When public outreach is required, one (1) or more of the following methods may be required depending on the procedure type or complexity of a project. The typical notice must be published, distributed, or displayed at least 15 days prior to the meeting or public hearing.

1. Legal ad, published in a local paper
2. Mail-out, sent by 1st Class mail to property owners within a 300-ft radius of a subject parcel
3. Site Posting, on or near subject parcel
4. Neighborhood Meeting, held by the applicant

Conditional Use Permits

Conditional Use Permits (CUP) are required for certain land uses that may be incompatible with the other uses permitted by right in a zoning district. Proposals require an individual review of design and configuration in order to ensure the appropriateness of the use at a particular location within a given zoning district. The burden of proof for satisfying the CUP requirements shall rest with the applicant. The approval or denial of a CUP is administrative with the final approval authority lying with the Surprise Planning and Zoning Commission. A decision to deny a proposed CUP is not a diminution of property values or a restraint of development rights.

Chapter 103: Enforcement

The purpose of this chapter is to establish the administrative and enforcement authority, as well as the subsequent penalties for persons and/or properties found to be in violation of the Surprise Municipal Code Part 2 – Land Development Ordinance (LDO). The LDO consolidates the majority of the text found in various chapters or articles of the SUDC into one chapter. The proposed revisions in the LDO update better outline the intent and interpretation of the enforcement regulations.

<u>Regulation</u>	<u>Proposed Language</u>
• Enforcement and Authority	Separate subsections for ‘Enforcement Authority’ and ‘Administrative Remedies’
• Violations and Penalties	The City shall immediately take action, and violators shall be convicted of a civil or criminal violation

- Nonconforming... Legally existing uses before the LDO update may continue even if it may not conform to the new standards
- Lots not meeting new LDO Lots legally platted or divided before the LDO may reduce standards enough to build
- Transfer of property Sale and/or transfer of property in violation shall not nullify the violation or postpone the enforcement timeframes

Chapter 104: Fundamental Development Requirements

The purpose of Chapter 104 is to accumulate, under one heading, fundamental development regulations and performance standards, which apply to any development, redevelopment and/or improvement of public and private property within the City rather than to repeat them several times. These standards and regulations shall qualify or supplement, as the case may be, the regulations in the LDO.

The LDO consolidates the majority of the text from Articles 2 and 3 from the SUDC into one chapter. The new Chapter also includes moving the current Stormwater Management regulations from Chapter 117.

Chapter 105: Building and Building Regulations

The purpose of Chapter 105 is to establish the codes published by the International Code Council and adopt specific amendments that apply to projects within the City of Surprise. However, the current LDO update does not include any substantive changes. Building Safety and Fire-Medical completed a separate revision in alignment with the recently updated 2018 International Codes.

Chapter 106: Zoning and Use Standards

The purpose of this chapter is to divide the city into zoning districts that classify and regulate the use of land, buildings and structures; regulate the open areas around and between the buildings and structures; and to regulate the density of dwelling units. Revisions to the development standards previously seen in the SUDC take into account input and suggestions from the development community.

Land Use Comparison

Some consolidated and added land uses allow easier interpretation by the City and more flexibility for future land uses. In other land use situations, the LDO matrix removes size requirements because zoning district regulations will manage size requirements.

Some new land uses use general terms to allow flexibility for new commercial uses that would otherwise need to be itemized or not considered.

- Repair Service Establishment - Represents businesses such as cell phone or computer repair, small appliance repair, or similar conducted within the building.
- Service Call Establishment - An establishment that provides off-site professional services at the customer's location, such as but not limited to pest control, catering services, electrician, personal services, or plumbing.

- Outdoor uses, such as dining, sales and display, and storage areas moved to the accessory use matrix since each is a dependent on a primary use on the property.

Updating the zoning district nomenclature is a significant change to the LDO from the SUDC and the table below illustrates the zoning conversion table from previous codes, as it relates to residential zoning districts.

Table 106-1b Conversion Table of Zoning Districts Nomenclature					
Title 17 and 1986 Code		Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)	
Symbol	District Name	Symbol	District Name	Symbol	District Name
R1-43	Single-family Residential	RR or RE	Residential Ranch or Residential Estate	RR	Rural Residential
R1-18	Single-family Residential	RL-2	Residential Low Density	R-1	Residential Low Density
		RL-3	Residential Low Density		
R1-8	Single-family Residential	RL-4	Residential Low Density		
R1-5	Single-family Residential	RL-5	Residential Low Density		
R-2	Multi-family Residential	RM	Residential Medium Density	R-2	Residential Medium Density
R-3	Multi-family Residential	RH	Residential High Density	R-3	Residential High Density
		RC	Residential Cluster		(district eliminated)
		CS	Countryside Center		(district eliminated)
		PUD	Planned Unit Development	PUD	Overlay Zoning District
PAD	Planned Area Development	PAD	Planned Area Development	PAD	(district eliminated for any future use)

Residential Development Standards

The new R-1 and R-2 (formerly RL and RM) zoning districts include development standards tables, which is different from the SUDC's Character Patterns standards. The RL zoning district in the SUDC has a range of lot sizes, each Lot Category having different development standards. Under the proposed LDO language, a residential project could rezone into either the R-1 or R-2 zoning district with a defined lot yield, much like the current standard practice of granting entitlements. The standards tables and lot categories will allow developers flexibility to change layouts and amend plats if the market changes without having to change a zoning entitlement.

216

217 *Setbacks*

218 Setbacks ensure structures maintain a minimum distance from adjacent property lines and rights-
219 of-way. These are important for fire safety and limiting the intensity of the construction, such as
220 keeping a reasonable distance. The proposed side setbacks regulate the minimum setback on
221 one side of a home and the combined aggregate setback distances of both sides.

222

223 Stakeholders expressed concerns with proposed widths and requested to reduce the setbacks to
224 5-feet on each side for the narrow lot categories. Staff received direction from the Planning and
225 Zoning Commission and City Council to maintain the proposed setbacks based on the priorities
226 listed below.

- 227 1. The intent of the larger side setback is to provide for a 'usable' side yard. The City is
228 addressing the concern that there is no functional side yard when the only available
229 home products provided in a subdivision maximize the buildable width.
- 230 2. 7' and 8' side yards allow for at least one side yard that can accommodate small utility
231 trailers, ATVs, and other personal recreational vehicles, etc., and for small RV gates.
- 232 3. Much of the reason for the lot categories is to allow for non-homogenous subdivision
233 layouts and to create housing diversity within subdivisions. The setbacks simply
234 address the various lot sizes and appropriate intensities.
- 235 4. For unique development proposals, an applicant can request a Planned Unit
236 Development (PUD) Overlay for some lots to have a reduced side setback to
237 compensate for unique project constraints.

238

239 *Narrow Lot Subdivisions*

240 The LDO permits narrow lots, any lot less than 50-feet wide, as a development standard to
241 accommodate market conditions and housing affordability through subdivision design. The City
242 recognizes that narrow lots allow homebuilders to provide more options at or below the median
243 home value. However, an abundance of narrow lots in a subdivision can create long-term
244 conflicts and constraints for the City to manage for the life of a neighborhood, long after buildout
245 is complete.

246

247 1. Garage Dominance

- 248 a. On a hypothetical 45-foot wide lot, about 63% of the home's width is a garage,
249 after subtracting 13' setbacks and a typical 20' wide two-car garage face.
- 250 b. Garage face setbacks are 20', pushing the home far from the ROW while the
251 PEDS requires enhanced entryway features, e.g. front porches, plaza,
252 courtyard, etc.
- 253 c. Encouraging two-story homes and decorative driveway pavement enhances
254 streetscape appeal.

255 2. On Street Parking

- 256 a. Remaining on street parking leaves one space per lot.
- 257 b. Difficult logistics with aligning driveways to avoid driveway access conflicts
- 258 c. Encourage additional public, off-street parking

3. Driveway/pedestrian conflicts
 - a. Safety concerns with abundance of driveway crossing the sidewalks
 - b. Driveways and the wider (8') setback should mirror along the same property line to permit longer stretches of driveway separation.
4. Trash Collection and Fire-Medical access
 - a. Narrow lot proposals conflict with existing fleet and practices
 - b. Designating trash/recycle can locations between driveways is an alternative to the City enforcing "no parking on trash day regulations" along the entire street.

Other Zoning Districts

Other zoning districts serve specific land uses and development goals for the City.

- Surprise Heritage District (SHD) - The SHD overlay zoning districts enhance and protect the historic character of the Original Town Site (OTS) while providing infill opportunities and encouraging redevelopment for both residential and commercial uses that further reflect the scale and cultural character of this historic neighborhood.
- Traditional Neighborhood Development (TND) - The purpose of the Traditional Neighborhood Development ("TND") zoning district is to provide an alternative zoning district beyond the typical single use residential zoning category. The TND zoning district is a hard zone that is ready-made for master planned communities.
- Mixed Use - The Mixed Use zoning districts provide an integration of residential with commercial activities such as retail and service uses, offices, public/semi-public features, recreational use and entertainment establishments.
- Commercial - The Commercial zoning districts provide locations, standards and regulations for all varieties of retail shopping, service establishments, neighborhood convenience, entertainment, and office uses in a manner that is consistent with the General Plan while providing employment opportunities for existing and future residents of the City.
- Employment - The Employment zoning districts provide a wide range of employment uses to serve the needs of Surprise employers and residents.
- Civic districts - The Civic zoning districts provide zoning criteria and development standards for those public land uses and facilities that are necessary to serve the community at large, conserve environmentally sensitive features and natural areas, or provide recreational amenities that enhance the quality of life for the residents of Surprise.

Planned Unit Development

The Planned Unit Development (PUD) overlay zoning district is a tool that applicants may use to request deviations from some regulations. The intent is to provide the desired flexibility for developers to address unique constraints facing a project.

- Re-established, last draft of LDO removed this tool
 - Tool used to request deviations from some regulations
 - New proposed language

- Provide desired flexibility for developers
- Address unique constraints facing a project
- Permitted in any zoning district except the Surprise Heritage District (SHD), and Traditional Neighborhood Development (TND), or individual residential dwellings
- Permitted uses in underlying zoning apply (does not permit deviations)
- Permits deviations to Ch 106-Zoning and Ch 109-Signs

Use Specific Standards:

The Use Specific Standards Article 10 from Chapter 106 of the LDO identifies uses and standards with unique requirements for a proposed development. The Use Specific Standards address additional regulations to protect public health, safety, and welfare.

Chapter 107: Design and Development Regulations

This chapter classifies and regulate different design regulations that are not under zoning entitlements.

- Planning and Engineering Design Standards (PEDS) – additional information listed in the next section
- Landscape and Screening Regulations
 - encourages quality development as buffering any negative impacts between the different intensities of use
 - requires open space and recreational areas to serve the needs of the residents of the city;
 - improves erosion and storm-water runoff control;
 - reduces the particulate matter in the air;
 - aids in conserving water and the native habitat with the use of xeriscape methods and low water use drought tolerant plants
- Outdoor Lighting Regulations
 - These regulations protect neighborhoods with appropriately regulated and properly installed outdoor lighting that will contribute to the safety and security of outdoor public activities at night, while maintaining access to the dark night sky. The City will prevent the negative impact created by excessive glare, light trespass, and unnecessary waste of energy and resources caused by improper design and installation of outdoor lighting.
- Parking and Loading Regulations
 - The purpose of this article is to set standards for off-street parking and loading requirements for new construction and the expansion of or changes to existing uses. The City sets the minimum number of spaces provided by a development project to avoid congestion on surrounding streets. On-street parking is also encouraged in some locations in order to provide a buffer between pedestrians and vehicular traffic.
- Wireless Facilities
 - Case number FS20-114 revised and amended the text for wireless facilities. The LDO renumbers the text to match the standard formatting.

345 Chapter 108: Land Division and Subdivision Regulations

346 Land Division and Subdivision Regulations ensure that all development conforms to the goals,
347 objectives, and requirements adopted and contained in the Surprise General Plan. Specific land
348 division considerations include:

- 349 • The location and shape of the site,
- 350 • Proposed lot and/or tract size and lot orientation,
- 351 • Circulation and street layout, area drainage, and
- 352 • Legal as well as physical access.
- 353 • All subdivision projects provide legally established lot(s) that comply with the specific
- 354 zoning district requirements

355
356 Chapter 109: Signs

357 This is a carryover from the SUDC as a Sign Code update adopted in 2018. There are no revisions
358 to any regulation language and the LDO rennumbers the text to match the standard formatting.

359
360 Chapter 110: Development Impact Fees

361 This is a carryover from the SUDC and any future updates requires a separate study and
362 amendment process according to Arizona Revised Statutes. There are no revisions to any
363 regulation language and the LDO rennumbers the text to match the standard formatting.

364
365 Chapter 111: Infill Incentive District

366 This is a carryover from the SUDC and adopted in 2016 as part of the Surprise Heritage District.
367 There are no revisions to any regulation language and the LDO rennumbers the text to match the
368 standard formatting.

369
370 **PLANNING AND ENGINEERING DESIGN STANDARDS:**

371
372 Chapter 107-Design Requirements of the LDO adopts the Planning and Engineering Design Standards
373 (PEDS), by reference, to be a standalone document. It will combine the Planning Standards (volume
374 1) as the visual form of requirements, with the Engineering Standards (volume 2) which provide the
375 technical requirements. Volume 1 consolidates the different design handbooks and updates
376 standards to maintain high quality open space and architectural character.

- 377 • Planning and Design Guidelines
- 378 • Rural Development Standards and Design Guidelines Study
- 379 • Single-Family Residential Guidelines Instruction Manual
- 380 • Single-Family Residential Home Product Design Guidelines

381 The first chapter of the PEDS focuses on various standards that apply to all land uses and zoning
382 districts to meet expectations that apply across the whole city. Subsequent chapters focus on land
383 uses related to the Character Areas within the General Plan 2035, such as Neighborhood Uses,
384 Commerce and Office, Business Park and Industrial, and Environmentally Sensitive Lands. Each
385 chapter contains related sections and highlights how to apply the standards to its respective land
386 uses.

388 Open Space and Community Amenity

389 As an example of how the PEDS ensure high quality developments, residential projects must
390 balance individual recreation space with integrating usable open space throughout subdivisions.
391 City leadership directed staff to maintain the intent of the Community Pool requirement within
392 the SUDC with a large amenity and explore options that provide builders with flexibility. Staff
393 informed stakeholders that quality of life and benefits from a large amenity are important and
394 designed into large subdivisions to benefit both the builder in the short-term and the residents
395 of the City in the long-term.

396
397 Stakeholders engaged in a thorough discussion, stating that if a provision for a large amenity
398 remains in the final draft of the PEDS, the thresholds and sliding scale of amenities should reflect
399 better value and practicality for the design of a subdivision. The City should provide a mechanism
400 to accommodate infill projects or subdivisions phased within a larger development that has
401 included a large community facility.

402
403 Within the basic open space required within a subdivision plat, the PEDS prioritizes the form of
404 open space (washes, trails, recreation areas, etc.) and how to ensure it is usable with a simple list
405 of amenities. New development plans will provide a minimum number of amenities according
406 to the total number of allowed dwelling units within the subdivision plat.

407
408 Subdivisions with small/narrow lots, small side setbacks, and medium densities have minimal
409 individual recreation space on each lot. All new residential development plans will provide a
410 Community Amenity based on the size and density parameters (more than 160 ac and 4 DU/Ac)
411 or when narrow lots make up more than 25% of a development project.

412
413 **CONFORMANCE WITH ADOPTED PLANS:**

414
415 **Surprise General Plan 2035:** Updating the development code and design standards further the goals
416 of the General Plan 2035. These regulations and standards implement tools to achieve the goals and
417 policies for future development within the City, such as the Land Use and Open Space Elements.

418
419 **REVIEWING AGENCIES:**

420
421 An enhanced list of agencies and utility companies were part of the stakeholder distribution list.
422 Collaborative discussions facilitated language that meets the City's vision while helping advance the
423 needs of the organizations that responded.

- 424
425
 - Luke Air Force Base – protect areas within the Noise Contours and Graduated Density
 - 426 Concept
 - 427 • Bureau of Reclamation – protect and enhance trail systems along the CAP canal, integrating
 - 428 with the Surprise Parks and Trails Master Plan
 - 429 • APS – coordinate planting standards within public utility easements (P.U.E) with policies such
 - 430 as 'Right Tree, Right Place' education

ALTERNATIVE LANGUAGE:

During the collaboration process stakeholder offered alternative language and provisions to the draft language proposed in the LDO and PEDS. The Planning and Zoning Commission considered the following alternative language below. The Commission recommended alternative language options 2-9 at the Public Hearing on November 19, 2020. City Council may consider all alternatives, follow the Commission's recommendation, or adopt different revisions.

Alternative Language #1 – Side Setbacks (not recommended by P&Z)

This section of alternative language means to reduce the minimum side setback standards for traditional single-family residential lot in R-1 and R-2 zoning. This change would reduce the minimum side setbacks to 5' and 5' on either side of a home.

Table 106-2c - Residential Low Density (R-1) Zoning district

Lot Category A

Min Side Setback: 5' & 5' 8'

AND

Table 106-2d - Residential Medium Density (R-2) Zoning district

Lot Category A

Min Side Setback: 5' & 5' 7'

Lot Category B

Min Side Setback: 5' & 5' 8'

Alternative Language #2 – Narrow Lot Subdivisions (recommended by P&Z)

This section of alternative language means to reduce the threshold of lot widths that the LDO considers as a narrow lot and therefore requires mitigating designs in a subdivision plat. This group of changes includes notes in the development standards tables for R-1 and R-2 zoning districts and the Lot Planning section of Chapter 108-Land Division.

Table 106-2c - Residential Low Density (R-1) Zoning district

Notes

3. Subdivisions shall contain no more than seventy-five percent (75%) of lots less than **forty-eight feet (48')** ~~fifty-feet (50')~~ wide and will include mitigating designs outline in Chapter 108 of this ordinance.

AND

Table 106-2d - Residential Medium Density (R-2) Zoning district

Notes

4. Subdivisions shall contain no more than seventy-five percent (75%) of lots less than **forty-eight feet (48')** ~~fifty-feet (50')~~ wide and will include mitigating designs outline in Chapter 108 of this ordinance.

474
475 AND
476

477 **108-2.5 Lot Planning**

- 478 F. Narrow Lot Subdivisions. Subdivisions with a homogenous design of *lot widths*
479 narrower than **forty-eight feet (48')** ~~fifty feet (50')~~ cause numerous long-term
480 conflicts and constraints for city services, design standards, parking, and quality of
481 pedestrian movement over the lifespan of the neighborhood. In order to mitigate
482 these problems, the designs listed below may apply to residential subdivisions
483 that permit a given percentage of lots to be narrower than **forty-eight feet (48')**
484 ~~fifty feet (50')~~ wide according to **Section 108-2a**. Mitigating designs for plat are
485 outlined below and home product designs are identified in the PEDS.
486

487 *Alternative Language #3 – Additional Small Lot Category (recommended by P&Z)*

488 This section of alternative language means to add a new lot category intended for higher density
489 single-family residential products platted on individual lots in R-2 zoning districts. This change
490 includes a new smaller lot category added to the development standards tables for R-2 zoning
491 districts.
492

493 **Table 106-2d - Residential Medium Density (R-2) Zoning district**

494 **Lot Area (sf): 2,000-3,499**

495 **Min. Lot Width (sf): 35**

496 **Min. Front Setback (ft) : 5**

497 **Max Front Setback (ft): N/A**

498 **Min. Side Setback (ft): 5/5**

499 **Min. Rear Setback (ft): 5**

500 **Max. Bldg. Height (ft): 30**

501 **Lot Coverage: 70%**

502 **Footnote: Add footnote that this lot category can only be used for a residential**
503 **development with access for each dwelling unit provided by a common shared drive or**
504 **rear-loaded alley.**
505

506 *Alternative Language #4 – TND Mixture of Uses (recommended by P&Z)*

507 This section of alternative language means to add flexibility in how TND zoning districts are entitled
508 during a rezoning process. The current proposal has a rigid requirement to include a mixture of land
509 dedicated to commercial, residential, mixed use, and open space. The language listed below intends
510 to enforce the calculation as a target that can vary for a given project during its rezoning process. It
511 means to allow constraints like unique topography or creative designs as factor when the City
512 evaluates future master planned communities.
513

514 **106-4.2 Establishment of TND Zoning district**

- 515 C. Required Mixture of Land Uses.

1. All TND developments will be required to provide a mixture of land *uses* that include residential, commercial, *mixed use*, and *open space*. **Table 106-4a** below identifies the specific ratios for the **TARGET MIX OF** land *uses* based on the approved number of *dwelling units* in the overall TND project. **AN ALTERNATE MIX OF THESE LAND USES MAY BE APPROVED BY THE CITY COUNCIL BASED ON THE INDIVIDUAL CHARACTERISTICS OF THE TND DEVELOPMENT, INCLUDING ITS TOPOGRAPHY, LOCATION, OVERALL DESIGN AND QUALITY, THE INTERFACE OF ITS VARIOUS COMPONENTS AND THE INTEGRATION OF THE PROJECT INTO THE OVERALL COMMUNITY.**

Alternative Language #5 – TND Lot Diversity Requirement (recommended by P&Z)

This section of alternative language means to reduce the level of lot diversity within a TND zoning district. The current proposal has a strict requirement to include a mixture of lot sizes within a Development Parcel. The language listed below intends to broaden the focus of lot diversity across the entirety of a TND project.

106-4.2 Establishment of TND Zoning district

C. Required Mixture of Land Uses.

3. **TND DEVELOPMENTS SHALL PROVIDE** ~~Residential neighborhoods shall be laid out providing~~ different housing types and varying *lot sizes* ~~interspersed on the same street within the same subdivision,~~ to prevent creating homogenous subdivisions filled with repetitive housing types. Every **TND DEVELOPMENT** ~~residential development parcel~~ shall provide a minimum of three (3) distinctly different **LOT CATEGORIES (AS DEFINED PER TABLE 106-4B) THAT MEET THE FOLLOWING CRITERIA** ~~lot sizes; providing:~~
- a. A minimum of ~~two~~ **ONE** thousand **FIVE HUNDRED** square foot ~~(2,000-sf~~ **1,500)** differential in *lot* area in combination with;
 - b. A *lot* width differential of at least twenty percent (20%); and
 - c. No one (1) **LOT CATEGORY** ~~lot size~~ shall comprise more than sixty percent (60%) of the total number of residential *lots* within a **TND DEVELOPMENT** ~~single development parcel~~ **AND EACH OF THE THREE (3) LOT CATEGORIES MUST INDIVIDUALLY COMPRISE A MINIMUM OF TWENTY PERCENT (20%) OF THE TOTAL NUMBER OF RESIDENTIAL LOTS WITHIN A TND DEVELOPMENT.**
 - d. **ALTERNATIVES TO THESE CRITERIA MAY BE APPROVED AS PART OF THE TND PLAN OF DEVELOPMENT IF THE PROPOSED ALTERNATIVES MEET THE INTENT OF THESE LOT DIVERSITY CRITERIA.**

Alternative Language #6 – Additional TND Small Lot Category (recommended by P&Z)

This section of alternative language means to add a new lot category intended for higher density single-family residential products platted on individual lots in TND-R zoning districts. This change includes a new smaller lot category added in the development standards tables for TND-R zoning districts.

Table 106-4b – Development Standards for TND-R Parcels

Lot Area (sf): 2,000-3,499

Min. Lot Width (sf): 35

Min. Front Setback (ft) : 5

Max Front Setback (ft): N/A

Min. Side Setback (ft): 5/5

Min. Rear Setback (ft): 5

Max. Bldg. Height (ft): 30

Lot Coverage: 70%

Footnote: Add footnote that this lot category can only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley.

Alternative Language #7 – Permit Gated Communities in TND Projects (recommended by P&Z)

This section of alternative language is a result of discussions during the Planning and Zoning Commission Public Hearing regarding flexible housing options within a master planned community. It means to remove the regulation that prohibits the gated community within future TND zoning districts.

106-4.1 General

C. General Provisions.

6. ~~Gated developments and~~ Age qualified/restricted communities are prohibited within all TND projects.

Alternative Language #8 – Permit deviations to TND standards table (recommended by P&Z)

This section of alternative language is a result of discussions during the Planning and Zoning Commission Public Hearing regarding providing flexibility similar to the PUD overlay, which does not apply to TND zoning districts. It means to permit deviations to the development standards when future TND zoning districts are approved during rezoning applications.

106-4.4 Development Standards

- B. DEVIATIONS TO THE DEVELOPMENT STANDARDS IN THIS SECTION FOR ANY TND ZONING DISTRICT SHALL BE CONSIDERED PART OF A REZONING APPLICATION AND WILL BE BASED ON THE INDIVIDUAL CHARACTERISTICS OF THE TND DEVELOPMENT, INCLUDING ITS TOPOGRAPHY, LOCATION, OVERALL DESIGN AND QUALITY, THE INTERFACE OF ITS VARIOUS COMPONENTS AND THE INTEGRATION OF THE PROJECT INTO THE OVERALL COMMUNITY**

~~These development standards shall be the same for any and all TND Zoning districts approved by the City and shall be applied consistently throughout the City wherever the TND Zoning district has been approved. Deviations or refinements to these specific Development Standards will not be permitted or considered by the city, except through the Variance process pursuant to Chapter 102 of this Ordinance.~~

Alternative Language #9 – Gated Community Standards (recommended by P&Z)

This section of alternative language is a result of discussions during the Planning and Zoning Commission Public Hearing regarding the development standards for the Gated Communities. This section of alternative language means to move development standards for Gated Communities from Chapter 108-Land Division to Chapter 106-Zoning as a Use Specific Standard, thereby permitting project specific deviations with a PUD overlay.

106-10.20 108-2.12 Gated Communities

SUMMARY:

Replacing the current development regulations with the Land Development Ordinances (LDO) and Planning and Engineering Design Standards (PEDS) will help future growth and land uses within the City while furthering the goals of the Surprise General Plan 2035.

FINDINGS:

- The proposed Land Development Ordinances is consistent with the Surprise General Plan 2035.
- The proposed Planning and Engineering Design Standards will advance the goals and policies of the General Plan.

RECOMMENDATION:

During the Public Hearing held on November 19, 2020, the Planning and Zoning Commission voted to recommend approval of the Land Development Ordinances and the Planning and Engineering Design Standards, which includes the alternative language options 2 through 9 listed above. The attached LDO reflects the recommended alternative language.

ATTACHMENTS:

- 01 Surprise Land Development Ordinances (November 23, 2020)
- 02 Planning and Engineering Design Standards (November 23, 2020)
- 03 SUDC vs LDO Comparison Tables
- 04 Citizen Participation Report
- 05 Gammage and Burnham Letter re Proposed Revisions to LDO
- 06 20201030 TaylorMorrison LDO Letter Executed
- 07 HBACA_LDO PZ Comment Letter_FINAL_11.16.2020
- 08 Pulte LDO Comment Ltr 11-12-20.pdf
- 09 FS18-296 - Surprise LDO Ordinance #2020-38

TABLE OF CONTENTS

CHAPTER 101 - ADMINISTRATIVE PROVISIONS

ARTICLE 1 – IN GENERAL

- 101-1.1 TITLE and Effect
- 101-1.2 Authority
- 101-1.3 Purpose and Applicability
- 101-1.4 Interpretation
- 101-1.5 Severability Clause
- 101-1.6 Permits and Approvals

ARTICLE 2 – RULES OF INTERPRETATION AND GLOSSARY OF TERMS

- 101-2.1 Rules for Measurement
- 101-2.2 Glossary of Terms

CHAPTER 102 - REVIEW PROCESS AND APPLICATIONS

ARTICLE 1 – IN GENERAL

- 102-1.1 Purpose
- 102-1.2 Applicability
- 102-1.3 Development Procedures Manual
- 102-1.4 Concurrent Review
- 102-1.5 Exempt Activities
- 102-1.6 Expiration of Approvals

ARTICLE 2 – PROCEDURE TYPES AND SUBMITTALS

- 102-2.1 Procedure Types
- 102-2.2 Submittal Process

ARTICLE 3 – PUBLIC OUTREACH AND PUBLIC NOTIFICATION

102-3.1 Public Outreach

102-3.2 Public Notification Methods

ARTICLE 4 – TYPE 1 APPLICATION AND REQUESTS

102-4.1 Uses, Interpretations, and Administrative Decision

102-4.2 Minor Site Plan Amendment

102-4.3 Minor land division/Plat Corrections

102-4.4 Use Permits (administrative and temporary)

102-4.5 Home Product Review

102-4.6 Administrative Waivers

102-4.7 Corrective Plat

102-4.8 PEDS Deviation/Waiver

102-4.9 CD Director Waiver

ARTICLE 5 – TYPE 2 APPLICATION AND REQUESTS

102-5.1 Site Plan Review

102-5.2 Protected Development Rights Plan

102-5.3 Original Townsite Incentive

102-5.4 Development Agreements

102-5.5 Appeals and Waivers

102-5.6 Final Plats

ARTICLE 6 – TYPE 3 APPLICATION AND REQUESTS

102-6.1 General Plan Amendments and Specific Area Plans

102-6.2 Rezoning Requests and LDO Text Amendments

102-6.3 Conditional Use Permits

102-6.4 Comprehensive Sign Program

102-6.5 Variances

102-6.6 Preliminary Plats

102-6.7 Annexation

CHAPTER 103 - ENFORCEMENT

ARTICLE 1 – IN GENERAL

- 103-1.1 Purpose**
- 103-1.2 Enforcement Authority**
- 103-1.3 Administrative Remedies**
- 103-1.4 Violations and Penalties**
- 103-1.5 Nonconforming Uses and Structures**
- 103-1.6 Transfer of Property**

CHAPTER 104 - FUNDAMENTAL DEVELOPMENT REQUIREMENTS

ARTICLE 1 – IN GENERAL

- 104-1.1 Purpose and Intent**
- 104-1.2 Unsuitable Sites**
- 104-1.3 Compliance with Other Plans, Regulations, and Contiguity**
- 104-1.4 Urban Growth Principles**
- 104-1.5 Public Infrastructure Level of Service**
- 104-1.6 Air Quality Standards**
- 104-1.7 Noise and Vibration Standards**
- 104-1.8 Glare and Heat Standards**
- 104-1.9 Hazardous Materials Standards**
- 104-1.10 Open Space Requirements and Hierarchy**
- 104-1.11 Density Ranges, Transfer of Density and Development Rights**
- 104-1.12 Luke Air Force Base Compatibility**

ARTICLE 2 – ENVIRONMENTALLY AND CULTURALLY SENSITIVE LANDS DEVELOPMENT STANDARDS

- 104-2.1 Applicability**
- 104-2.2 Environmental Inventory Plan and Report**

- 104-2.3** **Buffer Area Regulations**
- 104-2.4** **Construction Mitigation Measures**
- 104-2.5** **Development Regulations for Specific Environmental Features**
- 104-2.6** **Land Disturbance Regulations**
- 104-2.7** **Transition Standards**
- 104-2.8** **Hillside Development Area Regulations**
- 104-2.9** **Archeological or Cultural Resources**

ARTICLE 3 – STORMWATER MANAGEMENT

- 104-3.1** **Purpose of Provisions**
- 104-3.2** **Applicability**
- 104-3.3** **Plan and Report**
- 104-3.4** **Development Regulations**
- 104-3.5** **Retention Calculations, Drainage Flows, and Dry Wells**
- 104-3.6** **Right of City to Drain Basin**
- 104-3.7** **Assessment of Costs for Drainage**
- 104-3.8** **Appeal to Council**
- 104-3.9** **Service of Notice**
- 104-3.10** **Lien for Drainage of Basin**

ARTICLE 4 – NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

- 104-4.1** **Floodplain Administrator**
- 104-4.2** **Flood Insurance Studies Adopted by Reference**
- 104-4.3** **Floodplain Regulations Adopted by Reference**

Chapter 105 – BUILDING AND BUILDING REGULATIONS

ARTICLE 1 – IN GENERAL

- 105-1** **Removal of Rubbish, Trash, Weeds, Filth, Debris and Dilapidated Structures**
- 105-2 - 105-18** **Reserved**

ARTICLE 2 – TECHNICAL CODES

DIVISION 1 GENERALLY

- 105-19 Construction codes
- 105-20 Interpretation of language
- 105-21 Code references
- 105-22 Copies on file
- 105-23 Administration and enforcement; conflict of laws
- 105-24 Extensions and improvements
- 105-25 Penalties for violations
- 105-26 – 105-53 Reserved

DIVISION 2 RESERVED

- 105-54 – 105-89 Reserved

ARTICLE 3 – RENTAL ACCOUNTABILITY

- 105-90 General Provisions
- 105-91 Purpose and Scope
- 105-92 Definitions
- 105-93 Community Development Director—Duties, Appeals
- 105-94 Rules and Regulations
- 105-95 Authority and Inspections
- 105-96 Specified Unlawful Activities—General Penalty
- 105-97 Jurisdiction of Court
- 105-98 Prosecution of Civil or Criminal Action
- 105-99 Registration of Residential Rental Property
- 105-100 Abatement of Slum Property
- 105-101 Designation of Slum Property; Recordation
- 105-102 Notice of Designation
- 105-103 Appointment of Temporary Receiver, Property Management Firm and Recovery of Costs

105-104 – 105-106 Reserved.

105-107 Penalties for Violations

105-108 Suspension or Revocation of Business License; Hearing; Appeal

105-109 Preferred Rental Property Program

CHAPTER 106 - ZONING AND USE STANDARDS

ARTICLE 1 – IN GENERAL

106-1.1 Zoning Classification

106-1.2 Establishment of Zoning Map

106-1.3 Conversion Chart

106-1.4 Establishment of Land Uses

106-1.5 Specifically Prohibited Uses

106-1.6 Regulations within Zones

106-1.7 Development Standards and Encroachments

106-1.8 Compliance with Other Provisions

ARTICLE 2 – RESIDENTIAL ZONING DISTRICTS

106-2.1 General Standards

106-2.2 Rural Residential (RR)

106-2.3 Residential Low Density (R-1)

106-2.4 Residential Medium Density (R-2)

106-2.5 Residential High Density (R-3)

ARTICLE 3 – SURPRISE HERITAGE DISTRICT (SHD) ZONING DISTRICTS

106-3.1 General Standards

106-3.2 Design and Development Standards in the SHD Zoning district

ARTICLE 4 – TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONING DISTRICTS

- 106-4.1 General
- 106-4.2 Establishment of TND Zoning Districts
- 106-4.3 Review and Process
- 106-4.4 Development Standards

ARTICLE 5 – MIXED USE ZONING DISTRICTS

- 106-5.1 General
- 106-5.2 Mixed Use Medium Density (MU-1)
- 106-5.3 Mixed Use High Density (MU-2)
- 106-5.4 Mixed Use Resort (MU-3)

ARTICLE 6 – COMMERCIAL ZONING DISTRICTS

- 106-6.1 General
- 106-6.2. Establishment of Commercial Zoning Districts
- 106-6.3 Commercial Development Standards

ARTICLE 7 – EMPLOYMENT ZONING DISTRICTS

- 106-7.1 General
- 106-7.2 Establishment of Employment Zoning Districts
- 106-7.3 Development Standards

ARTICLE 8 – CIVIC ZONING DISTRICTS

- 106-8.1 General
- 106-8.2 Open Space Conservation (OS-1) Zoning District
- 106-8.3 Open Space Recreation (OS-2) Zoning District
- 106-8.4 Public Facilities (PF) Zoning District

ARTICLE 9 – OVERLAY ZONING DISTRICTS

- 106-9.1 Planned Unit Development (PUD) Overlay

ARTICLE 10 – USE SPECIFIC STANDARDS

- 106-10.1 General Standards for All Use Specific Development

106-10.2	Accessory Dwelling Units (ADU)
106-10.3	Accessory uses and Structures
106-10.4	Agricultural Animal Keeping
106-10.5	Agricultural operations and Facilities.
106-10.6	Airport or Private Airstrip
106-10.7	Amusement/Theme Park
106-10.8	Animal Hospital, Clinic, Shelter, or Boarding Facilities
106-10.9	Assisted Living Home
106-10.10	Bar/Nightclub
106-10.11	Bed and Breakfast Establishment
106-10.12	Cemetery
106-10.13	Community Gardens
106-10.14	Cottage Industry
106-10.15	Day Care Center
106-10.16	Donation Bins
106-10.17	Drive-through Window/Facilities
106-10.18	Equestrian Centers and Commercial Stables
106-10.19	Farmer’s Market
106-10.20	Gated Communities
106-10.21	Group Home
106-10.22	Heliport
106-10.23	Home Occupation
106-10.24	Live-work Dwelling
106-10.25	Medical Hospitals
106-10.26	Manufactured Homes
106-10.27	Medical Marijuana Uses
106-10.28	Mining and Mineral Extraction

106-10.29	Model Home Complex
106-10.30	Outdoor Dining/Seating
106-10.31	Outdoor Display and Sales Areas
106-10.32	Outdoor Storage and Use
106-10.33	Plant Nursery
106-10.34	Portable Carports
106-10.35	Portable Storage Containers and Construction Trailers
106-10.36	Racetrack
106-10.37	Recreational Vehicle (RV) Park
106-10.38	Recycling Operations and Facilities
106-10.39	Schools and Universities
106-10.40	Self-Storage Facilities
106-10.41	Sexually Oriented Businesses (SOB)
106-10.42	Special Events and Seasonal Activities
106-10.43	Sport Courts
106-10.44	Swimming Pools
106-10.45	Tattoo and/or Body Piercing Establishment
106-10.46	Truck Stop/Travel Plaza
106-10.47	Vehicle Fueling Stations
106-10.48	Vehicle Rental Facilities
106-10.49	Vehicle Retail Sales
106-10.50	Vehicle Service
106-10.51	Vehicle Washing Facilities (also known as car washes)
106-10.52	Zoos, Indigenous Wildlife Rescue Facilities

CHAPTER 107 DESIGN AND DEVELOPMENT REGULATIONS

ARTICLE 1 – PLANNING AND ENGINEERING DESIGN STANDARDS (PEDS)

107-1.1 Incorporation into the LDO

107-1.2 Deviations and Waivers

ARTICLE 2 – LANDSCAPE AND SCREENING REGULATIONS

107-2.1 Purpose and Applicability

107-2.2 Maintenance

107-2.3 General Landscaping Standards

107-2.4 Quantity, Size, and Spacing Requirements

107-2.5 Screening and Fence Standards

ARTICLE 3 – OUTDOOR LIGHTING REGULATIONS

107-3.1 Purpose, Intent, and Applicability

107-3.2 General Standards

107-3.3 Outdoor lighting Zones and Lighting Uses

107-3.4 Lighting Reduction Requirements

107-3.5 Street Lighting Standards

107-3.6 Parking Lot and Loading area Lighting Standards

107-3.7 Outdoor Advertising Signs

107-3.8 School and Community Facility Sports Field/Court and Play Area Lighting

107-3.9 Architectural and Landscape Lighting

107-3.10 Multimodal Pathways and Trails, Plazas, and Outdoor Seating Areas

107-3.11 Canopy Lighting

107-3.13 Security Lighting

107-3.14 Exposed String Lighting

107-3.15 Outdoor Display and Sales Areas

107-3.16 Prohibited Outdoor lighting

ARTICLE 4 – PARKING AND LOADING REGULATIONS

107-4.1 Purpose and Applicability

107-4.2 General Provisions

- 107-4.3 R-1 and R-2 Residential Provisions
- 107-4.4 Multi-family, Mixed Use, and Non-residential Use Provisions
- 107-4.5 Dimensions
- 107-4.6 Bicycle Parking
- 107-4.7 Off-Street Loading
- 107-4.8 Shared Parking and Loading
- 107-4.9 Minimum Off-Street Parking Requirements

ARTICLE 5 – WIRELESS FACILITIES REGULATIONS

- 107-5.1 Wireless Facilities Definitions
- 107-5.2 Wireless Facilities Process Matrix
- 107-5.3 Wireless Facilities General Provisions
- 107-5.4 Monopoles
- 107-5.5 Municipal Towers
- 107-5.6 Alternative wireless facility locations
- 107-5.7 Small wireless facility ("SWF")
- 107-5.8 Cellular on wheels ("COW")
- 107-5.9 Amateur radio antennae

CHAPTER 108 - LAND DIVISION AND SUBDIVISION REGULATIONS

ARTICLE 1 – GENERAL PROCESS AND OVERVIEW

- 108-1.1 Purpose and Intent
- 108-1.2 General Provisions
- 108-1.3 Map of Dedication
- 108-1.4 Minor Land Division, Lot Line Adjustment, or Parcel Assemblage
- 108-1.5 Subdivisions
- 108-1.6 Condominium Plats
- 108-1.7 Abandonment of Recorded Subdivision

ARTICLE 2 – REPORTS, PLANS, AND DESIGN STANDARDS

- 108-2.1 General Requirements**
- 108-2.3 Specific Plan(s) Required**
- 108-2.4 Circulation Design Standards**
- 108-2.5 Lot Planning**
- 108-2.6 Stormwater Drainage and Environmental Water Features**
- 108-2.7 Sanitary Sewage Disposal**
- 108-2.8 Water System**
- 108-2.9 Public Utilities**
- 108-2.10 Easement Planning**
- 108-2.11 Open Space**

ARTICLE 3 – SUBDIVISION CONSTRUCTION, INSPECTION AND ACCEPTANCE

- 108-3.1 Construction of Improvements Financial Assurance**
- 108-3.2 Financial Assurance Options**
- 108-3.2 Deferral of Required Improvements**
- 108-3.3 Construction, Inspection, and Completion of Improvements**
- 108-3.4 Release or Reduction of Financial Assurance**
- 108-3.5 Warranty of Improvements Financial Assurance**
- 108-3.6 Costs, Reimbursements, and City Participation in Public improvements**

CHAPTER 109 - SIGNS

ARTICLE 1 – GENERAL

- 109-1.1 Title; findings; purpose; intent; and limitations.**
- 109-1.2 Applicability.**
- 109-1.3 First Amendment interpretation and severability.**
- 109-1.4 Substitution.**

- 109-1.5 Rules of interpretation.
- 109-1.6 Glossary of Terms.
- 109-1.7 Permitted and prohibited signs.
- 109-1.8 General provisions.
- 109-1.9 Sign classifications and types.
- 109-1.10 Sign illumination.
- 109-1.11 Electronic messaging centers (EMCs).
- 109-1.12 Reader panels.
- 109-1.13 Address identification.
- 109-1.14 Flags and flagpoles.
- 109-1.15 Comprehensive sign programs.
- 109-1.16 Nonconforming signs.
- 109-1.17 Enforcement.
- 109-1.18 Appeals.

CHAPTER 110 - DEVELOPMENT IMPACT FEES

ARTICLE 1 – GENERAL

- 110-1.1 Definitions
- 110-1.2 Applicability
- 110-1.3 Authority to Assess
- 110-1.4 Grandfathered facilities
- 110-1.5 Appeal
- 110-1.6 Refunds of development impact fees

ARTICLE 2 – ADMINISTRATION OF DEVELOPMENT IMPACT FEES

- 110-2.1 Separate accounts
- 110-2.2 Limitations on use of fees

110-2.3 Time limit

ARTICLE 3 – LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENT PLANS

110-3.1 Consistency

110-3.2 Land use assumptions; review

110-3.3 Infrastructure improvement plan; contents

110-3.4 Multiple infrastructure improvement plans

110-3.5 Reserved capacity

110-3.6 Infrastructure improvement plan; adoption and modification

110-3.7 Renewal and updating

ARTICLE 4 – DEVELOPMENT IMPACT FEES

110-4.1 Impact fee study; adoption and amendment

110-4.2 Collection

110-4.3 Exceptions

110-4.4 Development impact fee assessment; delay on new or increased fees

110-4.5 Option to pursue special fee determination

ARTICLE 5 – CREDITS AND CREDIT AGREEMENTS

110-5.1 Eligibility of capital facility

110-5.2 Calculation of credits

110-5.3 Allocation of credits

110-5.4 Credit agreement

110-5.5 Issuance of credits

ARTICLE 6 – DEVELOPMENT AGREEMENTS

110-6.1 General

110-6.2 Development agreement required

110-6.3 General requirements

110-6.4 Early issuance of credits

- 110-6.5 Non-contiguous allocation of credits**
- 110-6.6 Uneven allocation of credits**
- 110-6.7 Use of reimbursements**
- 110-6.8 Deferral of fees**
- 110-6.9 Waiver of fees**
- 110-6.10 No obligation**

ARTICLE 7 – OVERSIGHT OF DEVELOPMENT IMPACT FEE PROGRAM

- 110-7.1 Annual report**
- 110-7.2 Biennial audit**

CHAPTER 111 - INFILL INCENTIVE DISTRICTS

ARTICLE 1 – GENERAL

- 111-1.1 Definitions**
- 111-1.2 Infill incentive district creation and boundaries**
- 111-1.3 Original Townsite infill incentive district plan**

CHAPTER 101 - ADMINISTRATIVE PROVISIONS

ARTICLE 1 – IN GENERAL

101-1.1 TITLE and Effect

- A. Part II of the City of Surprise Municipal Code shall be known as and may be cited as the Surprise Land Development Ordinance (LDO) and may be referred to herein as “this code”, “this Ordinance”, or the “LDO”.
- B. The Surprise LDO shall be effective on _____

101-1.2 Authority

- A. The Surprise LDO is adopted pursuant to the authority contained in the Arizona Revised Statutes (A.R.S.) Title 9, Arizona Revised Statutes (“A.R.S.”), and Chapter 4, Articles 6 and 7, and general laws in order to conserve and promote the public health, safety, and general welfare of the present and future citizens of the City of Surprise.
- B. All ordinances or portions of ordinances adopted before the effective date of the LDO, with the exception of vested Planned Area Developments (PAD) zoning districts, in conflict with this Ordinance, or inconsistent with the regulations of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.
- C. Approved and vested Planned Area Developments (PAD) zoning districts may retain entitlements, densities, *plats*, and regulations specifically granted in the adopting ordinance(s). It is the intent that the LDO shall supersede any reference to standardized regulations associated with the previous land development ordinances. Where a provision in a PAD zoning district varies from this Ordinance, the provisions in the PAD zoning district shall govern.
- D. The establishment of new PAD zoning districts is not permitted. Requests to amend an existing PAD is permitted and processed as rezoning application.

101-1.3 Purpose and Applicability

- A. The purpose of this Ordinance is to implement the goals and policies of the *General Plan* and other related plans and documents of the City by providing the minimum requirements to ensure consistency and compatibility between the *General Plan* and the *Zoning districts*, particularly in the following ways:
 - 1. Providing for a range of *uses* and intensities by dividing the City into specific *zoning districts* to promote orderly growth and efficient *use* of land resources and ensure compatibility between land *uses*.

2. Direct growth with priority to those areas where infrastructure and urban services already exist or can be economically provided.
 3. Ensuring the protection of the natural, historic, economic, cultural, and scenic resources of the City by establishing standards regulating the *use* and physical development of land.
 4. Promoting development that further protects the public's investment in *multimodal* transportation and infrastructure, recreation, *open space*, and other *public facilities*.
 5. Promoting a high level of quality in the design and function of both new and existing development in accordance with the Planning and Engineering Design Standards (PEDS).
 6. Promoting safety from fire, flood, and other natural or man-made disasters.
 7. Providing for coordination of land *uses* with, other municipalities, counties, the state, regional associations, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
 8. Providing for efficient review of development proposals, to clarify the approval process.
 9. Providing for procedures that respond uniformly and consistently to development proposals.
 10. Promote the conservation of natural resources and energy by encouraging techniques such as *building* orientation and *site planning*, energy-efficient *building* construction, use of active and passive solar energy systems, on-site transportation management, and other energy and natural resource saving technologies into development projects.
- B.** The land *use* regulations and general development standards provided herein shall be applicable to and govern the development and *use*, whether new or existing, of all *buildings*, *structures* and land within the corporate limits of the City of Surprise.

101-1.4 Interpretation

- A.** Interpretation and application of the provisions of this Ordinance shall be regarded as the basic and minimum requirements for the protection of public health, safety, and welfare. Whenever any provision of this Ordinance or any provision of any other applicable law, rule, contract, resolution or regulation of the City, state agency, or the federal government contains certain standards,

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

covering the same subject matter, the more restrictive requirement(s) or higher standard(s) shall control.

- B. This Ordinance also is not intended to interfere with, abrogate, or annul any private agreements between *persons*, such as easements, deeds, covenants, except that if this Ordinance imposes higher standards or a greater restriction on land, *buildings* or *structures* than an otherwise applicable provision of a law, ordinance, or a private agreement, the provisions of this Ordinance shall prevail.
- C. This Ordinance, upon its adoption, amends and supersedes the text of all other *zoning* ordinances previously adopted by the City, except where an earlier *zoning* ordinance is to apply pursuant to a Planned Area Development (PAD) zoning, Development Agreement or other land development agreement that expressly requires such.
- D. In case of any difference of meaning or implication between the text of this Ordinance and any figure or graphic, the text shall control.

101-1.5 Severability Clause

- A. It is declared to be the intention of the City that the provisions of the LDO are separable in accordance with the following:
 - 1. If any court of competent jurisdiction shall adjudge any provision of Part II of the Surprise Municipal Code to be invalid, such judgment shall not affect any other provisions of the LDO not specifically included in said judgment.
 - 2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of Part II of the Surprise Municipal Code to a particular property, *building* or other *structure*, such judgment shall not affect the application of said provision to any other property, *building* or *structure* not specifically included in said judgment.

101-1.6 Permits and Approvals

- A. No development activity shall occur on any property within the City until all applicable reviews, permits, approvals, and certificates have been issued and approved by the staff and/or officials with the authority to act upon said action.

ARTICLE 2 – RULES OF INTERPRETATION AND GLOSSARY OF TERMS

101-2.1 Rules for Measurement

- A. Measuring Distances. All distances are measured along a horizontal plane not by following the topography or slope of the land.
- B. Calculations: When any requirement of this Ordinance results in a fraction of a unit, that fraction will be disregarded and rounded to the nearest whole number to apply the more restrictive regulation.

101-2.2 Glossary of Terms

- A. General Terms. For the purpose of carrying out the intent of this Ordinance, all words shall have their normal and customary meanings, unless specifically defined as follows:
 - 1. The word “day” shall mean calendar day for calculation of time, unless specifically defined otherwise.
 - 2. Words used in the present tense include the future, words used in the singular include the plural, and words used in the plural include the singular, except where the natural construction of the writing indicates otherwise.
 - 3. The words “shall” and “will” are mandatory and the word “may” or “optional” is permissive.
 - 4. Words or phrases are expressed using *italics* shall assume the meaning as ascribed in within the LDO. Words or phrases not expressed in italics shall assume the common meaning of the word or phrase.
 - 5. In case of any difference of meaning or implication between the text of this Ordinance and any figure or graphic, the text shall control
- B. Abbreviations. The following abbreviations and/or acronyms shall have the following meaning:
 - ADA Americans with Disabilities Act
 - ADEQ Arizona Department of Environmental Quality
 - ARS Arizona Revised Statutes
 - CD Community Development
 - CIP Capital Improvement Plan
 - LDO Land Development Ordinance

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

PAD Planned Area Development

PEDS Planning and Engineering Design Standards

TUP Temporary use Permit

- C. Definitions. The following additional words and phrases shall, for the purpose of this Ordinance, have the following meanings:

A

Abandon: The discontinuation of use for more than ninety (90) unless a particular timeline is identified.

Abandoned or Inoperable Motor Vehicle: A motor vehicle or any major portion thereof that is unlicensed and is incapable of movement under its own power and will remain so without major repair, including but not limited to repair of the differential, transmission, head, engine block, or oil pan.

Abut: A property having a common boundary or *lot line* not separated by a *street*.

Access: A place, way, or means for entry to or exit from a property, *structure*, or building.

Accessory: A *structure*, *building*, or *use* that is customarily incidental and subordinate to the principal *structure*, *building*, or *use*.

Adjacent: To lie near, border on, not distant or far from, or near but not necessarily touching or *abutting*.

Adult Foster Care Home: A residential setting that provides room and board and adult foster care services for at least one and no more than four (1-4) adults who are participants in the Arizona long-term care system or contracts for services with the United States Department of Veterans Affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's *family*.

Agricultural Animals: *Agricultural animals*, whether kept and maintained for production and sale, *family* food production, education, or for personal enjoyment, are classified below:

1. Livestock: horses, donkeys and mules, miniature horses, cattle, sheep, goats, ox, or other similar domesticated *farm* or *ranch* animal.
2. Rodent: rabbits, chinchillas, and other similar mammals.
3. Fowl: chickens, ducks, turkeys, pigeons, ostriches, peacocks and other similar birds.
4. Bees: honeybees

Agricultural Facility: *Agricultural facilities* shall include, but are not limited to: cotton gins, other than those gins that manufacture or process by-products; the storage, mixing and/or blending,

sale, and distribution of *agricultural* chemicals, but not the manufacture thereof; custom meat processing plants including slaughtering, butchering, and temporary storage of products, but not including rendering or refining of by-products; storage of offal, tanning or storage of hides, and wholesale or retail sales; *agricultural buildings* for the storage of hay, grain, or other horticultural products and large scale breeding and keeping of poultry or livestock and maintenance of specialized agriculture machinery and equipment.

Agricultural Operation: *Farming*, including plowing, tillage, cropping, and installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products, wholesale landscape nursery stock, and the breeding, boarding, and pasturing of *agricultural animals* (Also known as *Farming or ranching*).

Alley: A permanent thoroughfare providing a secondary means of access to *abutting* lots.

Alter: To change or cause to change in character or composition the structural elements, *use*, or other features of a *building* or site that requires a permit under this Ordinance or the *Building Code*.

Amendment: A change in the wording, application, or substance of this Ordinance or the Surprise *General Plan*, or any change, deletion, or addition in the *zoning district* boundaries or classifications of the *zoning map*.

Amenity: A natural or created feature that enhances the aesthetic quality, visual appeal, activity, or attractiveness of an area.

Amusement or Theme Park: An outdoor facility, which may include *structures* and *buildings*, where there are various devices for entertainment, including, but not limited to, rides, booths for the conduct of games or sale of items, and *buildings* for shows and entertainment.

Ancillary Use: A *use* that is incidental to and customary associated with the *primary uses* is located on the same *lot* or *parcel* as the *primary uses*.

Animal Boarding Facility: Any *structure*, land, or combination thereof *used*, designed, or arranged for the boarding, breeding, or care of household pets, but excluding livestock.

Animal Clinic: Any facility maintained or used by a licensed veterinarian to provide preventative medical care, minor and preventative procedures, and short-term boarding for animals.

Animal Hospital: Any full-service facility maintained or used by a licensed veterinarian with *hospital* capabilities, services, and machines for diagnostic procedures to provide medical care and short-term boarding for animals.

Animal Shelter: A facility used for the confinement, maintenance, safekeeping, and control of animals that are found by a citizen or come into the custody of the animal enforcement officer and that is owned, operated, or maintained by a public body, or organization devoted to the welfare, protection, and humane treatment of animals.

Apartment: A residential *dwelling*; a type of *multi-family dwelling unit*.

Applicant: The *owner* or their authorized agent submitting any type of *development* application on behalf of the *owner* and who is authorized to receive any notices on their behalf for any action taken by the city regarding the development application.

Archaeological Resource: Any material remains of past human life or activities that are of historic or pre-historic significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, *structures* or portions of *structures*, pit houses, cultural landscapes, rock paintings, rock carvings, intaglios, graves, skeletal remains, or any piece of any of the foregoing items (see *cultural resource*).

Area, Gross: The total sum of square footage or acreage within a *parcel* or development.

Area, Net: The specific square footage or acreage within a *parcel* or development, excluding any land *used* or to be *used* as *rights-of-way*

As-Built: A survey, construction, and/or engineering plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location of all on-site improvements, *off-site* and *right-of-way* improvements which includes but is not limited to all *structures*, parking facilities, *retention* areas, curbs, gutters, sidewalks, and utilities.

Assisted Living Center: An *assisted living facility* that provides resident rooms or resident units to eleven (11) or more residents.

Assisted Living Facility: A *residential care institution*, including an *adult foster care home*, that provides or contracts to provide *supervisory care services*, *personal care services*, or directed care services on a continuous basis.

Assisted Living Home: An *assisted living facility* conducted within a *single-family dwelling unit* that provides resident rooms to ten (10) or fewer residents.

Athletic Center: See *Fitness Center*.

Authorized Agent: A *person* with powers as a duly authorized representative has the authority to sign contracts, permits, permit applications, monitoring results and other documents in the company's name and otherwise bind the company.

Auto Salvage Yard: A *junkyard* primarily containing inoperable vehicles.

B

Bar/Nightclub: A *business* primarily devoted to the on-site serving and consumption of alcoholic beverages licensed (Series 6 or 7 licenses) by the proper State agencies and City departments where the service of food and providing of entertainment may be *ancillary*.

Bed and Breakfast: A *single-family dwelling* in which the *owners* or occupants of the *dwelling* provide, for compensation, short term lodging and meals for guests, occupying not more than

five (5) guest rooms, located within the same principal *dwelling* or *accessory dwelling unit*. Any *dwelling* in which more than five (5) guest rooms are provided shall be deemed a *hotel*.

Berm: A mound of earth that is used to shield, *screen*, or *buffer* undesirable views, separate incompatible land *uses*, provide visual and landscape interest, decrease noise, or control the direction of water flow.

Block: Land bounded by *streets*, or by a combination of *streets*, public *parks*, cemeteries, other *rights-of-way*, or boundary lines of municipalities.

Buffer: The technique of providing landscape or other improvements on land set aside or in a *buffer area* used to separate different intensities and types of land *use*.

Buffer Area: An area of land that separates incompatible land *uses* and is utilized to mitigate any potentially negative impacts.

Building: Any *structure* having a roof that is supported by poles, columns, and/or walls for the housing and/or enclosure of *persons*, animals, or personal property.

Building, Attached: A *building* having one (1) or more *common wall* with another *building* when the *primary uses* of each *building* is independent of the other and when no interior entry exists between *buildings*.

Building, Detached: A *building* having no *common wall* or structural connection with another *building*.

Building Envelope: That area of a *lot* lying between the *setback* lines available for construction.

Building Height: The vertical distance from the lowest contact at *grade* of the *building* to the highest point of roofline or *parapet*.

Building Permit: A fee based document issued by the City provided by an authoritative body with the purpose of granting permission to do work on a regulated *building* in compliance with City *building codes*.

Business: *Engaging* in the purchase, sale, barter, or exchange of goods, wares, merchandise, or service; the maintenance or operation of *offices* or recreational or amusement enterprises.

C

Cabinet or Carpenter Shop, Millwork and Wood Product Manufacturing: A *business* that specializes in a craftsman trade which processes wood materials to form end-user products used in the construction or maintenance of *buildings* or creates furniture and a variety of other objects.

Caliper: The size of a tree as determined by the diameter which is measured using a fixed arm scale and movable arm tool.

Campground: Any area of land specifically designed and designated to temporarily accommodate two (2) or more camping parties, including cabins, tents, *recreational vehicles* or other camping outfits.

Carport: A roofed *structure* not more than seventy-five percent (75%) enclosed by walls and attached to the main *building* for the purpose of providing shelter for one (1) or more motor vehicles.

Catering Service: An establishment where the preparation of food and meals on the premises, are delivered to another location for consumption, not including food *manufacturing*. *Catering Services* may be a *primary uses* or *ancillary* to a *restaurant*.

Cemetery: Land utilized for the burial of the dead (human and animal) and dedicated for *cemetery* purposes, including crematories, mausoleums, funeral homes, and mortuaries when operated in conjunction with and within the boundary of such *cemetery*.

Civic Use: Is a *Community Facility* developed for cultural, educational, or institutional purposes for the *public* and *semipublic use*, typically arranged in a manner that is *pedestrian friendly* or focused around a central plaza or *open space* with *amenities* for the public to sit, gather, or attend events; may also include civic or governmental facilities such as fire stations, libraries, *places of assembly*, or *schools* with public *parks*.

Change of Use: A formal change of a *building's* classification *use* or principal land *use* on a *lot* from one (1) type to another.

Clinic: A facility that provides medical, dental, psychiatric, or surgical service for sick or injured patients (human and/or animal) exclusively on an out-patient basis, including urgent care treatment, diagnostic services, training, and administration.

Cluster Development/Subdivision: The development technique that concentrates *buildings/lots* on a portion of the development site to allow the remaining land to be permanently used for recreation, preserving *open space*, and/or conservation of *environmentally sensitive features* and where possible and practical, support connectivity.

Commerce Center: A development designed as a group of *buildings* and *uses* planned with shared circulation, parking, utilities, drainage, and landscaping that is unified through *open space*, *pedestrian friendly* connections, and architectural style regardless of the number of *parcels* or *pad sites*.

Common Area: An outdoor area that is designed and developed as shared *use* and *pedestrian friendly*, including but not limited to features such as *parks* plazas, terraces, courtyards, patios, stormwater *retention*, *multimodal* paths, and trails.

Common Wall: A dividing partition between two (2) contiguous *buildings* or between two (2) *adjacent lots* shared by the neighboring occupants.

Community Facility: A noncommercial *use* established primarily for the benefit and service of the population of the community in which it is located (typically includes social, entertainment,

athletic, or recreational *uses* and may also include *business office* associated with the community such but not limited to Homeowners Association or *apartment rental office*).

Community Garden: Land gardened collectively by a group of people. Gardening may include, but is not limited to, all types of horticulture such as flowers, vegetable or field crops, and orchards containing berry, bush or tree crops.

Community Open Space System: The community's *parks*, playgrounds, active and passive recreational areas, natural features, and *environmentally sensitive features* that collectively provide a continuous and integrated system of *open space*.

Compatibility: The avoidance of placing physical impact land *uses* that are known to or might happen to generate odors, noise, dust, excessive light and glare, *adjacent* to, or in close proximity of, more *sensitive lands* already located in an area.

Conditional Use Permit (CUP): A use permit required as legal authorization for certain *uses* to be considered an entitled, *permitted use* in a particular *zoning district*.

Construction Plan: The maps or drawings showing the specific location and design of improvements to be installed on a parcel or in a subdivision accompanying a *recorded plat* and in accordance with the requirements of the City of Surprise as a condition of the approval of the *plat*.

Construction Trailer: A factory-assembled *structure* or *structures* exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an *office* without a permanent foundation, whether or not said running gear has been removed. (commonly known as a mobile *office*)

Contractor Yards: *Outdoor storage* of materials, equipment, and surplus goods associated with services provided by related *business*, including but not limited to construction, landscaping, air conditioning, plumbing, and/or remodeling services.

Correctional Facility: A public *building* used for the confinement of people convicted of crimes.

Cottage Industry: A small *business*, owned and operated by the residential occupant, in a residential area conducted within the *dwelling* or in an *accessory building*. The *business* may have employees and customers but must be clearly incidental and secondary to the *use* of the property for *single-family* residential purposes.

Cul-De-Sac: A *local street* with only one (1) outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

Cultural Resources: An aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture.

Curb Extension: Generally rounded extensions of a curb located at a *street* intersection that narrow the *street* by widening the sidewalk and/or the *landscape strip* in order to make pedestrian *street* crossings shorter and easier, and to provide a visual narrowing along the

roadway to help increase driver awareness and slow the movement of traffic in heavy pedestrian areas.

Curb Separated Sidewalk: A sidewalk that is detached from the *street* by a *landscape strip* that is measured from the back of the *street* curb and runs continuously along the length of the *street*.

Cut: The removal of soil, rock, or other materials from a location which shapes and lowers the *grade* at the location.

D

Day Care Center: A *use* where care, supervision, and guidance are provided for pay for five or more minor or adult *persons* unrelated to the proprietor subject to the requirements of the State of Arizona.

Deep Root Barrier: A mechanical barrier that redirects tree root growth downward, eliminating the surface rooting that damages hardscapes such as sidewalks, driveways, and *street* paving.

Density, Gross Residential: The number of residential *dwelling units* per *gross area* of land (du/ac).

Density, Net Residential: The average number of residential *dwelling units* per acre of land for residential only purposes, including *parks, open space*, and recreational areas, but excluding any land *used* or to be *used* as arterial *rights-of-way, school/public facility* reservations, and nonresidential *uses*. For calculating *net residential density*, the following formula shall apply:

$$D = \frac{du}{A - (c+i+s+a)}$$

Where: D = Residential density

du = Total number of *dwelling units* in project

A = *Gross area* (acres)

c = *Net area* of commercial land (acres)

i = *Net area* of industrial land (acres)

s = *Net area* of *school/public facility* reservations (acres)

a = *Net area* of *arterial rights-of-way* (acres)

Density Transfer: Permitted unused allowable *dwelling units* in one (1) area to be relocated in another area of the same development or an approved *off-site* development, commonly known as *Transfer of Density and Development Rights (TDR)*.

Developer: The *owner* or representative of the *owner* of land proposed to be developed and/or *subdivided*.

Development: Any man-made change to improve or *alter* real property, including but not limited to *buildings* or other *structures*, mining, dredging, *filling*, grading, paving, excavation or drilling operations.

Development Parcel: A portion of land within an overall master *site plan* or master planned development that includes one (1) or more *lots* with a specific *net residential density*, characteristic, and/or *zoning district*; excluding a *parcel* or *lot* outside of a master planned development.

Development Plan: A type of plan that becomes part of the zoning or preliminary plat for a property. The plan depicts site characteristics, development information, and provides guidance for site plans and subdivision plats.

Donation Bin: Any container, storage unit, or *structure*, other than a primary *building* or *accessory building(s)* that is used for the collection of charitable or for-profit donated items from the general public, including but not limited to *clothing*, household goods, toys, books, and newspapers.

Drive-Through: An *accessory* facility for an establishment that provides service and/or goods at a window or door that the customer drives past without being required to leave the vehicle.

Drive Aisle: The travel way by which cars enter and depart *parking spaces*.

Duplex: See *Dwelling, two-family*

Dwelling: A *building* or portion thereof that contains one (1) *dwelling unit* that is occupied primarily for residential living purposes but not including *hotels*, *motels*, *mobile homes* or *RV's*.

1. **Dwelling, Live-Work:** A *building*, or portion thereof, or a group of *buildings* that combines a *dwelling unit* with the work space (*office*, commercial, or retail) for *uses* permitted in the *zoning district* in which the unit is located; more than a *home occupation*.
2. **Dwelling(s), Multi-Family:** A *building* or *lot* containing four (4) or more *dwelling units* used for residential occupancy by four (4) or more families living independently of each other; includes the general term '*multi-family*' (commonly known as *Apartments*).
3. **Dwelling, Single-family:** One (1) *dwelling unit* on a single *lot* of record; includes the general term '*single-family*'
4. **Dwelling, Two-family:** A *building* or *lot* containing two (2) *dwelling units* used for residential occupancy by two (2) families living independently of each other (commonly known as *Duplex*).
5. **Dwelling, Three-family:** A *building* or *lot* containing three (3) *dwelling units* used for residential occupancy by three (3) families living independently of each other (commonly known as *Triplex*).

6. **Dwelling Unit:** A single unit as a whole *building* or portion thereof, providing complete independent living facilities for one (1) or more *persons*, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
7. **Dwelling Unit, Accessory (ADU):** A secondary *dwelling unit* independent of the primary *dwelling unit* on the same property; provided it meets specific standards.

E

Elevation: The front, rear or side façade of a *building* showing the relationship of the site *grade* to floor level, often depicted on a scale drawing that includes such features as design, construction materials, height, dimensions, windows and doors.

Entertainment Establishment, Indoors: An establishment that provides participant or spectator recreation to the general public that may include ancillary *uses* such as retail and *restaurants*, but excluding public *park* and recreation facilities. Entertainment *uses* typically includes but are not limited to roller rink, rock/climbing gym, bowling alley, pool hall, movie theaters, arcade games.

Entertainment Establishment, Outdoors: An establishment that provides participant or spectator recreation to the general public that may include ancillary *uses* such as retail and *restaurants*, but excluding public *park* and recreation facilities. Entertainment *uses* typically includes but are not limited to typically go-cart track, batting cages, miniature golf, paintball course, drive-in theaters, and disc golf.

Environmental Buffer Area: An area of land alongside and/or surrounding a protected or conserved *environmentally sensitive feature* or *cultural resource* in which human activity is restricted to research and maintenance of the feature or resource in order to mitigate negative impacts of edge effects on the land or wildlife.

Environmental Inventory Plan: Development plan rooted in an integrated conservation design approach that identifies, locates, and inventories all the *environmentally sensitive feature(s)*, *cultural resource(s)*, and *environmental buffer area(s)* within and *adjacent* to a proposed development site.

Environmentally Sensitive Feature: Elements in the landscape that play a particularly large role in sustaining the natural environment and ecosystem and supporting wildlife and plant diversity, but at the same time are especially sensitive to degradation such as: *hillside development areas*; *habitat*; *protected native plants*; *significant rock outcroppings*; *significant stands of vegetation*; *ridgelines*; *steep slopes*; *water features*; and *wildlife corridors*. Includes the general term 'environmentally sensitive' and 'environmentally sensitive lands'

Equestrian Center: Commercial horse, donkey, and/or mule facilities including: horse *ranches*, boarding *stables*, riding schools and academies, and horse exhibition facilities. This land *use* includes barns, *stables*, corrals, and paddocks *accessory* and incidental to the above *uses*.

F

Factory-Built Building: A multi-sectional unit manufactured *off-site* in accordance with the Uniform Building Code (UBC) and/or International Building Code (IBC), as adopted by the City, that when joined together forms a *building* or *dwelling unit*.

Fairgrounds: A developed *use* including but not limited to: *agricultural* related *buildings*, animal shows and judging, carnivals, circuses, community meeting or recreational *buildings* and *uses*, concerts, food booths and stands, games, rides, rodeos, sales and auctions, that may include *recreational vehicle* overnight parking and camping areas.

Family: A group of people living together as a single housekeeping unit, within a single *dwelling unit* as distinguished from a group occupying a *hotel*, *motel*, *club*, dormitory, fraternity, sorority, lodging house or *nursing care institution*.

Farm: See *Agricultural operations*.

Farm Stand: An establishment only for the sale of fruits, vegetables, flowers, containerized house plants, eggs, honey, dates, nuts, and other *agricultural* food products that are grown and/or produced on-site.

Fence: An artificially constructed barrier of wood, stone, masonry, metal or combination of materials erected to *screen*, separate, protect, confine, or enclose; not including landscaping or other natural growth. The term *fence* shall include all *walls*, except those as part of *building*.

Fence Return: The portion of a *fence* parallel or approximately parallel to the front line that is between the *dwelling* and *side lot line*.

Fill: Soil, rock or other material, deposited at a location by man that raises the *grade* at that location.

Financial Assurance: A form of security including a cash deposit, 3rd party trust, an irrevocable letter of credit, of funds in escrow in an amount and form satisfactory to the City Attorney and meeting the requirements expressed elsewhere in this Ordinance and/or Surprise Municipal Code.

Fitness Club: Establishments that provides exercise facilities, including but not limited to running, jogging, aerobics, weight lifting, sports courts, and swimming, and may also include locker rooms, showers, massage rooms, saunas and related *accessory uses* (commonly known as *Athletic* or *Health Club*).

Fleet-Based Services: Passenger transportation services, local delivery services, medical transport, and other *businesses* that rely on fleets of 3 or more vehicles. This classification includes parking, dispatching, and *offices* for *uses* such as but not limited to taxicab and limousine operations, ambulance services, non-emergency medical transport, local messenger and document delivery services, home cleaning services, and similar *businesses*. This classification does not include towing operations or taxi or delivery services with 2 or fewer fleet vehicles on-site.

Floodplain: Any land area susceptible to being inundated by water from any source. It may or may not include a *floodway*.

Floodway, One Hundred-Year: The channel of a river or other watercourse and the *adjacent* land areas which must be kept free of encroachment in order to carry and discharge the 100-year flood without substantial increases in flood height.

Freight Depot/Distribution Center: A location or facility for the receipt, transfer, short-term storage, and dispatching of goods transported by *truck* or rail. Included in the *use* type would be express or other mail and package distribution facilities, including such facilities operated by the U.S. Post Office and includes related administrative *offices*, fueling facilities, dispatch operations and loading facilities.

Frontage: That side of a *structure*, *building*, or *lot abutting* on a *right-of-way*.

Funeral Home/Mortuary: An establishment providing services such as preparing the human dead for burial and arranging and managing funerals.

G

Gallery: A room or *structure* in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

Garage: A *building* or portion thereof, designed for the storage of vehicles, boats, and/or trailers and is located on the same property as the *dwelling unit* it serves.

General Plan: The comprehensive plan pursuant to A.R.S. §9-461.05, providing for the future growth and improvement of the City of Surprise and for the general location of *streets*, *schools* and recreation areas, public *building* sites, and other physical development, and including any part of such plan separately adopted and any *amendment* to such plan, or parts thereof.

Grade: The surface of the ground, paving or sidewalk at any point *abutting* a *structure* or *fence/wall*.

Group Home: A single *dwelling unit* shared as their primary residence by handicapped and/or elderly *persons* living together as a single housekeeping unit in which staff *persons* provide on-site care, meals, supervision, and other support services for the residents. Group homes shall not include *assisted living facilities*, *nursing care facilities*, shelter care facilities, recovery homes, *correctional facilities*, or homes for the developmentally disabled as regulated by the Arizona Revised Statutes

H

Habitat: Land area that supports plant or animal species protected by the federal Endangered Species Act and/or other federal or Arizona laws or regulations.

Health Care Institution: An establishment that provides *personal care services* for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical condition.

Health Club: See *Fitness Club*.

Hillside: Those lands where the natural terrain has an average cross slope of ten percent (10%) or greater. However, a ten (10%) percent or greater slope, created by a natural wash on land that otherwise would not be classified as *hillside* land shall be exempt from the *hillside* regulations.

Home Occupation: A *business* activity conducted in whole or part and is clearly an *accessory* or incidental *use* and subordinate to a *dwelling unit*.

Hospital: An institution providing primary health services and medical or surgical care, primarily inpatient, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities providing such institution is operated by, or treatment is given, under direct supervision of a persons licensed to practice medicine by the State of Arizona.

Hotel or Motel: A *building* or portion thereof, or a group of *buildings*, in which lodging accommodations are provided and offered to transient guests for compensation and may not serve as a *dwelling unit* or a *person's* primary residence.

I

Impound Lot: A *lot* or *parcel* used for the storage of vehicles that have been towed.

Indoor Shooting/Archery Range: Any *building*, or portion therein, where there are facilities for the firing of handguns, rifles, other firearms, or arrows inside.

Ingress/Egress: The location of entry and exit to a *structure* or property.

Infill: New development which is placed within an existing and already developed site or area.

Integrated Conservation Design: A development concept that considers site characteristics, natural features, and layout in the larger context of the site and its surrounding *parcels*. *Integrated conservation design* is intended to preserve important and unique natural features such as *hillside development areas* and *steep slopes*, *wildlife corridors*, natural *habitat*, and *cultural resources* that are known and those that may be discovered on the site as well as conservation of community view corridors, and the required *open space* per the *zoning district*.

J

Junkyard: Any *lot* or *parcel*, *structure*, or *building* used in whole or in part for the storage, processing, reuse, resale, or disposal of personal property, but not including a landfill, transfer station, or other solid waste disposal site

K

Kennel: Any *lot* or premise with an enclosed, controlled area, inaccessible to other animals, in which a *person* keeps, harbors or maintains five or more dogs under controlled conditions; does not include *Animal Boarding Facility, Animal Hospitals and/or Clinics, or Animal Shelter*.

L

Laboratory: See *Research Facility*

Landscape Strip: The landscaped area between sidewalk and curb along a *public street*, parking *lot*, or driveway (commonly known as *Park Strip*).

Loading Area: The area separate from *drive aisles* or *parking spaces*, and is used for the receipt or distribution of material or merchandise by vehicles.

Lot: A single piece of property, including a *parcel* of land, shown in the records of the Maricopa County Assessor's Office, to be *used* pursuant to all City requirements for the development. For specific types of lots see definitions below and **Figure 101-2a**.

1. **Lot, Corner:** A *lot* at a junction of and fronting on two (2) or more intersecting *streets*.
2. **Lot, Flag:** A *lot* with *street frontage* limited to the width of the drive aisle so that the building envelope is back from the street behind another lot (commonly known as *panhandle*).
3. **Lot, Interior:** A *lot* other than a corner or *through lot*.
4. **Lot, Irregular:** Nonrectangular *lots*, *lots* with three sides or more than four sides, and other nonstandard *lots* that require special measurement techniques in order to achieve the purpose of setback requirements (commonly known as *cul-de-sac*, *pie*, *reverse pie*, and/or *triangular*).
5. **Lot, Key:** A *lot* where the *side lot line* abuts the *rear lot line* of a corner *lot*.
6. **Lot, Through:** A *lot* having *street frontage* on two (2) parallel or approximately parallel *streets* (commonly known as *double frontage*).

Lot Coverage: The percentage of the *lot* area covered by a *building* and/or other allowed roofed *structure* used for protection or shielding from the elements or weather.

Lot Depth: The distance between the *front lot line* and the *rear lot line* of a *lot* measured at the midpoint of and a right angle to the *front lot line*.

Lot Line: The boundary that sets the border of a *lot*. (commonly known as a property line). For specific application of specific *lot lines* see the definitions below and **Figures 101-2a**.

1. **Lot Line, Front:** The *lot line* separating the *lot* from the *right-of-way*.
 - a. In the case of an interior lot or through lot, a line separating the lot from the street
 - b. In the case of a corner lot, the *front lot line* separating the narrowest street frontage of the lot from the street. For square, *corner lots*, the front shall be determined by Community Development Director or designee.
 - c. In the case of *flag* lots, the *front lot line* shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the Community Development Director or designee
 - d. In the case of irregular shape lots (see **Figure 101-2a**), the *front lot line* shall follow the right-of-way line
 - e. In the case of recessed lots that does not *abut* a right-of-way, the *front lot line* shall be the access easement unless determined otherwise by the Community Development Director or designee
2. **Lot Line, Rear:** A *lot line* which is opposite and most distant from the *front lot line*. An irregular or triangular shaped *lot* may have more than one (1) rear lot line or a line ten feet in length within the *lot*, parallel to and at the maximum distance from the chord of front *lot line*.
3. **Lot Line, Side:** Any *lot line* that is not a front *lot line* or a rear *lot line*.

Lot Line Adjustment: A minor revision to *lot lines* between two (2) or more existing *lots*, tracts or *parcels* but is not dividing property.

Lot Width: The distance as measured in a straight line, between *side lot lines* as measured along the minimum *front setback*.

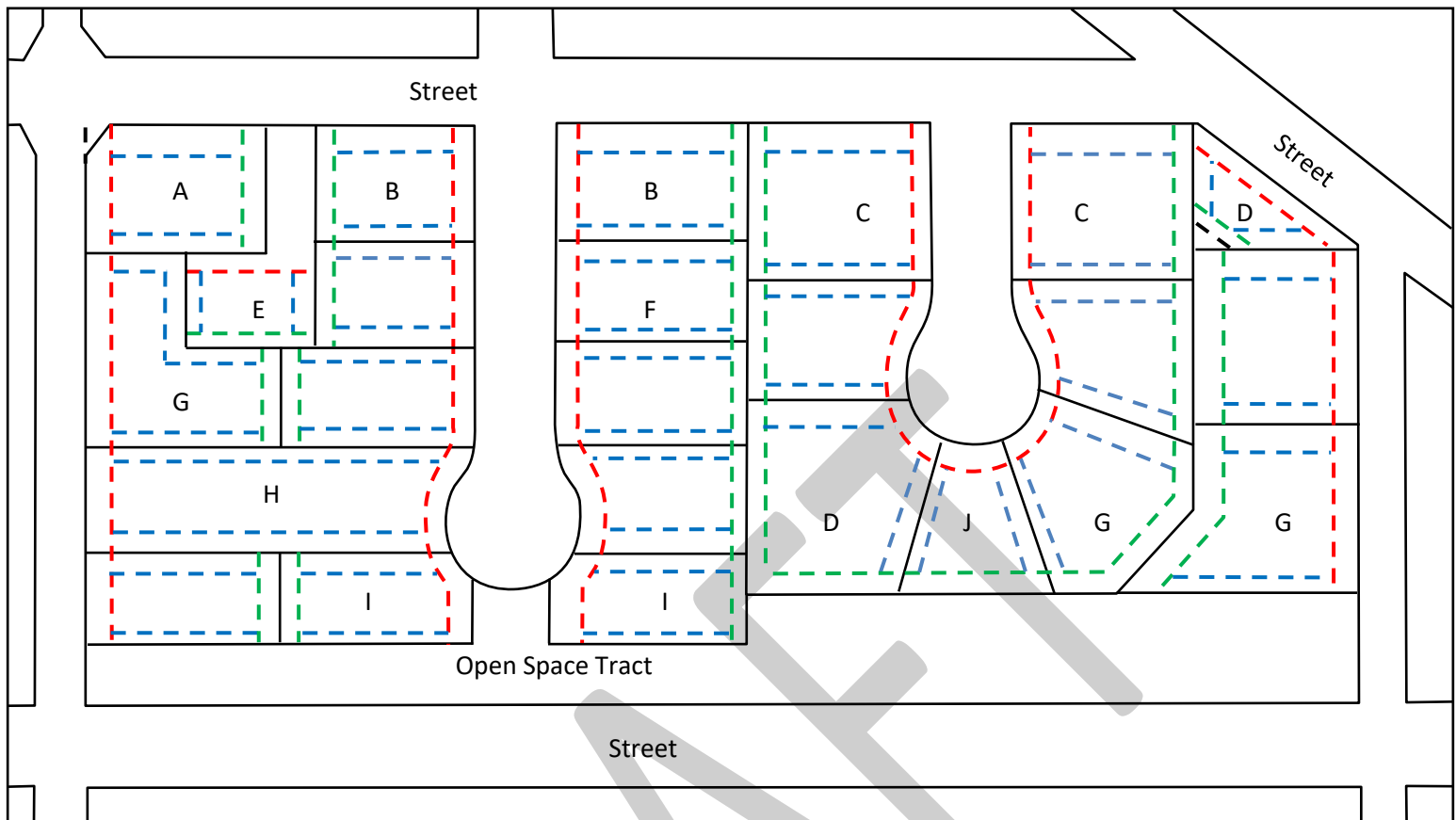


Figure 101-2a- Irregular Lots (not to scale)

A – Angular Corner	E – Flag Lot	I – Cul-de-sac/corner access	— — — Artificial Lot Line
B – Corner Lots	F – Interior Lot	J – Irregular Lot	— — — Front Setback
C – Square Corner Lot	G – Multi-rear line		— — — Rear Setback
D – Triangle (No Rear Line)	H – Through Lot		— — — Side Setback

Low Impact Development (LID): A sustainable approach to stormwater management to absorb, divert, store and utilize stormwater runoff in order to support native and designed landscapes while reducing offsite flows.

M

Manufactured Home: A residential *dwelling unit* built in accordance with and certified as a *manufactured home* under the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, and the laws of the State of Arizona Office of Manufacture Housing.

Manufacturing: The creation of products either with machinery or by hand according to an organized plan and with a division of labor. Typical *manufacturing uses*, which may be conducted indoor or outdoor based on the *zoning district*, include but are not limited to general processing

and fabrication of biotechnical, cabinet and carpentry, computers and electronics, food production, metal, paper, plastics and/or wood products.

Map of Dedication: A legal instrument prepared by a registered civil engineer and a registered land surveyor that may be used to dedicate *right-of-way*, drainage, flood control, utilities, emergency or service vehicle *access*, or other public uses; not to be used to create *lots*, *parcels*, or tracts owned, or to be owned, by any person not a public agency.

Medical Marijuana Dispensary: A not-for-profit entity defined in A.R.S. § 36-2801(11), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, dispenses, or otherwise provides medical marijuana or related supplies and educational materials to cardholders as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Off-Site Cultivation Facility: An enclosed, locked facility where marijuana is cultivated by a *medical marijuana dispensary* as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana into consumable/edible goods by the means of cooking or blending.

Medical Office (Health Care Facility): A *building* or portion thereof that provides outpatient *personal care services* in the form of medical services, medical imaging and testing *clinics*, *nursing services*, behavioral health services, health *screening* services, other health-related services, *supervisory care services*, or directed care services; including but not limited to medical *offices*, walk-in *clinics*, outpatient surgical facility, outpatient facility, and urgent care. *Medical Office* excludes *hospitals*, trauma centers with ambulatory services, *laboratory* and research facilities, and all facilities for medical marijuana.

Microbrewery/Distillery/Winery: A *business* primarily devoted to the on-site producing and serving and consumption of alcoholic beverages licensed (Series 3, 13, and/or 18 licenses) by the proper State agencies and City departments where the service of food, retail sales, and providing of entertainment may be *ancillary*.

Minor Land Division: The division of improved or unimproved land or lands within the city for the purpose of financing, sale, or lease, whether immediate or future, into three (3) or less lots, tracts, or parcels of land with no public dedication of property.

Mixed Use: A *building* or *lot* that contains more than one (1) type of land *use* by integrating residential with non-residential *uses*, planned as a whole that functionally share vehicular and pedestrian *access* and *parking areas*.

Mining and Mineral Extraction: The extraction of sand, gravel or other material from the land in the amount of four hundred cubic yards (400 y³) or more and the removal thereof from the site.

Mobile Home: A residential *dwelling* that was fabricated or built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (effective June 15, 1976).

Mobile Vending: A *person* or entity that provides services or retail sales from within a vehicle, trailer, or stand that is intended to be temporary, or is capable of being moved from one (1) location to another.

Model Home: A *dwelling unit* used initially for display purposes which typifies the units that will be constructed in the subdivision and may incorporate sales or rental *offices* for the subdivision prior to residential occupancy.

Motel: Also known as a *hotel*.

Multimodal: Means of traveling within or through a community by a combination that includes buses, trolley, rail, bicycles, *pedestrian friendly* walkways and path and trail systems, and/or any other means in addition to typical vehicular traffic.

N

New Construction: Structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

Nonconforming Lot: A *parcel* of land that does not conform to an established, such as but not limited to having minimum area or dimensions less than required in the district in which it is located.

Nonconforming Structures: A *structure*, or portion thereof that does not conform to an established district or district regulation applicable to where the *structure* is located.

Nonconforming Uses: A *land use* that does not conform to this Ordinance or *General Plan* provisions that govern the land.

Noxious Matter: Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

Nursing Care Facility: A *residential care institution* provides inpatient beds or resident beds and *nursing services* to *persons* who need continuous *nursing services* but who do not require a *hospital* or direct daily treatment from a physician. (commonly known as *nursing home*)

Nursing Services: Those services that pertain to the curative, restorative, and preventive aspects of treatment and care that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

O

Off-Site: Any *structure* or *use* located outside the property of the *primary uses*.

Office: A *building*, or portion thereof, used for conducting the affairs of a *business*, profession, service industry, or government and internal storage of supplies customary and incidental to the *use*.

Open Space: Land and/or water areas, improved or unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment as active and passive recreational areas or for environmental, scenic, stormwater management, or conservation purposes.

Open Space, Active: Land and water areas specifically designed as an activity-based recreational area to include but not limited to boating, water sports, sports fields, golf courses, local and community *parks* having picnic, playground, recreational and support components and pedestrian, hiking, bicycle and equestrian trails.

Open Space, Passive: Land and water areas that are either partially improved, undeveloped or in a natural state that are intended for scenic, environmental, conservation, and/or resource protection; and include but not limited to such resource-based activities as nature study, nature trails, and any other activities requiring a natural condition that cannot easily be duplicated by human actions.

Ordinance: Any legislative action of a local government, which has the force of law, including any *amendment* or repeal of any ordinance.

Original Lot: Any existing *lot*, *parcel*, tract of land or combination thereof identified in the official records of the Maricopa County Recorder as of the annexation of the property into the corporate limits of the city or on December 24, 1986, whichever is later.

Outdoor Lighting: Artificial illuminating device that includes the complete lighting unit of a *lamp* or *lamps* and ballast(s) (when applicable) together with the parts designed to distribute the light, to position and protect the *lamps*, and to connect the *lamps* to the power supply; whether permanent or portable, a device used for illumination or advertisement including, but are not limited to, search, spot or flood lights for *buildings* and *structures*, recreational areas, parking *lot* lighting, landscape lighting, *signage* and *street* lighting..

1. **Adaptive CONTROLS:** Devices such as motion sensors, timers and dimmers used in concert with *outdoor lighting* equipment to vary the intensity or duration of operation of lighting.
2. **Ambient Light Level:** The general overall level of background lighting in an area.
3. **Bulb or Lamp:** The source of electric light; to be distinguished from the whole assembly (see luminaire). *Lamp* often is used to denote the bulb and its housing.
4. **Cut-Off Angle of a Luminaire:** The angle, measured up from the nadir (i.e. straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or *lamp*) is not visible.
5. **Direct Illumination:** Illumination resulting from light emitted directly from a *lamp* or *luminaire*, not light diffused through translucent *signs* or reflected from other surfaces (such as the ground, *building* faces, or artistic *structure*).

6. **Fixture:** The assembly that holds the *lamp* in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.
7. **Floodlight:** A *fixture* designed to “flood” a well-defined area with light.
8. **Full Cut-Off:** Attribute of a *luminaire* from which no light is emitted by the *fixture*, either directly from the *lamp* or indirectly from the *fixture*, at or above a horizontal plane drawn through the highest light-emitting portion of the *luminaire* and no more than 10% of the *lamp*’s intensity is emitted at or above an angle 10° below that horizontal plane, at all lateral angles around the *luminaire*. A *full cut-off luminaire*, by definition, also is “fully shielded.”
9. **Fully Shielded Luminaire:** A *luminaire* constructed and installed in such a manner that all light emitted by the *luminaire*, either directly from the *lamp* or a diffusing element, or indirectly by reflection or refraction from any part of the *luminaire*, is projected below the horizontal plane through the *luminaire*’s lowest light-emitting part.
10. **HID Lamp:** In a discharge *lamp*, the emitted energy (light) is produced by the passage of an electric current through a gas. High-intensity discharge (HID) include *metal halide* and high-pressure sodium *lamps*. Other discharge *lamps* are low pressure sodium (LPS) and fluorescent. Some such *lamps* have internal coatings to convert some of the ultraviolet energy emitted by the gas discharge into visual output.
11. **High Pressure Sodium (HPS) Lamp:** A *HID lamp* where radiation is produced as a “point source” from sodium vapor at relatively high partial pressures (100 torr) commonly used in *street* lighting; emits an amber color.
12. **LED:** Light emitting diode.
13. **Light Spill:** Unwanted spillage of light onto *adjacent* areas and may affect sensitive receptors particularly residential properties and ecological sites.
14. **Light Trespass:** Excessive light that spills onto *adjacent* property, typically produced by stray light coming from *street* lighting *fixtures*, illuminated *signage* and other *outdoor lighting* sources.
15. **Low-Pressure Sodium (LPS) Lamp:** A *HID lamp* where the light is produced as a “tube source” by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr) commonly used in *street* lighting; emits a monochromatic light.
16. **Lumen:** A measurement of the total amount of ambient light emitted by a source.
17. **Metal Halide Lamp:** An *HID lamp* where the light source is produced by radiation from metal-halide vapors commonly used for *street* lighting; emits a good quality white light.
18. **Nit:** The industry standard for measuring the specific light intensity (brightness) of Electronic Messaging Center (EMC) *signs* or one (1) candela per square meter.

19. **Partially Shielded:** *Fixtures* that are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the *lamp* reducing light above the horizontal.
20. **Photometry:** The quantitative measurement of light level and distribution.
21. **Shield:** An opaque material permanently installed and/or attached that blocks the transmission or emission of light as a means of controlling or directing the light emitted from an *outdoor lighting fixture* to provide for *full cut-off* photometric performance.
22. **Spotlight:** A *fixture* designed to light only a small, well-defined area.
23. **Stray Light:** Emitted light that falls away from the area where it is needed or wanted (see also *Light trespass*).
24. **Temporary Lighting:** Lighting that is intended for uses that, by their nature are of limited duration, e.g. holiday decorations, civic events or construction projects.
25. **Wallpack:** A *luminaire*, typically affixed to the side of a *structure*, used for area lighting or security lighting.

Out Parcel: See *Pad site*.

Outdoor Display Area: Any land *used* or occupied for the display of sample goods, materials, or merchandise outside.

Outdoor Sales Area: Any land *used* or occupied for viewing by and direct access for customer of any goods, materials, or merchandise for purpose of retail or wholesale buying, selling, or renting.

Outdoor Storage/Use: Any land *used* or occupied for the storage goods, materials, or merchandise outside or conducting any *use* outside.

Owner: Any person, group of *persons*, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be *subdivided* under this Ordinance.

P

Pad Site: A freestanding *lot* located within a larger development and typically requires shared vehicle *access* from the *street* and coordinated architectural and site design elements (commonly known as *Out Parcel*).

Parapet: That part of any wall extending above the roof line that generally runs around the perimeter of a flat roof *building* at the roofline.

Parcel: Any legally described *lot* created by a partition, subdivision, deed, or other instrument recorded with the appropriate recorder.

Parcel Assemblage: A combination of land within the city which results in the assemblage of improved or unimproved land for the purpose of financing, sale, or lease, whether immediate or future, from three (3) or less *lots*, tracts, or *parcels* of land with no public dedication of property, into a single property.

Park and Ride: An *off-street parking* facility designed or intended to provide peripheral collection and storage of vehicles to accommodate transit centers where *persons* then board a train, bus, or other multi passenger mode of transportation.

Park: Any public or private land available for recreational, educational, cultural, or aesthetic *uses*, including but not limited to fountains, playground, public art, outdoor amphitheater and performance pad, splash pad, sport courts/fields, and non-commercial disc golf.

Parking Area: Any land area containing one (1) or more *parking space*.

Parking Bay: A paved *parking area* used for *alleys* or *on-street* parking on local residential *streets*; typically bound by *traffic calming* devices such as bulb outs, chicanes, or curb extensions.

Parking Space: Any land area designated and used for parking of one (1) motor vehicle.

Parking, Off-Street: A *parking space* or *area* on a property that is not in the *right-of-way* or an *alley*.

Parking Structure: Any *structure*, except those defined herein as a *garage*, used for the storage of motor vehicles.

Party Wall: See *common wall*.

Pedestrian Friendly: An environment in which conflict between the automobile and pedestrian is minimized or eliminated through the provision of a comprehensive means of vehicular-separated pedestrian travel that is fast, attractive and comfortable for a wide range of age and abilities groups; and by the design of *buildings* and other *uses* in a manner that is sensitive to the needs of the pedestrian.

Perimeter Street: Any *street* that *abuts* an existing development or the land to be *subdivided*.

Personal Care Services: Assistance with activities of daily living that can be performed by *persons* without professional skills or professional training and includes the coordination or provision of intermittent *nursing services* and the administration of medications and treatments by a nurse who is licensed pursuant to A.R.S. Title 32, Chapter 15 or as otherwise provided by law.

Personal Services: *Businesses* offering non-medical services directly to the customer that may include customary and incidental retail sales, including but not limited to barber shops, beauty shops, nail salons, and tailors.

Persons: Includes any individual or group of individuals, corporations, partnerships, associations, or any other organized group of *persons*, including state and local governments and agencies thereof.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Place of Assembly: A *building* or a portion of a *building* used for people to gather for regularly scheduled programming, including, but not limited to, dance halls, public meeting halls, conference center meeting and exhibit rooms, indoor auction houses, and live action theaters.

Place of Worship: Any *building* or portion thereof, used for nonprofit purposes by an established religious organization where such *building* is primarily intended to be used for worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque.

Plant Nursery: The use of land, *buildings*, or *structures* for the growth, *outdoor display areas*, and/or *outdoor sales area* of flowers, plants, shrubs, trees and may include the sale of commonly used materials such as containers and fountains, soil, rock, bark, or mulch materials.

Plat: A map, survey, plan or *replat* certified by a licensed, registered land survey containing a description of the *subdivided* land with ties to permanent monuments that provides for changes in land use or ownership.

1. **Final Plat:** A final map of a subdivision, including supporting data, in substantial conformance to an approved *preliminary plat* and all conditions placed upon it by the City Council, prepared by a registered land surveyor, in accordance with this Ordinance and the Arizona Revised Statutes.
2. **Preliminary Plat:** An initial map, including supporting data, recommended by the Planning and Zoning Commission and approved by the City Council, indicating a proposed subdivision design, prepared by a registered civil engineer and a registered land surveyor, in accordance with this Ordinance and the Arizona Revised Statutes. A preliminary *site plan* for a condominium development shall be considered a *preliminary plat*.
3. **Recorded Plat:** A *final plat* bearing all of the certificates of approval required by this Ordinance and the Arizona Revised Statutes and duly recorded in the Maricopa County Recorder's Office.
4. **Replat:** A *plat* for the purpose of reverting previously *subdivided* acreage to *unsubdivided* acreage, or; for the purpose of vacating *rights-of-way* previously dedicated to the public and *abandoned* under procedures prescribed by the City Code, or; for the purpose of vacating or re-describing *lot* or *parcel* boundaries previously recorded.

Portable Storage Container: A device in the shape of a rectangular solid; constructed of metal, consisting of four (4) vertical walls, a floor and a ceiling and in which at least one (1) vertical end is designed as a door and not permanently affixed to the ground. Portable storage containers include devices initially designed to facilitate the shipping of containerized cargo and constructed entirely of steel in a manner consistent with ISO 6346, and are being reused to facilitate secure storage, but not designed as a *building* or habitable space as defined in the City of Surprise *Building Code* unless converted through the permit process.

Printing Plant: A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and *screen* process printing.

Private Club,: An association which owns, hires or leases a *building*, or a portion thereof, and the *use* of such premises (including but not limited to *uses* allowed in the same *zoning district*) being restricted to *persons* who are bona fide members paying annual dues and their bona fide guests; excluding membership based retail *businesses*.

Property Line: see *lot line*

Protected Development Right: The right to undertake and complete the development and *use* of property under the terms and conditions of a Protected Development Right Plan, without compliance with subsequent changes in *zoning* regulations and development standards during the term of the Protected Development Right, except as provided by A.R.S. §9-1204.

Protected Development Right Plan: A development plan identified as a Protected Development Right Plan at the time of the *Landowner's* submission that, if approved by the Council, grants to the *Landowner* a Protected Development Right to undertake and complete development and *use* of the property as shown thereon for a specified period of time.

Protected Native Plants: Those species of plants that are native to Arizona which are to be conserved and protected due to their value as *habitat* as specifically listed in Chapter 104; Table 104-2a of this Ordinance.

Public: Having two definitions:

1. Resources, conveniences, facilities, or similar that is open to, enjoyed and *used* by, and/or maintained for the general public
2. Anything owned or operated by the federal government, state government, or any political subdivision.

Public Facility: Any facility, including, but not limited to *structures, buildings*, property, recreation areas, *civic uses*, and *streets*, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity or a private organization that contributes to the municipal infrastructure system.

Public Feature: Any resources, conveniences, facilities or benefits continuously offered to the general public for their *use* and/or enjoyment, with or without charge (e.g., restrooms, information displays, public telephones, rain shelters, drinking fountains, etc.)

Public Improvement: Any drainage ditch, *right-of-way*, sidewalk, pedestrian way, tree, lawn, *off-street parking area*, or other facility for which the City of Surprise may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement where the responsibility rests with the City of Surprise.

Q

Qualifying Commercial and/or Industrial Developments: New or expanding developments that are legally established and in conformance with the regulations of this Ordinance that will occupy vacant in-fill *parcels* or replace dilapidated *buildings*.

R

Ranch: A *Lot*, or portion thereof, designed and *used* for the breeding and raising of horses and large *agricultural animals*; but not an *agricultural operation*.

Recovery Residence (commonly known as Sober Living, Addiction Recovery Homes): A residential setting that provides alcohol-free or drug-free housing for *persons* who need or find benefit in a supervised living environment that provides *structure* and some level of guidance, behavioral health services, and in-house recovery programs.

Recreational Vehicle (RV): A vehicular type portable *structure*, which can be towed, hauled or driven, primarily designed as temporary living accommodation for recreational, camping, and travel *use* and not designed for permanent residential or commercial purposes that: contains its own motive power, or drawn by another vehicle or is mounted on another vehicle.

Recreational Vehicle (RV), Park Model: A *Recreational vehicle* built on a single chassis, mounted on wheels, has a gross trailer area not exceeding 400 square feet in the set -up mode, and is certified by the manufacturer as complying with the ANSI A119.5 standards for recreational *park trailer*.

Recreational Vehicle (RV) Park: An integrated land-lease development, in accordance with the provisions of this Ordinance, where *recreational vehicles* are *used* for temporary living or vacation purposes.

Recycling Collection Facility: A *lot* or *structure*, or portions thereof, where the public may donate, redeem, or sell recyclable materials with limited processing activities.

Recycling Processing: Baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, *remanufacturing*, shredding, and/or preparation for shipment of recyclable materials.

Recycling Processing Facility: A *structure* or enclosed space *used* for the collection and processing of recyclable materials for shipment.

Recycling Reverse Vending Machines: An automated mechanical device which accepts at least one (1) or more type of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip.

Repair Service Establishment: An establishment primarily engaged in repairing for household appliances and other personal property including, but not limited to, shoe, jewelry, computers, cellphones, and watch; excluding automotive or heavy equipment.

Research Facility: A *building*, or portion thereof, that is *used* for research, development, and/or testing laboratories that shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard as specified herein, excluding mass fabrication, or any *manufacturing*, processing, or sale of products. (commonly known as *Laboratory*)

Residential Care Institution: A *health care institution* other than a *hospital* that provides resident beds or residential units, *supervisory care services*, *personal care services*, behavioral health

services, directed care services or health-related services for *persons* who do not need continuous *nursing services*.

Restaurant: A commercial establishment where food and beverages are primarily prepared, served, and/or consumed on the premises.

Restaurant, Convenience/Take Out: A small scale *restaurant* which primarily utilizes window and/or counter service allowing customers to pick up food for on or off-premise consumption. Typical establishments include but not limited to coffee, juices, or sodas shops, bagel or donut eatery, or lunch cafes.

Retention: A stormwater storage facility that stores surface runoff.

Ridgelines: Prominent topographic features connecting a series of major and minor hills, peaks or mountains; often used by raptors to orient, nest and/or catch thermals while migrating.

Right-of-Way (ROW): A designated or otherwise legally established strip of land occupied or intended to be occupied by a *street*, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm *sewer* main, trees, or for another special *use*.

Roadway: That portion of a *street* or *alley right-of-way* that is improved and intended for driving or parking.

S

School: An institution providing regular academic instruction traditionally associated with a program of study at the primary, secondary, and tertiary levels equivalent to or greater than standards prescribed by the State Board of Education or the State Board of Regents.

School, Vocational: *Schools* offering instruction in the technical, commercial or trade skills, such as real estate *schools*, *business* colleges, electronic *schools*, automotive and aircraft technician *schools* and similar commercial establishments.

Screening: A solid or nearly solid barrier (i.e., *wall*, *fence*, landscaping) constructed or installed for the purpose of visual separation to shield, protect or obscure.

Self-Storage Facility: A property *building used* for renting or leasing individual storage spaces in which the renters or lessees customarily store and remove their own personal property on a self-service basis. Front *office* may include *ancillary* retail sales.

Semipublic: Resources, conveniences, facilities, or similar that is open to, enjoyed and *used* by, and/or maintained for the authorized members; such as residents using a neighborhood or community association facility, guests within the lodgings such as *hotels/motels*, or members of a *fitness club*.

Sensitive Lands: Land that encompasses wildlife *habitats* and corridors, wash corridors that replenish local groundwater, *archaeological resource* sites, unique plant environments, and scenic vistas.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Service Call Establishment: An establishment that provides *off-site* professional services at the customer's location dispatched from the *business' office* or *home occupation* location, such as but not limited to pest control, catering services, electrician, *personal services*, or plumbing.

Setback: The minimum distance by which any *structure* must be separated from *right-of-way* or *lot line*. For specific application of specific *setbacks* see the definitions below and **Figure 101-2a**.

1. **Setback, Front:** The minimum *setback* line parallel to the *Front Lot line*.
 - a. In the case of an interior lot or through lot, the *front setback* shall follow the *front lot line*
 - b. In the case of a corner lot with a curved or angular ROW line, the *front setback* may extend along an extending artificial *front lot line* in an attempt to make a rectangular *lot*.
 - c. In the case of *flag* lots, the *front lot line* shall be the line closest to perpendicular to the street on which the lot accesses, unless determined otherwise by the director
 - d. In the case of irregular shape lots (see **Figure 101-2a**), the *front lot line* shall follow the right-of-way line
 - e. In the case of cul-de-sac and corner access lots, the *front setback* shall extend along the shortest, *abutting* lot line.
2. **Setback, Rear:** The minimum *setback* line parallel to the *Rear lot line*.
3. **Setback, Side:** The minimum *setback* line parallel to any *Side lot line* between the *front* and *rear setbacks*.
4. **Setback, Street Side:** The minimum *setback* line parallel to the *Side lot line* that *abuts* a *right-of-way* between the *front* and *rear setbacks*.

Sewer: Any sewer line owned and maintained by the city, whether or not installed by the city.

Sewer System: Any sewer system, whether treatment plant, septic tank or lagoon, designed with a sewer collection system to be *used* by a legally constituted association of property owners. The system may or may not be a public system.

Sexually Oriented Business: This term is synonymous with "adult oriented *business*" and means an *adult arcade*, *adult bookstore*, *adult cabaret*, *adult motel*, *adult novelty store*, *adult theater*, *adult motion picture theater*, *adult video store*, *escort agency*, *nude model studio*, or *sexual encounter center*.

1. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are regularly maintained to show images to five or fewer *persons* per machine at any one (1) time, and where

the images so displayed are distinguished or characterized by their emphasis upon matters depicting, describing or exhibiting *specified sexual activities* or *specified anatomical areas*.

2. **Adult Bookstore, Adult Novelty Store or Adult Video Store:** A commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior *business* or advertising, or maintains a substantial section of its sales or display space for sale or rental for any form of consideration any of the following:
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, computer simulations, holograms, motion pictures, video reproductions, compact discs, slides, or other visual representations, which are characterized by their emphasis upon the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*; or
 - b. Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.
3. **Adult Cabaret:** A *nightclub, bar, restaurant*, or similar commercial establishment that regularly features:
 - a. *Persons* who appear in a state of nudity or semi-nude; or
 - b. Live performances that are characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*; or
 - c. Films, motion pictures, computer simulations, holograms, video cassettes, slides, or other photographic reproductions, which are characterized by the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*.
4. **Adult Motel:** A *hotel, motel*, or similar commercial establishment that:
 - a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, computer simulations, holograms, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction, description, exhibition or display of *specified sexual activities* or *specified anatomical areas*; and has a sign visible from the public *right-of-way* that advertises the availability of this adult type of photographic reproductions; and, either
 - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

- c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- 5. **Adult Motion Picture Theater:** A commercial establishment where, for any form of consideration, films, holograms, computer simulations, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of *specified sexual activities* or *specified anatomical areas*.
- 6. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features *persons* who appear nude or semi-nude, or in live performances characterized by the exposure of *specified anatomical areas* or by *specified sexual activities*.
- 7. **Adult Video Store:** See *Adult Bookstore, Adult Novelty Store or Adult Store*.
- 8. **Escort:** A person who, for consideration, and for another person, agrees or offers to act as a companion, guide, date or to privately model lingerie or to privately perform a striptease.
- 9. **Escort Agency:** A person or business establishment that furnishes offers to furnish, or advertises to furnish escorts as one of its primary *business* purposes for a fee, tip, or other consideration.
- 10. **Nude, Nudity or a State of Nudity:** The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
- 11. **Nude Model Studio:** Any place where a person (or persons) who appears semi-nude, in a state of nudity or displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A nude model studio does not mean a modeling class, or the facility for such class, operated:
 - a. By a proprietary school licensed by the State of Arizona; a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
 - c. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing.
- 12. **Semi-Nude or in a Semi-Nude Condition:** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human

female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

13. **Sexual Encounter Center:** A *business* or commercial enterprise that, as one (1) of its principal *business* purposes, offers for any form of consideration: a place where two (2) or more *persons* may congregate, associate, or consort for the purpose of *specified sexual activities*. The definition of sexual encounter center or any *sexually oriented businesses* shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.
14. **Specified Anatomical Areas:** Human genitals in a state of sexual arousal.
 - a. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - b. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
15. **Specified Sexual Activities:** Any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, anus, or female breasts;
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - c. Excretory functions as part of, or in connection with, any of the activities set forth in subdivisions (1) through (2) above.

Shared Parking and Loading: Two (2) or more land *uses* (such as a retail store, *office*, *restaurant*, or other similar *user*) using the same, undivided *parking area* and *loading areas* rather than each designed with their own.

Shelter Care Facility: A *residential care institution* where short-term services including, but not limited to, temporary lodging, meals, and counseling, are provided to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children,

Showroom/Sales Office: A *building* or portion thereof where merchandise is exhibited or where samples are displayed and the sale of services and related products are conducted, excluding storage of retail goods or service merchandise. Typical *uses* include but are not limited to flooring, decor, remodeling services, and other contractors. *Showrooms/sales offices* may be *ancillary* within another *use* or as a *primary use*.

Sign and/or Signage: See Chapter 108 for all definitions related to *signs* and/or *signage*.

Significant Rock Outcroppings: Any surface rock formation having an area of 500 square feet or larger or any surface rock formation having a height greater than ten (10) feet from the surrounding *grade*.

Significant Stand of Vegetation: A single native or protected tree or cactus that is of a height greater than 25 feet, or three (3) or more trees or cacti located within a radius of fifteen (15) feet from each other each having a height greater than eighteen (18) feet.

Site Plan: A drawing showing the accurate location of all *structures, streets, alleys, and parking areas* existing and proposed on subject property or any other information as may be required by the City of Surprise Procedural Manual.

Small Subdivision: The division of land within the City which results in improved or unimproved land or lands for the purpose of financing, sale, or lease, whether immediate or future, consisting of four (4) to ten (10) *lots, tracts, or parcels* of land with all *lots* complying with the size requirements of the *zoning district* within which they are located.

Stable: A *lot* or *buildings, corals, pens and other ancillary features uses* that may also include boarding of horses and limited livestock, breeding or training programs, or arenas; private *stables* are for *use* of the *owner* or occupant of the *lot* and commercial *stables* are where horses are kept for remuneration, hire or sale.

Steep Slopes: Unimproved land, *parcel*, or tract of land, where the existing natural terrain has an average cross-slope of fifteen (15%) percent or greater and where the natural state of such should be left undeveloped and conserved as *open space*.

Street: A general term used to describe a paved *right-of-way*, municipally or privately owned, serving as a means of travel, usually affording the principal means of *access* to *abutting* property.

1. **Street, Arterial (major and minor):** Streets designed to carry large amounts of traffic across or through the city and designated as such by the Surprise *General Plan*.
2. **Street, Collector:** A *street* connecting local residential *streets* to each other, to community facilities and to *arterial streets*.
3. **Street, Dead-End:** A *street* or a portion of a *street* with only one (1) vehicular-traffic outlet.
4. **Street, Local:** A *street* intended to serve and provide *access* to *abutting properties*.
4. **Street, Private:** Any *street* that is not dedicated to the public and is to be maintained by a private entity.
5. **Street, Public:** Any *street* which has been dedicated or is otherwise publicly owned by the city.
6. **Street, Service:** A *street* running parallel to a freeway, expressway or other *roadway*, and serving *abutting* properties. (commonly known as frontage road)

Streetscape: A design term referring to all the elements between the *buildings* on either side of the *street* that, as a group, define the general appearance of a *block* or group of *blocks* with respect to the *structures, setbacks* from *rights-of-way, open space, landscaping, public art, lighting, signage, paving materials, street furnishings* and other elements that contribute to the overall character and image of a city *block*.

Street Frontage: Any *lot line* separating a *parcel* from a *street*.

Street Furnishings: All items that are placed within or *abutting* the public *right-of-way* for both an aesthetic and functional purpose, including, but not necessarily limited to, benches, bus shelters, trash receptacles, plant containers, kiosk *signs*, *lighting fixtures*, tree grates and guards, bicycle racks, bollards, fountains and public art.

Structural Alteration: Any change in the supporting members of a *building*, such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Structure: Anything constructed or erected with a permanently secured location on the ground or attached to something having a permanently secured location on the ground.

Substantial Improvement: Any repair, reconstruction, or improvement of a *structure*, excluding those solely necessary to assure safe living conditions or any *alteration* of a *structure* listed on the National Register of Historic Places, the cost of which equals or exceeds 50 percent of the market value of the *structure* either:

1. Before the improvement is started; or
2. If the *structure* has been damaged and is being restored, the value before the damage occurred.

Subdivide: The act of dividing land into two (2) or more parts by *platting*, or by metes and bounds description, into tracts of less than 36 acres for the purpose of sale, lease, *building purposes*, or subdivision.

Subdivider: The individual, firm, corporation, or partnership, association, limited liability company, syndicate, trust or other legal entity that files the application and initiates proceedings for the subdivision of land in accordance with the provisions of this Ordinance and statutes of the State of Arizona; except that an individual serving as representative for such legal entity is not a *developer*; and said *developer* need not be the *owner* of the property as defined by this Ordinance. The City Council may itself prepare or have prepared a *plat* for the subdivision of land under municipal *ownership*. (see also *Developer*)

Subdivision: Improved or unimproved land or lands divided for the purpose of financing, sale, lease, or conveyance whether immediate or future; excluding *minor land divisions*

Supervisory Care Services: General supervision, including daily awareness of resident functioning and continuing needs the ability to intervene in a crisis, and assistance in the self-administration of prescribed medications.

T

Temporary Improvement: Improvements built and maintained by a *subdivider* during construction of the subdivision and prior to release of the performance bond.

Temporary Use Permit (TUP): A *use* permit required for activities that may be appropriate on an interim basis without requiring full compliance with the development standards of the *zoning use* district in which the property is located or by which the city may permit seasonal or transient *uses* not otherwise permitted.

Townhouse: A type of residential *dwelling* that is often, but not necessarily, an attached product type (see also *dwelling*).

Traffic Calming: A technique or method of reducing traffic speeds and/or neighborhood cut-through traffic volumes that utilizes changes in *street* alignment, installation of barriers, and other physical measures.

Triplex: See *Three-family Dwelling*.

Truck: A vehicle weighing 18,000 or more pounds, or a combination of vehicles weighing in excess of 26,000 pounds, or a box *truck* or semi-trailer cab.

U

Urban Development: any land developed in an industrial, retail commercial, office/institutional/civic/public use, and/or residential development having an overall minimum density of one dwelling unit per gross acre or greater

Use: The employment or occupation of a *building, structure*, or land for a *person's* service, benefit, or enjoyment.

1. **Use, Permitted:** A *use* which has a lawfully established right in a particular district or districts or has been granted legal authorization, such as but not limited to a *Conditional use Permit (CUP)*, and which conforms to all requirements, regulations, and performance standards of such district(s).
2. **Use, Primary:** A land *use* that is the predominant, principal, or major *use* of the *lot* on which it is located.
3. **Use, Temporary:** A *use* established for a fixed period of time with the intent to discontinue such *use* upon the expiration of the time period as regulated by this Ordinance.

Utility, Public: Any agency under public franchise or *ownership*, or under certificate of convenience and necessity that provides the public with electric, gas, heat, communication, rail transportation, water, sewage collection, or other similar service.

Utility Services: Service to the public of water, *sewer*, electric, gas, communications, cable television, drainage, flood control, or other facilities, owned and operated by any person, firm, corporation, municipal department or board, duly authorized by State or Municipal regulations. The foregoing shall be deemed to include facilities and appurtenances to the above uses but shall not include *public utility* treatment and generating plants or *offices*.

V

Variance: A modification or variation of the development standards in Chapter 106 of the LDO as applied to a specific piece of property. Dimensional *Variances* only may be allowed; no *Variance* regarding *use* of property shall be permitted; no *Variance* decreasing *lot* area requirements shall be allowed.

Vehicle Fueling Station: A convenience *use* having pumps and storage tanks or other facilities from which gasoline, diesel or *alternative* fuels are dispensed into motor vehicles. (commonly known as *gas stations* or *fueling stations*)

Vehicle Sales and Leasing: The *use* of any *building*, land area, or other premises with *display and sales areas* of new or used automobiles, *trucks*, trailers, or *recreational vehicles* and including any warranty repair work and other *repair service* conducted as an *accessory use*.

Vehicle Service, Major Repair: The *alteration*, engine or transmission rebuilding, reconditioning, upholstery, and collision service, including body, frame, or fender repair or painting of vehicles, such as but not limited to automobiles, equipment, trucks, trailers, or *recreational vehicles*.

Vehicle Service, Minor Repair: Servicing of motor vehicles including tire repair, oil changes, and general servicing battery changing, storage of merchandise and supplies relat to the servicing of motor vehicles, sale of lubricants, automobile washing and lubrication but not including any operation specified under "*Vehicle service, major repair*".

View Fence: A *fence* that is constructed in a manner that allows for a clear view of an area beyond the *fence* from any angle.

Visibility Triangle: The area at the intersection of *streets* or driveways in which a motorist's view must remain free from any visual obstruction.

W

Wall: A *fence* made of a solid material such as CMU block, stone, bricks, or river rock; except those as part of a *building*.

Warehouse/Distribution: An enclosed *building* designed and used primarily for the storage and/or delivery of goods and materials

Water Features: Includes those features as listed and defined below:

1. **Floodplains:** The area along a perennial or ephemeral stream or river that fills with water periodically. *Floodplains* can include *riparian areas* and sometimes have a distinct vegetative community that includes water-loving plants; may also be characterized simply by dry river or streambeds (refer to Maricopa County Flood Control District).

2. **Riparian Areas:** The ecosystem located along a perennial or ephemeral wash or river. Usually characterized by water-intensive plants/trees, *riparian areas* run parallel to *streams* and *rivers*.
3. **Rivers/Streams:** The lowest point within a watershed where water moves downstream. *Streams* and *rivers* in Maricopa County can be perennial or ephemeral.
4. **Springs/Seeps:** Fixed locations where groundwater emerges from the earth perennially or ephemerally. These features usually have a distinct water-loving plant community associated with them which can include mesic grasses, reeds, rushes, sedges, cattails and a variety of shrubs and trees.
5. **Wetlands:** An area that is saturated by water perennially or seasonally and has a distinct vegetation community associated with water. The term *wetlands* encompasses both the aquatic environment associated with the water saturated area and the distinct vegetative community around the periphery which can be characterized by mesic grasses, reeds, rushes, sedges and/or cattails.

Water Supply, Assurance (100 Years): A written statement from Arizona Department of Water Resources, that states the water supply and flows are adequate and in accordance with City and State requirements and provide evidence that it meets the Arizona Department of Water Resources requirements for a one hundred (100) year assured supply.

Wholesale Shopping. An establishment or place of *business* primarily engaged in selling and/or distributing merchandise to other *businesses* other than the direct to the consumer, excluding bulk merchandise, direct to the consumer *businesses*.

Wildlife Corridors: Pathways or *habitat* linkages which permit animal movement between *habitat* areas, provide escape routes, or travel paths as they wander through their home ranges in search of food, water, mates, or other needs and as may be further defined by the Arizona Game and Fish Department.

Wrecking Yard: See *junkyard*.

X

(intentionally left blank)

Y

Yard: An open area of a residential *lot* that is at *grade* level between the *dwelling* and the adjoining *lot lines*, except as otherwise provided in this Ordinance

1. **Yard, Front:** A yard extending between two (2) *side lot lines* and the depth of which is the distance between the *front lot line* and the primary *building* and *fence return*, when present. The required *front yard* area is the area of the *front yard* that is bound by the *side* and *front lot lines* and the *front setback line*.
2. **Yard, Rear:** A yard extending between two (2) *side lot lines* and the depth of which is the distance between the *rear lot line* and the primary *building*. The required *rear yard* area is the area of the *rear yard* bound by the *side* and *rear lot lines* and the *rear setback line*.
3. **Yard, Side:** A yard extending between the *fence return* or *front yard* and *rear yard* and the depth of which is the distance between the *side lot line* and the primary *building*. The required *side yard* area is the area of the *side yard* that is bound by the *front* and *rear yards* and *side lot lines*.
4. **Yard, Street Side:** A *side yard* which is along the *side lot line* that *abuts* a *street*.

Z

Zoning: The dividing of the City into districts or zones and the establishment of regulations for governing the *use*, placement, spacing, and size of land and *structures* within each zone or district.

Zoning Administrator: The staff position of the Community Development Director or designee.

Zoning District: A portion of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

CHAPTER 102 - REVIEW PROCESS AND APPLICATIONS

ARTICLE 1 – IN GENERAL

102-1.1 Purpose

- A. The purpose of this section is to establish standardized decision-making procedures for reviewing development applications within the City of Surprise. It enables the City, the *applicant*, and all interested parties to reasonably review applications, and participate in the local decision-making process in a timely and effective way. More specifically, this section is intended to:
1. Assure prompt review of development applications through the application of clear and specific standards.
 2. Provide opportunities for public review and comment on development applications that may have an impact on the community.
 3. Establish procedures to determining whether development applications are consistent with applicable codes, policies, regulations, and standards

102-1.2 Applicability

- A. The provisions of this section shall apply to all proposed development projects within the City's municipal boundaries.

102-1.3 Development Procedures Manual

- A. The Development Procedures Manual is the consolidation of the Community Development Department requirements for the various procedure types and development applications including: the application forms, submittal checklists for the various application types, specific procedural steps, review timelines, necessary approvals, and communication expectations.
- B. All development applications in the City of Surprise shall follow the requirements outlined in the Development Procedures Manual, which is available online or may be picked up at the Development Services Counter.

102-1.4 Concurrent Review

- A. When a development proposal requires more than one (1) application for the approval of a given development, multiple applications may be submitted for concurrent review. If the applications are not submitted concurrently, the subsequent applications may not be submitted until previous applications have completed the review procedures, unless this provision is waived by the Community Development Director or designee.

- B.** When more than one (1) application is submitted for a given development, and those applications are subject to different types of procedure, then all of the applications are conditioned to the highest type of procedure that applies to any of the applications; however, each development application shall be only subject to the relevant criteria applicable to that particular development application. For example, a development proposal for a *preliminary plat* (a Type 2 procedure) and *rezoning* of the property (a Type 3 procedure) shall be wholly dependent upon the approval of the Type 3 application, but the Type 2 portion of the development proposal shall be decided according to the relevant approval criteria applicable to the Type 2 application.

102-1.5 Exempt Activities

- A.** The following development activities are exempt from the procedural requirements of this chapter:
1. Landscaping or landscape *alterations*, unless such landscaping or *alterations* would require approval pursuant to this Chapter for *Site plan* Review or modify or violate an approved *site plan, plat*, or a condition of approval.
 2. Emergency repair or maintenance of public or private *buildings, structures*, landscaping, or utilities.
 3. A change of any legally-established *use* except if the *change of use* requires an *amendment* to the approved *site plan*, such as increased parking requirements, or additional approvals, such as an *Administrative Use Permit* or *Conditional Use Permit*.
 4. *Building permits* required pursuant to the City-adopted building code for construction not requiring a development application.
 5. On-site utility permits not obtained in conjunction with a specific development application, including but not limited to *sewer* hook-ups, water hook-ups, *right-of-way* permits, grading permits, and fire department permits.
 6. *Business Licenses*.
 7. Sign permits; except for Comprehensive Sign Program approval.

102-1.6 Expiration of Approvals

- A.** All approvals, excluding *Temporary use Permits*, shall expire one (1) year after the date of approval unless vested by means of recorded *Final plat*, commencement of construction, or establishment of the allowed *use*. An extension may be granted

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

by the Community Development Director or designee, but will be contingent upon subsequent applications listed herein and/or permit activity. The request for an extension shall be made in writing prior to the above-mentioned expiration.

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ARTICLE 2 – PROCEDURE TYPES AND SUBMITTALS

102-2.1 Procedure Types

- A. All development applications shall be decided by using one (1) of the procedure types listed in this Chapter. The procedure type assigned to each application governs the requirements of a public meeting, public hearing, public outreach, public notifications, and the authoritative body, except to the extent otherwise required by applicable state or federal law.
1. **Type 1.** This procedure is for interpretative and administrative applications without a public outreach process, public meeting, or public hearing required. Type 1 applications are processed as administrative review decisions by the Community Development Director. Decisions by the Community Development Director may be appealed to either the Board of Adjustment or the Planning and Zoning Commission as outlined in **Table 102-2a**.
 2. **Type 2.** This procedure is for applications that only require a public meeting and therefore only require the limited public outreach of posting the meeting agenda, unless otherwise indicated in the following table. Type 2 applications are administrative actions. Applications where the approval authority lies with the Planning and Zoning Commission may be appealed to the City Council as outlined in **Table 102.2a**. Applications where the approval authority lies with the City Council may be appealed in a manner prescribed by law.
 3. **Type 3.** This procedure is for applications that generally are legislative in nature requiring a public hearing per A.R.S § 9-462.04 and require Public Notice in the form of “Agenda Posting”, “Newspaper Publication”, “Letter by 1st Class Mail”, and “Site Posting” according to this Chapter. Decisions of the City Council or Board of Adjustment regarding Type 3 applications may be appealed in a manner prescribed by law.
- B. The following **Table 102-2a** describes the level of public outreach required, decision-making authority, and the appeal authority for the applications processed and the approvals that may be granted under this Ordinance.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 102-2a: Application Type, Procedure, and Decision Authority Summary

	Public Outreach				Community Development Director	Planning and Zoning Commission	City Council	Board of Adjustment
	Agenda Posting	Notice Letter & Newspaper	Neighborhood Meeting	Site Posting				
Type 1 Applications								
Zoning Interpretation					D			A
Site Plan Amendment (minor)					D	A		
Minor land division / Parcel assemblage					D		A	
Administrative Use Permits					D			A
Temporary Use Permits					D	A		
Home Product Review					D	A		
Corrective Plat					D		A	
PEDS Deviation/Waiver					D	A		
Slope Category Analysis Waiver					D	A		
Administrative Waiver/Extension					D	A		
Type 2 Applications								
Site Plan Review	X				R	D	A	
Site Plan Amendment (major)	X				R	D	A	
Protected Development Rights Plans	X				R	R	D	
Preliminary plats	X				R	R	D	
Final plats	X				R		D	
Original Townsite Incentive	X				R		D	
Development Agreement	X				R		D	
Hillside Cut & Fill Waiver	X			X	R	D		
Type 3 Applications								
General Plan Amendments	X	X	X	X	R	R	D	
Specific Area Plan Requests	X	X	X	X	R	R	D	
Rezoning Requests	X	X	X	X	R	R	D	
LDO Text Amendments	X	X ⁽¹⁾	X		R	R	D	
Conditional Use Permits	X	X	X	X	R	D	A	
Comprehensive Sign Program	X	X	X	X	R	R	D	
Variances Requests	X	X		X	R			D
Annexation	X	X	X	X	R		D	
Key: X = Required (1) = 1 st Class Letter not required R = Reviews and recommends action to decision-making body D = Decision-making body A = Appeal authority								

102-2.2 Submittal Process

- A. Pre-Application Meetings.** The Surprise Community Development Department offers multiple pre-application meetings for the purpose of acquainting City and other agency staff with a sufficient level of detail about the proposed development. The intent is to enable staff to advise the *applicant* as to the applicable City requirements and to identify issues and concerns in advance of a formal application. These meetings are not intended to be a comprehensive review of all the potential issues relating to a development proposal.
1. **Due Diligence Meeting.** This is an optional pre-application meeting for proposed projects that are in the most basic phase of development. This meeting may be used by prospective buyers and/or *developers* in order to better measure the feasibility of a proposed project with informal discussions to identify potential points of conflicts and gain an understand of specific public objectives.
 2. **Concept Review Meeting.** This is a required pre-application meeting for all proposed projects prior to making a formal application submittal. This meeting will include the City's complete development review team in order to determine the required submittal checklist, Development Application, and Procedure Type.
 3. **Concept Review Waiver.** The Community Development Director or designee may waive the Concept Review meeting only if the proposal is determined to be relatively simple (e.g. has few, if any, development-related issues), or it involves subsequent phases of an existing approved development where requirements are known, or an application is substantially similar to a prior proposal affecting the same property.
- B. Formal Application Submittal.** Following the Concept Review meeting, the *applicant* shall submit, to the Surprise Community Development Department, a completed City application and checklist with all the requested plans and information, required studies and reports, and the required fees. The City may, at its discretion, request additional materials and/or studies if found necessary to adequately review the application. Staff will verify completeness of all applications; review will not begin until submittal materials are fully complete.

ARTICLE 3 – PUBLIC OUTREACH AND PUBLIC NOTIFICATION

102-3.1 Public Outreach

- A. When public outreach is required, one (1) or more of the following forms methods may be required depending on the procedure type or complexity of a project (see **Table 102-2a**). Pursuant to A.R.S., *General Plan Amendments* and *Rezoning* for land that is located within the vicinity of a military airport or *ancillary* military facility have additional notification requirements. *(For more detailed content and process requirements on the notification types listed below refer to the Development Procedures Manual).*
1. Legal ad
 2. Mail-out
 3. Site Posting
 4. Neighborhood Meeting
- B. The Public Outreach Process. This **Article** serves as required “Citizen Review Process” pursuant to A.R.S. §9-462.03. Although it is not intended to produce complete consensus on all applications the intent of any form of public outreach is to:
- 1 Ensure that *applicants* pursue early and effective public participation in conjunction with their applications, giving them the opportunity to understand and potentially mitigate any real or perceived impacts their application may have on the community;
 - 2 Ensure the public and neighboring property *owners* have adequate opportunity to learn about applications that may affect them at an early stage in the process; and
 - 3 Facilitate ongoing communication between the *applicant* and interested public, neighbors, City staff, and elected officials throughout the application review process.
- C. The *applicant* shall provide a written report that describes the specific actions taken by the *applicant* to meet the Public Outreach requirements. The report shall be submitted to the City thirty (30) days prior to public hearing. If public outreach continues beyond that deadline, a supplemental report may be required prior the public hearing. *(For more detailed information on content requirements for the Public Outreach Report, refer to the Development Procedures Manual).*

102-3.2 Public Notification Methods

- A. Depending on the procedure type, one (1) or more of the following methods of public notification may be required.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

1. Agenda Posting: Posting the agenda at City Hall at least twenty-four (24) hours prior to a public meeting (Type 2 Procedure) and/or a public hearing (Type 3 Procedure), in accordance with Arizona open meeting law.
2. Legal Ad: In a newspaper of general circulation in the City of Surprise, a Public Notice shall be published at least fifteen (15) days for all other applications, prior to the public hearing.
3. Mail-out by 1st Class Mail: An informational letter mail, to all real property *owners* and the head of any homeowners association or registered neighborhood within a three hundred-foot (300') radius of the *parcel* boundaries and any other potentially affected citizens as determined by the Community Development Director or designee at least or at least fifteen (15) days for all other applications, prior to the public hearing.
4. Site Posting: When proposed development requires Public Notice in the form of Site Posting, the *applicant* shall be responsible for posting the subject property (*see Procedures Manual for examples*).
 - a. Posting shall be in no less than two (2) on-site locations, no less than fifteen (15) days prior to the meeting/hearing; annexations require three (3) locations. For large sites, sites with multiple *street frontages*, sites with no *street frontages*, and modified locations may be approved by the Community Development Director or designee.
 - b. A completed Affidavit of Site Posting form, which includes a minimum of two (2) photographs of each installed sign together with a map showing the locations of the site postings.
 - c. The *applicant* shall remove all *signage* and submit a completed affidavit of removal within seven (7) days after the date of the final public meeting/hearing.
4. Content of Public Notice. When required a public notice in the form of "Newspaper Publication", "Letter by 1st Class Mail", or "Site Posting" of the proposed project will include the following:
 1. The project case number;
 2. The name of the *applicant* requesting the action;
 3. The date, time and location of Neighborhood Meeting, when required;
 4. A vicinity map of the project location;
 5. A brief description of the request;

6. The date, time and location of upcoming public hearing(s) or meeting(s);
7. A map of the project area.

102-3.2 Neighborhood Meetings

A. This is conducted by the *applicant* and/or *developer*.

1. A Neighborhood Meeting is required for all Type 3 Applications that require a public hearing, *Preliminary plats*, and other applications as determined during the Concept Review Meeting. All neighborhood meetings shall be scheduled at a time and publically accessible location near the project that provides reasonable opportunity for assemblage of *adjacent landowners*, other affected publics, and the *applicant* to discuss and express their respective views upon the development request. The *applicant* shall secure a time and location near the proposed project according to the following requirements:
 - a. Conducted by the *applicant*, *developer*, and/or property owner;
 - b. Held Monday through Thursday; shall not conflict with City Council or Zoning and Zoning Commission meetings;
 - c. Begin by 6pm and hosted for at least one (1) hour or more;
 - d. Provide safety, parking, lighting for meeting attendees;
 - e. Provide *signage* to guide attendees to the meeting according to the temporary *signage* and other regulations of Chapter 109.
2. Public notice of the Neighborhood Meeting is required and shall include both “Newspaper Publication” and “Letter by 1st Class Mail” as outlined above. The notice shall also be transmitted to the planning agency of any *adjacent* municipalities and unincorporated areas of the county.

ARTICLE 4 – TYPE 1 APPLICATION AND REQUESTS

102-4.1 Uses, Interpretations, and Administrative Decision

- A. The Community Development Director, pursuant to A.R.S. §9-462.05, is responsible for the administration of this Ordinance and may establish rules and procedures for the implementation of the LDO.
- B. The Community Development Director may not make changes in the specific *uses* permitted in any *zoning districts*, or make changes in the terms of the Ordinance; however, any *use* not appearing in this code which is similar to, and not more detrimental than the *uses* permitted herein, as determined by the Community Development Director, may be permitted based on a code interpretation and similar *use* ruling.
- C. The Community Development Director shall base his/her decision, to either approve or reject Type 1 applications and to prescribe such conditions as deemed necessary, on the definitions and other provisions contained in this Code, relevant city policy, and/or any applicable State or Federal law or case law.
- D. The Community Development Director may, at his/her discretion, refer a Type 1 application to the Commission for a decision.
- E. Code interpretations and similar *use* rulings shall be treated as a Substantive Policy Statement.

102-4.2 Minor Site Plan Amendment

- A. Minor *Site Plan Amendments* are requests to *alter* or modify an approved *site plan* described in Section **102-5.1** herein by no more than ten percent (10%) in comparison to the most recent *site plan* approved by Planning and Zoning Commission and/or City Council and which typically has no significant changes to infrastructure, *buildings* and *structures*, circulation, or grading and drainage. Provided the requested changes otherwise meet the requirements of the *zoning district* in which the property is located, modifications approved under a Minor *Amendment* may include, but are not limited to, an increase or decrease in floor area; *building height*; *building setbacks*; or, the number and location of *parking spaces* but not their size.

102-4.3 Minor Land Division/Plat Corrections

- A. Minimal changes to any existing *lot*, *parcel*, tract of land, or combination thereof in the form of *Minor land division*, *lot line adjustment*, *Parcel assemblage*, and *Plat Corrections* pursuant to **Chapter 108** of the LDO.

102-4.4 Use Permits (Administrative and Temporary)

- A. Those *uses* that are allowed under an *Administrative Use Permit (AUP)* and/or a *Temporary use Permit (TUP)* in either the Land use Matrix of **Table 106-1a** or in the Accessory use Matrix of **Table 106-1b**, of this LDO, shall be authorized by the Community Development Director.
- B. *Administrative Use Permit (AUP)*. Administrative uses are those uses that are generally compatible with the land *uses* permitted by right in a *zoning district*, but require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the *use* at a particular location within a given *zoning district*.
- C. *Temporary Use Permit (TUP)*. Temporary *uses* allow for activities that may be appropriate, on an interim basis such as seasonal or transient *uses* not otherwise permitted. A *Temporary use Permit* shall be for a specific *use* on a specific property and not for a particular person or company. The Community Development Director or designee, when reviewing applications, shall have the authority to require conditions of approval.
- D. Criteria. Approval of an AUP and/or TUP shall be based on the *applicant's* ability to demonstrate the following:
1. The proposed *use* will not be detrimental to health, safety, or general welfare of *persons* living or working in the vicinity, to *adjacent* property, to the neighborhood, or to the public in general;
 2. The proposed *use* conforms to the purposes, intent, and policies of the *General Plan* and any applicable area, neighborhood, or other plan adopted by the City Council;
 3. The proposed *use* conforms to the conditions, requirements, or standards of LDO and any other applicable local, state, or federal requirements;
 4. The proposed *use*, as conditioned, would not unreasonably interfere with the *use* and enjoyment of nearby properties.
- E. Validity Limit.
1. The *use* Permit shall be valid for the *use* for which the permit was granted for the length of time indicated on the permit as long as the *use* is in compliance with the conditions of approval and other applicable ordinances.
 2. Time extensions for a *Temporary use Permit* shall be processed in the same manner as the original permit.

102-4.5 Home Product Review

- A. For any residential development that proposes to utilize, market, sell, and/or construct based off standard plans, an application for a Home Product Review shall be required to be submit to and approved by the Community Development Director or designee.
- B. Approval of any Home Product Review application shall be based on the adherence to and compliance with the Planning Design Standards of the PEDS, and the *zoning district* in which the Home Product will be utilized.

102-4.6 Administrative Waivers

- A. PED Deviations and Waivers. Per **Section 107-1.2** of the LDO, the Community Development Director or City Engineer may approve a deviation to the standards or may approve, on a case-by-case basis, a waiver for a study, report, or an analysis that may otherwise be required by the PEDS.
- B. Slope Category Analysis Waivers. Per **Section 104-2.8.A.** of the LDO, applications seeking a waiver for the requirement to submit a Slope Category Analysis may be submitted to and approved by the Community Development Director or City Engineer.

102-4.7 Corrective Plat.

- A. Per **Section 108-3.2** of this Ordinance, an approved and recorded *final plat* may be corrected or amended.

102-4.8 PEDS Deviation/Waiver

- A. A *developer* may propose plans to deviate and exceed the design standards outlined in Volume 1 of the PEDS that are submitted to and approved by the Community Development Director or designee.

ARTICLE 5 – TYPE 2 APPLICATION AND REQUESTS

102-5.1 Site Plan Review

- A. Initial Site Plan. In order to first establish a design to develop a currently undeveloped property, or redevelop a property, a *site plan* review shall be required to be approved for all development occurring within every *zoning district*; except for interior tenant improvements and *single-family* residential subdivisions, but not including Home Product Reviews (*see Procedures Manual for submittal requirements and process*).
- B. At the discretion of the Community Development Director, the *applicant* may be required to hold a neighborhood meeting if in the opinion of the Director the project may impact the *adjacent* neighborhood.
- C. Major Site Plan Amendment. Substantial *amendments* or modifications to an approved *site plan* shall be processed in the same manner as the original application. The cumulative effect of multiple minor *site plan amendments* that exceed the collective change greater than ten percent (10%) from the most recent *site plan* approved by Planning and Zoning Commission and/or City Council will require a major *site plan amendment*.
- D. Landscape Plan. A Landscape Plan is focused on plant palette, locations, and/or irrigation pursuant to Chapter 107. Landscape Plans may be approved concurrently with other applications or processed separately under a separate application.
- E. Validity Limits. Approval of a *site plan* or *amendments* thereto, shall run with the land and may continue to be valid upon a change of *ownership* of the site or *structure* for a period of two (2) years following the date of approval.

102-5.2 Protected Development Rights Plan

- A. For details on the specific processing (from pre-application, project construction, and acceptance of improvements) and the necessary submittal requirements and standards refer to the Planning and Engineering Design Standards (PEDS) and Chapter 108 of the LDO.

102-5.3 Original Townsite Incentive

- A. The Original Townsite Incentive, pursuant to **Chapter 111** of the LDO, is a request for financial incentives available as a means to encourage redevelopment within the area of Surprise known as the Original Townsite.

102-5.4 Development Agreements

- A. A development *applicant* and the city may enter into a development agreement if it is agreed to be mutually beneficial by both parties. The requirements for participation in a development agreement shall comply with A.R.S. § 9-500.05. Entering such agreement is at the City's discretion and the burden is upon the *applicant*.
- B. A preliminary discussion regarding establishment of a development agreement will take place at the Concept Review Meeting. Subsequent discussions for the purpose of continued negotiations will be scheduled by the City as needed.
- C. Unless determined as impractical by the Community Development Director or designee, the development agreement shall be considered by City Council concurrent with consideration of the applicable rezone or *site plan*.

102-5.5 Appeals and Waivers

- A. Cut and Fill Waivers (Hillside Development Areas). Per **Section 104-2.8 C.** of the LDO, the Planning and Zoning Commission may, on a site-by-site basis, amend the development limitations outlined throughout the LDO.

102-5.6 Preliminary plats

- A. The *preliminary plats* involve detailed land division planning. The submittal is reviewed by staff and presented to the Planning and Zoning Commission to give a recommendation of approval, approval with conditions, or denial of the *preliminary plat* by the City Council. The *applicant* shall provide the City with all information, outlined at the *preliminary plat* concept review meeting and the information listed in Chapter 108 of this Ordinance, essential to determine the character and general acceptability of the proposed development.

102-5.7 Final plats

- A. The *final plat* stage of land division involves submittal, review and approval of the *final plat* that is in conformance with a *preliminary plat*, the improvement plans for all improvements required by this Ordinance and Council, and recording of the *plat* with the County Recorder. A *preliminary plat* approval may be used as an attachment to the Concept Review Waiver.

ARTICLE 6 – TYPE 3 APPLICATION AND REQUESTS

102-6.1 General Plan Amendments and Specific Area Plans

- A. *Amendments* or changes to the Surprise *General Plan* may be initiated by the City Council, Planning and Zoning Commission, Community Development Director, or by a property *owner* or the property *owner's* authorized representative. Any change to the maps or text of the *General Plan* is an *amendment* to the *General Plan*.
1. Major Amendment. An application for a Major *Amendment* to the *General Plan* must be filed prior to April 1st of the calendar year and must be heard by the City Council on the first available Council meeting in December of the calendar year the request was submitted. Any Major *Amendment* must first be submitted for Commission review and recommendation. Major *Amendments* shall require an affirmative vote of at least two-thirds (2/3) of the Council.
 2. Minor Amendment. A Minor *General Plan Amendment* may be submitted independently at any time during the calendar year or processed concurrently with a development or *rezoning* application subject to the procedures herein.
 3. Specific/Sub-Area Plans. Establishing and/or amending a Specific or Sub-Area Plan and its regulations shall be done in accordance with A.R.S. §9-461.06, the Development Procedures Manual, and the provisions described in the Surprise *General Plan*.
- B. In the event that an application for an *amendment* to the *General Plan*, or a Specific or Sub-Area Plan, is denied by the City Council, or that the application is withdrawn after the Planning and Zoning Commission hearing, the City shall not accept another application for the same plan and/or *amendment* within twelve (12) months after the date of withdrawal or Planning and Zoning Commission hearing unless the *applicant's* request is approved by a super majority three-fourths (¾) vote of the City Council.
- C. It shall be the burden of the party requesting the *General Plan Amendment* to prove that the change constitutes an improvement to the *General Plan*. It shall not be the burden of the City to provide a reason that an *amendment* should be denied.

102-6.2 Rezoning Requests and LDO Text Amendments

- A. In accordance with the provisions of Arizona Law (A.R.S. § 9-462.01, et. seq.), the City Council may amend the regulations and boundaries of *zoning districts* set forth in this Code whenever deemed necessary to best serve the public interest, and the health, comfort, convenience, safety, and general welfare of the city.

- B.** Applicability. All applications for LDO text *amendments* and *rezoning* of property shall only be made through the adoption of an amending ordinance by the City Council; except for those guidelines and codes adopted herein by reference. Requests may be made as follows:
1. An application for a change in *zoning district* boundaries (*rezoning*) may be initiated by an *owner* of real property within the City and/or by that *owner's* authorized representative.
 2. An application for an *amendment* to the text of this LDO ordinance may be requested by any person.
 3. The Planning and Zoning Commission or the City Council, by its own motion at a public meeting, may also initiate such *amendments*.
- C.** Criteria and Procedure. The City, in accordance with A.R.S., and after following the public outreach outlined in **Table 102-2a** herein shall conduct the required public hearing(s) and cause the following to occur:
1. The Planning and Zoning Commission shall render a recommendation for: 1) approval, 2) approval with conditions, or 3) denial of the petitioned *rezoning* or *zoning* text *amendment*, which shall be forwarded to the Mayor and City Council in writing by the Community Development Department unless withdrawn in writing by the *applicant*.
 2. The City Council shall: 1) approve, 2) approve with conditions as the council deems applicable in order to fully carry out the provisions and intent of this Code, or 3) deny the *rezoning* or *zoning* text *amendment* request. Approval of a request to rezone land may not be enacted as an emergency measure, but shall become effective thirty (30) calendar days after City Council approval, unless a petition referring the matter to the voters is received prior to the 30th day in a manner consistent with ARS.
- D.** Reversion. The City may approve a change of zone which is conditioned upon a schedule for development of the specific *use* or *uses* for which *rezoning* is requested. If at the expiration of this period the property has not been improved for the *use* for which it was conditionally approved, the City may schedule a public hearing before the City Council to take action to extend or remove the development schedule, or determine compliance with the schedule for development, or take legislative action to cause the property to revert to its former *zoning* classification.

102-6.3 Conditional Use Permits

- A.** *Conditional Use Permits (CUP)* are required for certain land *uses* that may be incompatible with the other *uses* permitted by right in a *zoning district* but require individual review of their location, design, and configuration in order to ensure

the appropriateness of the *use* at a particular location within a given *zoning district*.

- B.** Purpose. A *CUP* sets forth conditions to protect the public health, safety, and general welfare to assure that the purposes of the *General Plan* and this Ordinance of the Surprise Municipal Code and all other applicable city codes are maintained; without such a *use* has no legal authority.
- C.** Applicability. *Uses* which may be subject to a *CUP* are those *uses* enumerated as “*CUP*” in either the Primary Land *use* Matrix of **Table 106-1a** or in the *Accessory use* Matrix of **Table 106-1b**.
- D.** Criteria. The burden of proof for satisfying the *CUP* requirements shall rest with the *applicant*. The approval or denial of *CUP* is administrative with the final approval authority lying with the Surprise Planning and Zoning Commission. A decision to deny a proposed *CUP* shall not in any way be construed as a diminution of property values or a restraint of development rights.
1. Location and character of the *use* shall not burden or conflict with the established *uses* of surrounding area. Commercial uses in residential zoning districts must have direct access or access through another commercial property to an arterial right-of-way. ;
 2. The proposed *use* shall not impair the integrity or character of the community nor shall it be detrimental to the public health, safety or general welfare of the city;
 3. The proposed *use* shall conform to the goals and policies of the *General Plan*;
 4. The proposed *use* shall conform to the goals and policies of any specific district or plans for the area;
 5. The proposed *use* shall conform to any applicable Use Specific Standards outlined in **Article 10, Chapter 106** of this Ordinance
 6. The proposed *use* shall conform to the development standards of the *zoning district* and shall take into account the following factors:
 - a. Site and *building* design;
 - b. Sensitivity to existing natural features;
 - c. Volume or character of traffic;
 - d. Circulation patterns;
 - e. Connectivity;
 - f. Parking and loading;

- g. *Screening and buffering of uses;*
 - h. *Landscaping;*
 - i. *Exterior lighting;*
 - j. *Signage;*
 - k. *Stormwater retention and drainage;*
 - l. *Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination;*
 - m. *A demonstrated need for such use.*
- 7. The proposed *use* shall have adequate *ingress and egress* to property and proposed *structures*, pedestrian and vehicular circulation with particular reference to emergency service *access*;
- 8. Adequate utilities, *access* roads, drainage sanitation; and/or
- 9. Necessary facilities will be provided and the *use* will not contribute toward an overburdening of municipal services.
- E. Validity Limit. Approval of a *CUP* shall become effective immediately. The *CUP* shall become null and void if the *use* permit has not been exercised and the *use* established within twelve (12) months of the approval date. A *CUP* is exercised when the *use* has been established or when a *building permit* has been issued, construction commenced, and the *building permit* remains valid. A *CUP* may be granted for a specified period of time, determined by the Planning and Zoning Commission, as a term of conditions of the use permit. Any use or property in violation of a Conditional Use Permit is in violation of this Ordinance.
- F. Conditions of Approval. Any *CUP* granted may be subject to such conditions deemed applicable by the Planning and Zoning Commission. A *CUP* shall become void if the subject property or use does not conform to all conditions, requirements, and standards prescribed this Ordinance or by the Planning and Zoning Commission as a condition for approval.
- G. If such *use* is *abandoned* or discontinued for a period of ninety (90) consecutive days, it may not be reestablished unless reauthorized by the Planning and Zoning Commission.
- H. *Amendments to Conditional Use Permits* shall be processed in the same manner as the original permit, except that Minor *Amendments* meeting the requirements of **Section 102-4.2** of this Ordinance may be authorized by the Community Development Director.

102-6.4 Comprehensive Sign Program

- A. Applicability. The purpose of Comprehensive Sign Programs is to provide a mechanism by which a specific set of sign criteria may be approved for a specific property or geographic area in a manner that is appropriate to the character of the community in which the Comprehensive Sign Program will apply.
- B. Criteria. Comprehensive Sign Programs must comply with regulations pursuant to this Ordinance.

102-6.5 Variances

- A. Purpose. This section provides the potential for relief from the *zoning* development standards, but not to the *permitted uses*, densities, or guidelines, of this code. Notification for *Variance* requests shall follow the requirements set forth in A.R.S. §9-462.06 and the provisions outlined in this Chapter.
- B. Applicability. The granting of a *Variance* is not a right. It may be granted at the discretion of the Board of Adjustment only if the *applicant* establishes compliance with all hardship criteria established in A.R.S. §9-462.06 and the following hardship criteria:
 - 1. There are existing special circumstances or conditions applicable to the property referred to in the application, including its size, shape, topography, location, or surroundings, to which the strict application of this Ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same *zoning district*.
 - 2. The above special circumstances or conditions are preexisting and are not created or self-imposed by the *owner* or *applicant*.
 - 3. The *Variance* is necessary for the preservation of substantial property rights. Without a *Variance*, the property cannot be used for purposes otherwise allowed in this *zoning district*.
 - 4. The *Variance* authorization will not be materially detrimental to *persons* residing or working in the vicinity, to *adjacent* property, or to the neighborhood or the public welfare.
 - 5. The *Variance* shall not constitute a grant of special privilege.
- C. Conditions of Approval. Any *Variance* granted may be subject to such conditions deemed applicable by the Board of Adjustment. *Variances* shall become void if the subject property does not conform to all conditions, requirements, and standards prescribed by the Board of Adjustment as a condition for approval of the *Variance*.
- D. Validity Limit. *Variance* approvals shall be void if an application for a *building*

permit involving the *structure* that was the subject of the *Variance* has not been submitted within six (6) months of the granting of the *Variance* or within the time stipulated by the Board of Adjustment. An expiration of the *building permit* application will result in expiration of the *Variance*. A *Variance* that is not exercised within the time limits specified shall become null and void.

102-6.6 Annexation

- A. The City or a *developer* may propose the extension of incorporated City limits according to this Ordinance and **A.R.S. § 9-471.**

CHAPTER 103 - ENFORCEMENT

ARTICLE 1 – IN GENERAL

103-1.1 Purpose

- A. The purpose of this chapter is to establish the administrative and enforcement authority and the subsequent penalties for *persons* and/or properties found to be in violation of the Surprise Municipal Code Part 2 – Land Development Ordinance (LDO).

103-1.2 Enforcement Authority

- A. The Community Development Director or designee shall be responsible for the administration and enforcement of the LDO and his/her designee shall be responsible for the enforcement of the LDO to further the promotion of the public health, safety, and general welfare.
- B. The designee responsible for enforcement shall have authority to enter any *building, structure*, or premises or any part thereof, at any and all reasonable times in accordance with legal requirements governing administrative inspections of private property, for the purpose of performing official duties.
- C. It shall be the duty of the Police Department, Fire Department, Public Works Department, or any other City department to assist in the enforcement of the LDO when requested by the City Manager or designee.
- D. It shall be unlawful for any person to willfully interfere with, hinder, or obstruct enforcement personnel in the discharge of their duties.
- E. This Chapter shall be construed and enforced in conjunction with the various codes referenced in Chapter 105 of the LDO. In the event there is a conflict between the provisions of the various chapters of the LDO or the codes adopted by reference in the LDO, then the provisions of this chapter shall prevail.

103-1.3 Administrative Remedies

- A. Administrative remedies may include the withholding of plan approval, permits, certificates, or any other form of authorization or approval under the authority of the Community Development Director or designee as outlined by the Land Development Ordinance, which is Part 2 of the Surprise Municipal, after determination of any of the following:
 - (1) Any violation of the LDO; or

- (2) Any violation of a condition, stipulation, or qualification of a permit, certificate, approval or other authorization previously granted by the City.
 - (2) Revocation of any plan approval, permit, certificate, or any other form of authorization or approval under the authority of the City manager or designee as outlined by the LDO after determination of any of the following:
 - a. There is departure from the plans, specifications, or conditions as required under terms of the permit; or
 - b. The permit was procured by false representation; or
 - c. The permit was issued in error; or
 - d. Any of the provisions of the LDO are being violated.
 - (3) Written notice of such revocation shall be served upon the *owner*, the *authorized agent* or contractor, or upon any person employed on the premise for which such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed except to correct such violation or to comply with the order. Such order shall state the nature of the violation, the specific provision violated, and the date and time by which the violation must be corrected.
 - (4) The City may stop grading, construction, or work on any *building* or *structure* on any land on which there is an uncorrected violation of a provision of the LDO, or of a permit or other form of authorization issued hereunder.
 - (5) The City may seek a court ordered injunction or other equitable relief to stop any violation of the LDO or of a permit, certificate or other form of authorization granted hereunder.
 - (6) In accordance with this chapter, the codes referenced in Chapter 105, and A.R.S. § 9-499, the City may abate a violation of the Surprise Municipal Code Part 2 – the LDO.
 - (7) The City, at the direction of the City Manager or designee may prohibit, restrict, or revoke occupancy of any *building* by any person or entity in which there has been a failure to comply with any permit, plans, specifications, or conditions required under the terms of the permit or any plan or other approval of the City.
- B. In addition to any administrative penalties, any person who violates any provision of the LDO or any provision of any code referenced and adopted by the LDO; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents, directive of the City manager or designee, or

of a permit or certificate issued under the provisions of any code adopted by the LDO, may be found guilty of a civil or criminal violation.

103-1.4 Violations and Penalties

- A. Violation. Any *building* or *structure* erected or maintained or any *use* of property in violation of this Ordinance shall be declared unlawful and a public nuisance, and the City Attorney shall immediately commence action, or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law; and shall take such other actions to grant such relief as will abate or remove such *building* or *structure* or *use* of any property in violation of the LDO. It shall be the right and duty of every citizen to cooperate with the City officials in the enforcement of the regulations of the LDO.
- B. Penalties. Any person who violates any regulations of this LDO or violates or fails to comply with any order or regulation made may be found guilty of a misdemeanor and upon conviction shall be sentenced to a fine or imprisonment for a term not exceeding that established by the Municipal Court or by both. Every violator shall be deemed guilty of or responsible for a separate offense for each day the violation is permitted to exist.

103-1.5 Nonconforming Uses and Structures

- A. Any *use* of land, *building*, or *structure* legally existing at the time of the effective date of this section or *amendments* thereto, may be continued even though such *use* may not conform with the regulations or *amendments* thereto for the *zoning district* in which it is located.
- B. In the event that a *nonconforming use* of land, *building*, or *structure* is *abandoned* or discontinued for a period of 90 consecutive days, any future *use* thereof shall be in compliance with this Ordinance.
- C. When any *nonconforming use* of any *structure* or land in any *zoning district* has been changed to a conforming *use*, it shall not thereafter be changed to any *nonconforming use*.
- D. In the event that a *nonconforming structure* is destroyed, the *structure* may be restored to its original *nonconforming* condition, provided:
 - (1) The cost of restoring the *structure* to its condition immediately prior to the event does not exceed 50 percent of the cost of reconstructing the entire *structure*; and,
 - (2) The cost of reconstruction is determined by three (3) state certified appraisers as required by the City Manager or designee; and,

- (3) A *building permit* application is submitted within ninety (90) days from the date of the damage.
 - (4) Expiration of a *building permit* application or approved *building permit* related to reconstruction of the *nonconforming use* will be considered a discontinuance of the *nonconforming use*.
- E. A *nonconforming structure* shall not be enlarged, extended, reconstructed, or structurally *altered* unless such *structure* and such enlargement, extension, reconstruction, or structural *alterations* conform to the LDO; however, nothing herein shall prohibit any reasonable repairs or *alterations* to such *structure*. When a *structure* has been declared unsafe by the City's Building Safety Division and/or Code Enforcement Division, it may be placed in a safe condition unless such condition was created as described in the aforementioned Subsection C.
- F. Normal maintenance of a *building* or other *structure* containing or related to a legal *nonconforming use* is permitted, including necessary structural repairs provided such structural repairs do not enlarge or intensify the *nonconforming use*.
- G. A legal *nonconforming use* shall not be changed except in conformance with the *use* requirements of the *zoning district* in which it is located.
- H. If, at the time of the enactment of this Ordinance, any *owner* of a *plot* of land consisting of one (1) or more *adjacent lots* in a legally established subdivision of record does not own sufficient contiguous land to enable conformity to the minimum *lot* size requirements, or does not have sufficient *lot* width to conform to the minimum *lot* width requirements, such *plot* of land may nevertheless be *used* as a *building* site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a *structure* of acceptable size to be built upon the *lot*, such reduction to be determined by the board of adjustment:
 - (1) In the RR or R1 zones, the reductions shall permit only a *single-family* residence.
 - (2) No *lot*, even though it may consist of one (1) or more *adjacent lots* in the same *ownership* at the time of passage of this Ordinance, shall be reduced in size so that *lot* width or *lot* area per *dwelling unit* or any other requirement is not maintained. This section shall not apply when a portion of a *lot* is acquired for a public purpose.

103-1.6 Transfer of Property

The sale and/or transfer of property that has been found to be in violation of the LDO shall not nullify the violation or stay the enforcement timeframes by which the violation is processed and compliance is required.

CHAPTER 104 - FUNDAMENTAL DEVELOPMENT REQUIREMENTS

ARTICLE 1 – IN GENERAL

104-1.1 Purpose and Intent

- A. The purpose of this Chapter is to accumulate fundamental development regulations and performance standards, which apply to any development, redevelopment and/or improvement of public and private property within the City rather than to repeat them several times. The standards and regulations set forth in this Chapter shall qualify or supplement, as the case may be, the regulations set forth elsewhere in this Ordinance.
- B. The following fundamental requirements are intended to be viewed in broad terms with the detailed provisions found within the specific policies, ordinances, plans and guidelines adopted by the City.

104-1.2 Unsuitable Sites

- A. No land shall be used, or *structure* erected if the City Engineer or authorized representative has determined that the land is unsuitable and likely to be harmful to the health, safety, and general welfare of the community. The types of features or physical aspects which may render land unsuitable include, but are not limited to, potential flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low percolation rate or bearing strength, and/or erosion susceptibility.

104-1.3 Compliance with Other Plans, Regulations, and Contiguity

- A. The adopted plans, policies, regulations, standards, and guidelines listed below may qualify or supplement the regulations of this Ordinance. Each document may be updated or replaced periodically over time and used as a regulation when in effect at the time of a development application. :
 - 1. Surprise General Plan 2035, hereinafter known as *General Plan*,
 - 2. Parks and Trails Master Plan,
 - 3. Integrated Water Master Plan Water Infrastructure July 2009,
 - 4. Integrated Water Master Plan Water Resources Update June 2015,
 - 5. Planning and Engineering Design Standards (PEDS),
 - 6. Building and Fire Codes,

7. Arts and Culture Master Plan,
8. Water and Wastewater Facility Guidelines April 2011,
9. SPA 2 Reclaimed Water and Recharge Master Plan Update September 2017,
10. Other plans adopted to guide development.

104-1.4 Urban Growth Principles

- A. Urban Growth principles encourage and guide the planning of new development to locate near *urban development* areas of the City, with the intent to achieve the following objectives:
 1. The expansion of incorporated City limits and service areas through a timely and orderly annexation program.
 2. The reinvestment in built-up areas of the City through the *infill* development process.
 3. The preservation of rural characteristics, natural areas, and features.
 4. The protection and preservation of *environmentally sensitive features* from the encroachment of *urban development* as required by Section 104-Article 2.
 5. The promotion of the City's individual image, identity, and character through the extensive and enhanced trails for pedestrian *multimodal* connectivity.
 6. The preservation of historical and cultural features.
 7. Account for improved air quality and minimize non-commuter vehicle miles traveled.
- B. Using the regulations within this Ordinance, all *new construction* and development within the City, including residential subdivisions or development having an overall *gross residential density* greater than one *dwelling unit* per acre (1 du/ac) shall;
 1. Demonstrate efficient, timely, and cost-effective extension of new City infrastructure and services and cost-effective for the City's budget program.
 2. Design for multimodal travel to nearby businesses and services as an alternative to private automobile use and accommodate public transit to existing or planned and funded route

- 3 Have multimodal connectivity with between the proposed development's boundary and existing *urban development*. All new *uses* and developments shall be existing *urban development*. All such *uses* and developments are served by completed infrastructure, including paved *streets*, public sewer and water, stormwater drainage and other utilities, as well as fire suppression consistent with the current City-adopted fire code.

104-1.5 Public Infrastructure Level of Service

- A. Every development within the City shall be adequately served by public infrastructure, facilities and services consistent with the City's adopted development standards and by other applicable federal, state, regional or county legislation.
- B. No *building permit* shall be issued unless such public infrastructure, facilities and services are in place, or commitments have been made to provide the required infrastructure and level of service standards described herein. No site-specific development plan or *building permit* shall be approved or issued that will reduce the level of service standards below the adopted level of service standards for the affected development.
- C. The following level of service standards shall be used to review and approve proposed development and construction, and to determine if a development or construction project meets or exceeds the minimum requirements for adequate infrastructure, facilities, and services.
 1. Americans with Disabilities Act (ADA). Infrastructure construction and improvements of facilities shall comply with the Americans with Disabilities Act.
 2. Community Circulation. All new development projects and development phases therein, must have physically traversable and legally established *access* that is improved and connected to the City's existing *multimodal* circulation system or to planned *multimodal* circulation improvements for which funds have been appropriated. Except for *model home* complexes, all required *multimodal* circulation infrastructure improvements shall be fully and completely installed and shall be operational and available to serve the new development phase(s) at the time the City issues the first certificate of occupancy for a *building permit* or final inspection.
 3. Water Quality and Wastewater Standards. All water and wastewater infrastructure requirements shall be in compliance with all council adopted and/or approved water and wastewater plans, guidelines, reports and documents and any county, state or federal water quality regulations.

- a. The development and installation of water supply facilities shall be adequate to provide high quality potable water from a public or community water supply source, and shall be constructed to conform to City standards and requirements set forth in the City-adopted engineering design standards, the water quality directives of the City, the Maricopa County Environmental Services Department, the State of Arizona Department of Environmental Quality, and the City-adopted Fire Code.
 - b. All developments must also be in compliance with all local, state, and federal regulations regarding aquifer recharge, erosion and sedimentation, storm drainage and runoff control, solid wastes, and hazardous substances.
 - c. No materials (organic or inorganic), compounds or chemicals, which can contaminate any water supply, interfere with bacterial process in *sewerage* treatment or otherwise cause emission of elements which are offensive or hazardous to the public health, safety, welfare or comfort shall be discharged at any point into any public *sewer*, private sewage disposal system or stream or into the ground, except in accordance with the standards approved by the Arizona State Department of Health and/or Environmental Quality or such governmental agency as may have jurisdiction over such activities.
4. Drainage and Flooding. Surface water from rooftops or *lots* shall not be allowed to drain onto *adjacent lots*. No *structure* or land shall hereafter be constructed, located, extended, converted, or *altered* within any flood hazard areas that would create a public nuisance or create a hazard to life or property.
 - a. In the design of the development, every effort shall be made to utilize the natural slope of the land for the stormwater collection system.
 - b. The point in which natural drainage flows enter and exit a property prior to development shall remain the same after the property has been *altered* for the development.
 - c. Encroachment into a *floodway* shall be prohibited including but not limited to *fill*, *new construction*, substantial improvements, and other development, unless certification by an AZ registered professional Engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
5. Fire and emergency services and facilities. A certificate of occupancy nor final inspection for a specific development shall not be issued until such

time that all necessary fire and emergency services and facilities, as required by the City to serve the development, are in place and operational. Each development phase or *building* therein shall provide paved sufficient *access*, adequate water source and pressure, and facilities for fire protection and suppression as required by the most current City adopted Fire Code. Where required by the City, the *developer* shall reserve a site(s) for a fire station facility unless approved by the Fire Marshal and/or Fire Chief.

6. Fire and Explosion Hazards. Disposal of waste materials by outdoor incineration on the premises shall require a burn permit from ADEQ. All storage of, and other activities involving inflammable and explosive materials shall be provided adequate safety devices against hazards of fire and explosion, together with adequate fire-fighting and fire suppression equipment and devices standard in industry. All storage of inflammable or explosive materials shall further comply with location requirements set forth by the Fire Department or as established by this or other City codes and ordinances.
7. Utilities. Utility services, including electrical, gas, telephone, cable, and any other dry utility, shall be provided underground and in accordance with City policies, guidelines and engineering development standards; as well as with utility companies' service rules and regulations for location and construction of utilities. Where policies and procedures regarding location, undergrounding, and *screening* of utilities differ between the City and utility company, the organizations will coordinate to address a given project. Including all financial obligations, it shall be the *developer's* responsibility to plan, design, and coordinate the installation of utilities with applicable utility companies.
8. Park, recreation, and open space facilities. A percentage of gross land area shall be required as *open space* for all new development with residential, mixed use, or commercial *zoning* as prescribed in **Chapter 106** of this Ordinance. The location, size, type, and design of *open space* and/or recreational facilities shall be in accordance with the *General Plan*, the City's adopted Parks and Trails Master Plan, and the PEDS (Chapter 107 of this Ordinance)
9. Public education facilities. If required by the *school* district, the *developer* of a subdivision shall reserve land within the proposed subdivision for a *school* site(s) to be acquired by the applicable *school* district. The provision of a site(s) for educational facilities shall comply with state legislative mandates, and with the location requirements of the applicable *school* district and the City.
10. Construction Standards and Testing specifications.

- a. Construction and/or installation of public infrastructure shall meet and conform to the requirements, standard specifications, and codes as set forth by the City departments of community development, public works, and fire department. To the extent there is any inconsistency or discrepancy between standard specifications and codes for construction and/or installation with the provisions of this chapter, the more restrictive provision shall prevail.
 - b. Sampling and testing of materials and *laboratory* inspection of materials and processes shall be performed at the expense of the *developer*. Testing shall be in accordance with the City's standards specifications and codes. Any organization providing construction materials testing services must have an established in-house *laboratory* that meets the standards and requirements of the American Society for Testing and Materials.
- 11. Phasing of development. The construction of any planned development authorized under these provisions shall be undertaken to assure full completion of the development in accordance with the adopted rezoning, *site plan, preliminary plat, or final plat*.
 - a. Each phase of development shall be related to surrounding areas and available public facilities in such a manner that failure to proceed to subsequent phases of the approved development will not adversely affect those areas or facilities.
 - b. Each completed phase of development shall comply with all applicable standards set forth in this Ordinance.
 - c. Infrastructure, as installed, shall be sufficient to accommodate each phase of the development.
 - d. The first phase of the development shall ensure connectivity to active and passive recreation, parking, landscaping, pedestrian routes, residential areas, and open space for the master site plan. Residential and commercial development projects to be constructed in phases shall be planned, designed and platted so that each subsequent phase, when completed, will function independently in terms of its vehicular and pedestrian circulation system.
 - e. For all projects less than 1,000 acres to be platted and constructed in phases, the minimum size of the first phase of development shall be equal to ten percent of the total gross land area designated and approved for development. For mixed-use development, residential, commercial and recreational uses shall be contained in the initial development phase.

- f. Prior to the applicant obtaining a building permit for permanent structures on the site, all streets that abut, traverse and/or connect with the first development phase, as well as all local streets platted for the first phase of development, shall be fully constructed in accordance with the street design standards provided in this Ordinance. Additional off-site improvements may be also required by the city manager or designee for the proposed phase.
- g. Prior to the applicant obtaining a building permit for permanent structures on the site, all utilities and drainage and erosion control measures that abut, serve and/or connect with the first development phase shall be fully installed in accordance with the engineering development standards.
- h. Prior to the applicant obtaining approval to construct any subsequent phase of development beyond the first approved phase of development, all streets, roads, alleyways, street lighting, utilities and active and/or passive recreation and open space areas platted in the first phase of development must be completed prior to commencing a second phase of development.

104-1.6 Air Quality Standards

- A. All development within the City shall comply with local, county, state, and federal air quality regulations governing air emissions including, but not limited to, those regulating odor, dust, fumes, gases or other emissions of *noxious matter*, toxic and/or corrosive, as well as suspended solid or liquid particles.
- B. Dust and particulates. Prior to engaging in any earth moving on a site, a plan for controlling dust resulting from construction or other activities on the site shall be submitted by the *developer* at the time of application for a grading permit.
- C. Undeveloped areas that are proposed to be *used for buildings*, parking, driveways sidewalks and similar *uses* that have been either disturbed through the grading process or by a previous *use* shall be required to remove weeds, debris, and dilapidated *buildings* and may be required to install dustproof ground cover ahead of construction phase schedule to prevent the intrusion of unwanted dust or blowing debris from the site/*lot*.
- D. Odors. No *use* shall be operated so as to produce the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the *lot line* of the land on which the *use* is located. The guidelines, policies and standards established by the State of Arizona Department of Environmental Quality and Maricopa County Air Quality Department, as periodically updated, are adopted herewith by the City council as the guides and standards of the City for determining quantities of offensive odors. Special

attention shall be given when placing land *uses* in the vicinity of wastewater treatment facilities.

104-1.7 Noise and vibration standards.

- A. Noise restrictions. Land *uses* and/or activities shall not result in or generate any noise perceptible beyond the boundaries of the immediate site in violation of the noise regulations in the City Municipal Code.
- B. Vibration. Every *use* shall be so operated that the ground vibration inherently and recurrently generated by the *permitted use* is not discernable, at any point beyond the site property line, without instruments.
- C. Construction of buildings and equipment operations. Any construction or repair work, or operation of any construction-type equipment or device(s) within any residential zone or within any residential designation within a planned area development (PAD) zone shall be unlawful within the hours of 9:00pm to 5:00am, except when the work is associated with an emergency operation or *public improvement*, and subject to the provisions of this section and any noise control ordinances within the Surprise Municipal Code.
- D. Property maintenance. Any outdoor maintenance or cleaning of private property that includes but is not limited to sweepers, tree or weed trimmers, leaf blowers, and lawn mowers shall be unlawful within the hours of 9:00pm to 5:00am, except when the work is associated with an emergency operation or *public improvement*, and subject to the provisions of this section and any noise control ordinances within the Surprise Municipal Code.

104-1.8 Glare and heat standards

- A. Glare and heat standards shall apply to all land development and shall regulate the *use* of building materials, large paved areas, *streets* and *street* widths and composition, sidewalks, exterior *lighting fixtures*, *building* orientations, *street* landscaping, and any other development components that could result in adverse reflected heat or harsh, bright light and/or reflections.
- B. All development shall be planned and designed so as to minimize the amount of heat and/or glare generated by a proposed *use* or activity by incorporating the following design standards:
 - 1. Use of Building Materials. Materials used in the construction of residential, retail commercial, *office*, industrial and institutional *buildings* shall be such so as not to produce intense glare or heat, whether direct or reflected, that is perceptible from any point along the *building* site's property lines.

2. Large Paved Areas. Areas developed as large hard-surface plazas and parking *lots* shall be planned and designed to incorporate canopy trees, arbors or other landscape techniques to reduce radiant heat generated from paved services.
3. Streets and Sidewalks. *Developers* shall plan, design, and install *streets* and *sidewalks* in all residential and nonresidential development in accordance with the *street* and *streetscape* standards set forth in the PEDS.
4. Exterior lighting. Public and private exterior lighting sources shall be placed in a manner so as not to cause *light spillover* or glare beyond the property line onto drivers, pedestrians and neighboring land *uses*. All exterior lighting shall be designed, located, installed, and maintained in accordance with the lighting standards and regulation provided in **Chapter 107** of this Ordinance.
5. Glare. Any activity or *manufacturing* processes that create glare, such as but not limited to welding, shall be conducted within an enclosed *building* or be effectively *screened* from public view. If the source of the glare is proposed to be *screened* with plant material, then the *applicant* must demonstrate that the *screening* will be effective year-round.

104-1.9 Hazardous Materials Standards

- A. The following general hazardous material guidelines and standards shall apply to all development or redevelopment proposals containing the storage or manufacture of hazardous or toxic materials and having the potential to cause *off-site* impacts as a result of the release or discharge of a hazardous material or toxic or *noxious matter*.
 1. No land *use* activity shall, for any period of time, result in the discharge across the boundaries of a *lot* on which it is located, either by surface run-off or by underground plume, a hazardous, toxic, or *noxious matter* in such concentrations as to be detrimental to or endanger the public health, safety, or welfare.
 2. The release of any hazardous, toxic, or *noxious matter* shall not cause injury or damage to *persons*, land or the *use* of land, or render unclean the surface or underground waters of the City to the extent of being harmful to the public health or to animal or aquatic life, or to the *use* of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary *uses*.
 3. Any operation involving ionizing radiation such as the use of gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles, shall be permitted only in

accordance with the codes, rules, and regulations of the Arizona State Department of Health Services.

4. No person shall operate or cause to be operated for any purpose any planned or unplanned source of electromagnetic radiation, including overhead utility transmission lines, which does not comply with current federal, state, and local regulations governing the location of such sources.
 5. Electromagnetic radiation generated by operating sources in compliance with and the under the regulatory auspices of the Federal Communications Commission shall be deemed unlawful if such radiation causes abnormal degradation of performance of any electromagnetic receptor of quality and proper design. The determination of "abnormal degradation of performance" and of "quality and proper design" shall be made in accordance with good engineering principles and practices, and the standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronics Industries Association.
 6. No *use*, activity, or process shall be conducted in a manner that will release airborne hazardous materials.
- B. All development proposals and land *uses* that either manufacture or store a hazardous material or toxic or *noxious matter* shall include a Hazardous Materials Impact Analysis (HMIA). The HMIA shall provide the following information.
1. Information on the specific type of materials manufactured and/or stored on-site.
 2. The magnitude of impact such hazardous materials would have on the site and surrounding area in case of an accidental release of said materials was to occur.
 3. The emergency procedures and containment plans and evacuation plans.
 4. In addition to the above HMIA information also include the following information on the site development.
 - a. How the development shall be planned and designed to comply with all City fire, safety, and building codes regulating the *use* and storage of the hazardous materials.
 - b. How and what special features of the site such as topographical conditions, earthen *berms*, proximity siting to other *buildings* on the site or adjoining property, *building* design, and walls will be utilized to lessen the impact of hazardous material releases.

104-1.10 Open space Requirements and Hierarchy.

- A. Properties that are zoned residential, mixed used, and commercial shall be required to provide a percentage of the gross acreage as *open space*; as further specified in the tables in **Chapter 106** of this Ordinance.
- B. New residential subdivisions shall plan, design, and provide the required *open space* a subdivision-wide basis that grants public access with the intent to maintain connectivity. The following hierarchical layers identify the most appropriate and preferred location, intent, and design for the required *open space*:
 - 1. In locations that best protects the identified *environmentally sensitive features* and *cultural resources* on or *adjacent* to the property, and
 - 2. In those areas where there exists opportunities to create any connectivity to a regional network of *open space* and/or trail easements that could maximize the benefit to both the residents and wildlife, and
 - 3. In those areas where there exists an opportunity for connectivity to the trails and *open space* within *adjacent* developments, and
 - 4. In those areas that provide a convenient and central location for the most number of *dwelling units* within the development.

104-1.11 Residential Density, Transfer of Density and Development Rights

- A. Residential Density. The residential *zoning districts* provide for a range in the permitted densities (refer to **Chapter 106** herein). A project may request higher *gross residential density* than the existing entitlement based on the proposal's variety of housing opportunities, generous amount of *open space*, and a creative design around *environmentally sensitive features*. Using the regulations within this Ordinance, applicants must demonstrate meeting the intent of the following hierarchy:
 - 1. Connections made to existing regional network of *open space* and/or trails and to *adjacent* developments.
 - 2. *Open space* is functional in design for passive or active recreation and not dominated by narrow landscape tracts along the *streets*.
 - 3. Exceed the number of different housing types, floor plans, and varying *lot* sizes than the minimum required per Chapter 108 of this Ordinance and the PEDS.
 - 4. Circulation and street layout to accommodate pedestrian scaled *personal services* and neighborhood retail *uses* without the need for driving on arterial streets.

5. Constructs and installs the *amenities* within the *community open space system* that are not covered by impact fees.
6. Walkability in the *multimodal* design of the residential neighborhood including but not limited to *curb separated sidewalks*, bicycle paths and trails, fully protected bicycle lanes along collector and *arterial streets* if applicable.
7. LEED level Neighborhood and *dwelling units*.

B. Transfer of Density and Development Rights. The *transfer of density and development rights* shall not be an assumed right and must occur with the approval of the City Council. Approvals of a density and development rights transfer shall be made only upon a finding that the proposed transfer will not be detrimental to the intent of, and will advance the City's interest in, protecting those lands with *environmentally sensitive features, cultural resources*, and larger tracts of *open space*.

1. Lands identified as having *environmentally sensitive features* and/or *cultural resources* along with the associated *buffer areas*, are eligible to transfer density and development rights from those lands provided the following:
 - a. All lands from which the density and development rights have been transferred from shall be concurrently rezoned to *Open space Conservation (OS-1)* or *Open space Recreation (OS-2)* depending upon the specific details of the site.
 - b. The portion of the development project that can receive *density transfer* shall have less sensitive environmental conditions than the land from which the density is transferred. Eligible receiving areas are any portions of the development project that do not contain slopes over ten (10%) percent, *environmentally sensitive features, cultural resources*, minor *water features* or major *water features*.
 - c. The *transfer of density* between slope bands/categories within a *hillside development area* shall only be allowed when transferring from a higher slope band to a lower slope band and may occur at a rate of 1:1 allowable *dwelling units* provided the maximum density within the receiving slope category/area is not exceeded; in which case the density must be transferred into next lower slope category or into a non-*hillside* area.
 - d. When all of the allowable *dwelling units* are transferred from a *hillside development area* above the ten percent (10%) slope line to a non-*hillside* area, resulting in a minimum fifty (50) acre undisturbed area above the ten percent (10%) slope line, and the resulting undisturbed area is zoned OS-1, the *density transfer* from

the *hillside development area* to the non-*hillside* area may occur at a rate of 1:1.25 allowable *dwelling units*.

- e. A density bonus may occur at a rate of 1:1.25 allowable *dwelling units* when transferring density and development rights from *water features* identified as and required for regional drainage facilities, as part of an approved City regional drainage and flood control plan developed by the City.
2. Lands without *environmentally sensitive features* or *cultural resources* may still be eligible for transferring density and development rights within a specific projects provided:
 - a. Density shall be limited to a rate of 1:1 allowable *dwelling units* when transferred for purposes of meeting the required *open space* for a development provided those lands are over five (5) acres in size and zoned *Open space Recreation (OS-2)*.
 - b. The development is proposing to utilize a *cluster development* design and the resulting *open space* is twenty-five (25%) percent greater than the minimum required by the underling *zoning district*.
3. *Off-site Transfers. Density transfers* to noncontiguous *parcels* may be approved, in order to encourage the *transfer of density and development rights* from more sensitive areas to those that are less sensitive. Such transfers shall be limited to a rate of 1:0.75 allowable *dwelling units*. Such noncontiguous transfers shall be identified at the time the application is submitted to the City so that the property *owners* of the less *sensitive lands* may join in a single application with the property *owner* of more sensitive areas, and to transfer development potential from the more sensitive to the less sensitive areas without the need for a second *rezoning*.
4. The overall density of the development site shall not exceed the density permitted for the character area as set forth in the *General Plan* nor the applicable *zoning* requirements of this Ordinance.

104-1.12 Luke Air Force Base Compatibility

- A. The City is located within the vicinity of the Luke Air Force Base and Luke Auxiliary Field 1. The City and any development within high noise contours and accident potential zones as delineated on the City's *General Plan* shall comply with Arizona State Statutes to:
 1. Minimize conflict with high noise levels and hazards generated by aircraft and

2. Provide additional notification to the public; and
3. Create orderly, efficient, and functional development patterns that are compatible with the continued operation of Luke Air Force Base.

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ARTICLE 2 – ENVIRONMENTALLY AND CULTURALLY SENSITIVE LANDS DEVELOPMENT STANDARDS

104-2.1 Applicability

- A. All properties north of State Route 74 (commonly known as Carefree Highway) and those other areas identified as Scenic Lands Development Sub Areas in the Surprise *General Plan* must comply with the processes, procedures, and regulations outlined herein in addition to any that may be developed specifically for those subareas.
- B. Elsewhere, when any portion of a development site, regardless of the acreage, *zoning*, or location within the City can be identified as having *environmentally sensitive features* or *cultural resources*, the entire development site shall be required to adhere to the following processes, procedures, and regulations:
 - 1. Develop an *Environmental Inventory Plan* and Report of the site;
 - 2. Utilize an *Integrated Conservation Design* approach in the design and development of the project; and
 - 3. Comply with the *Environmentally Sensitive Lands Standards* in the **PEDS - Chapter 5** and the standards outlined in the following sections.

104-2.2 Environmental Inventory Plan and Report

- A. An *Environmental Inventory Plan* and Report shall be submitted along with all development applications, including applications for *General Plan Amendments*, zone changes, *platting*, and *site planning*; except for a *single-family home on a lot* in a subdivision with an approved *Environmental Inventory Plan* on file with the City.
- B. The required *Environmental Inventory Plan* and Report shall identify the *environmentally sensitive feature(s)*, and *cultural resource(s)* that are to be conserved and protected within the proposed development and the *buffer area(s)* necessary to mitigate impacts to those features and resources from the development. Boundary determination shall be based upon the biological and ecological characterization of the *environmentally sensitive feature(s)* and the culturally sensitive nature of the land. Using maps, photos, and on-site evaluation, the *Environmental Inventory Plan* shall at a minimum identify and locate the following features and resources as well as others that may be found to be unique to the site:
 - 1. *Hillside development areas, steep and unstable slopes, and ridgelines.*
 - 2. *Habitat areas, wildlife corridors and movement areas.*

- a. The wildlife *use* of the area showing the species of wildlife using the area, the times or seasons that the area is *used* by those species and the “value” (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species.
 - b. *Habitat* that supports federally endangered plant or animal species, Species of Greatest Conservation Need (SGCN) in Arizona, or *significant stands of protected native plant* species.
 - c. Any special features, such as *habitat*, breeding, and population patches.
 - d. Wildlife movement corridors.
3. *Protected native plant(s) and significant stands of vegetation.*
 - a. An inventory of the pattern, species and location of *protected native plants* listed in **Table 104-2a** below as well as other on-site native vegetation that are five inches or greater in *caliper* or cacti that are three feet or greater in height or cacti that have reached their full height at maturity.

Table 104-2a - Protected Native Plants	
Botanical Name	Common Name
TREES: (▲) Denotes trees which are indigenous to the Phoenix metropolitan area	
Acacia farnesiana or smalli	Sweet Acacia
Celtis pallida	Desert Hackberry
Cercidium floridum	▲ Blue Palo Verde
Cercidium microphyllum	▲ Foothill Palo Verde
Chilopsis linearis	Desert Willow
Juniperous species	Juniper
Olneya tesota	▲ Ironwood
Populus fremontii	Fremont Cottonwood
Prosopis velutina	▲ Velvet Mesquite
Cacti and Succulents	
Carnegiea gigantea	Saguaro
Ferocactus	Barrel Cactus
Fouquieria splendens	Ocotillo
Canotia holocantha	Crucifixion Thorn
Peniocereus Greggii	Desert Night-Blooming Cereus
Yucca elata	Soaptree Yucca

4. *Water features* include *floodplains*, *desert washes*, *riparian areas*, *rivers/streams*, *springs/seeps*, and *wetlands*.
 - a. The boundary of any *wetlands* that might exist on the site and a description of the ecological functions and characteristics provided by those *wetlands*.
 - b. The bank and high water mark of any perennial stream, *floodway*, *floodplain*, wash, or swale on the site (identified by professional engineer).
5. *Archeological or cultural resources*.
 - a. An archeological records survey by the State Historic Preservation Office (SHPO) shall be conducted for the development site.
 - b. A complete on-site archeological assessment, by a qualified archeologist, shall be required if after the initial records check it is determined that:
 - (1) The proposed development site contains lands upon which an *archaeological resource* has been previously identified; and/or
 - (2) SHPO or the Arizona State Museum (ASM) determines that an on-site archeological study is needed due to known, but not formally identified/reported, *cultural resources* are likely present on the site or in the immediate vicinity.
 - (3) A previous SHPO survey has not been conducted for the site.
- C. The Environmentally Inventory Report shall provide a narrative description of the general archeological, biological and ecological functions provided by the *habitats*, *environmentally sensitive features* or *cultural resources*. The report shall also outline the specific mitigation measures to be utilized and the *buffer areas* necessary to protect the *habitats*, features, and resources on the proposed development site.
- D. In *Hillside Development Area*: In addition to the materials listed in **B** and **C above** a detailed Slope Category Analysis shall be required to be submitted for any site that contains slopes of ten (10%) percent or greater (Refer to **Section 104-2.8** for more details). Also, the report shall include a proper soil investigation by a licensed geologist or engineer to determine if any geological hazards or soil bearing provisions shall be required.
- E. Both the *Environmental Inventory Plan* and accompanying report shall be prepared by the *applicant's* design team of professionals with competence and registration or certification in the following area(s): urban planning, civil

engineering, wildlife biology, archeology, landscape (ASLA or certified nurseryman) and any other relevant disciplines as may be appropriate or necessary.

104-2.3 Buffer Area Regulations

- A.** An *environmental buffer area(s)* shall be required to protect the ecological and archeological character of any identified *environmentally sensitive feature(s)* and the integrity of any *cultural resource(s)* identified by the *Environmental Inventory Plan* for the development site. The proposed *buffer areas* shall be shown on the *Environmental Inventory Plan* and described by the accompanying report. Once approved by the City, these *buffer areas* shall be indicated on the final development plans and legally described on the *recorded plats*.
- B.** These *buffer areas* may be multiple and noncontiguous and may be calculated toward the development's *open space* requirement only if the *buffer area* is zoned as *Open space Conservation (OS-1)* for preservation.
- C.** The minimum width of any *buffer area* shall be seventy-five (75) feet as measured from the edge of the *environmentally sensitive feature(s)* or *cultural resource(s)* that is being protected. This width may be increased based upon the significance and sensitivity of the feature, *habitat*, or resource as determined by the City in conjunction with the *applicant's* design team professional qualified in the specific discipline in question. Reduced widths for the *buffer area* may be approved when along and *adjacent* to minor ephemeral desert washes
- D.** A designated *buffer area* shall be required for ridgeline protection which shall include the crest of any hill above the ten percent (10%) slope band as shown on the Slope Category Analysis, plus the land located within 300 horizontal feet on either side of the crest of the hill. No development shall intrude into this designated ridgeline protection area.
- E.** No disturbance or construction activity shall occur within any *buffer area* and no person shall engage in any activity that will disturb, remove, *fill*, dredge, clear, destroy or *alter* any area, including *protected native plants* and *water features* within the *buffer area*, except for the following limited purposes:

 - 1. Mitigation of development activities.
 - 2. Restoration of previously disturbed or *degraded* areas or planned enhancement projects to benefit the natural ecological characteristics of the area, feature, or resource.
 - 3. Emergency public safety activities.
 - 4. Utility installations when such activities and installations cannot reasonably be located outside the *buffer area* or other nearby areas of development.

5. Construction of a trail or pedestrian walkway that will provide public *access* for educational or passive recreational purposes provided that the trail or walkway is compatible with the ecological character or wildlife *use* of the natural *habitat*, feature, or resource.
 6. Construction or installation of recreational *amenities* such as benches, observation blinds, informational kiosk, trail marker/*signage* and similar items trails, often associated with passive activities such as hiking, photography, nature observation and environmental education programs, provided that such *amenities* are compatible with the ecological character or wildlife *use* of the natural *habitat*, feature, or resource.
 7. Limited construction necessary for *access*; but not including parking *lots* for trailheads.
- F. If the development causes any disturbance within a *buffer area* or to an *environmentally sensitive feature* or *cultural resource*, the *applicant/property owner* shall undertake restoration and mitigation measures to restore the damaged area or lost resources on-site and, if applicable, to those *adjacent off-site* areas or resources. Any such mitigation or restoration measures shall be at least equal in value (ecological, biological, culturally) to the loss suffered because of the disturbance, and shall be based upon mitigation and restoration plans and reports approved by the City's Community Development Director. Any existing *protected native plants* that are destroyed shall be replaced with native vegetation in like kind, size, and density.

104-2.4 Construction Mitigation Measures

- A. Protective measures shall be required to be in place prior to, and remain for the duration of, the development and construction of the project. The following shall be required to ensure protection of the *habitats*, *environmentally sensitive features*, *cultural resources*, and the associated *buffer areas*:
1. Limits of Development (LOD). The precise LOD shall be delineated on the development plan and/or *recorded plat* to identify those areas of the project site where no land disturbance activities can occur during the construction of the project. The location of the LOD line(s) shall consider and account for all construction activities including but not limited to, *ingress/egress* to the project site and all necessary staging and operational areas.
 2. Barrier fence. Prior to the issuance of a grading or *building permit*, and prior to any disturbance activities the limits of development (LOD) shall be clearly staked in the field, with visible plastic fencing, in conformance to the approved development/*site plan*. In locations where such fencing is physically impossible the use of visible roping may be approved. The

disturbance limit boundaries shall be established and staked by an Arizona-registered land surveyor. Appropriate warning *signs* in English and Spanish shall also be posted at least every 100 linear feet on the required fencing. Such fencing and *signage* shall be maintained in place throughout the grading/construction process and shall only be removed after a final inspection or Certificate of Occupancy has been issued by the City. The *fenced* and/or roped area shall include all previously disturbed areas and all areas intended to be disturbed. There shall be no disturbance outside the *fenced* area.

3. Construction Timing. Construction shall be organized and timed to minimize the disturbance of sensitive or specially valued species occupying or using on-site and *adjacent* natural *habitats* or features.

104-2.5 Development Regulations for Specific Environmental Features

A. Lands with *habitat areas*, *wildlife corridors* and movement areas.

1. If the *Environmental Inventory Plan* and Report identifies a *habitat* for a wildlife species classified as a sensitive or Species of Greatest Conservation Need (SGCN) in Arizona or by federal agencies as "threatened" or "endangered", then the development plan shall include provisions to ensure that the *habitat* is protected. Any such natural *habitat*, feature, *sensitive land* area and the *adjacent buffer area*, established for the *use* or survival of any such species, shall not be disturbed or diminished and, to the maximum extent feasible, such *habitat* shall be enhanced.
2. If the development site contains *wildlife corridors* and movement areas that connect to other *off-site* natural *habitats*, features or similar *sensitive land* areas, the development plan shall preserve such natural connections. Such corridors and movement areas shall be designed and constructed to allow for the continuance of existing wildlife movement between natural *habitats*, features or *sensitive land* areas and to enhance the opportunity for the establishment of new connections between other areas for the movement of wildlife.
3. *Fences* along *roadways*, within wildlife movement areas, *wildlife corridors*, and within *open space*, environmentally/culturally sensitive areas, and *buffer areas* shall be designed to allow for safe and controlled wildlife permeability.

B. Lands with *protected native plants* and/or *significant stand(s) of vegetation*.

1. Those plants which must be disturbed due to construction are required to be salvaged unless the *applicant* can demonstrate how conditions such as poor health or orientation make successful relocation impossible. Salvaged

plants are to be replanted within the project to the greatest extent possible.

2. Any project which affects any indigenous plant from the specified *protected native plant* List is required to submit a Native Plant Preservation Plan detailing the existing location and proposed treatment of each protected plant. Protected plants should, at the most optimal situation, remain in place.
3. Native Sonoran Desert vegetation should not be pruned or removed from areas identified as Natural *Open space* or *buffer areas* unless demonstrated to the City that a health, safety or welfare issue exists. This includes removal of dead trees or cacti.

C. Lands with *water features*.

1. For proposed developments that will disturb any existing *water feature* of one-quarter acre (1/4 ac) or greater, the *developer* must provide to the City a written statement from the U.S. Army Corps of Engineers that the development plan fully complies with all applicable federal regulations as established in the Federal Clean Water Act. The *developer* shall also provide to the City written statements from such other governmental agencies having jurisdiction that the development plan fully complies with all applicable federal, state and county environmental regulations. Such written statements shall be provided prior to the scheduling of a public hearing and/or approval for the project.
2. A copy of an approved permit required pursuant to Section 404 of the federal Clean Water Act, if required for the development, shall be submitted to the City prior to issuance of any excavation or grading permit or *final plat* approval.
3. If a development site contains an existing *water feature*, the development plan shall include such enhancements and restoration measures as necessary to provide a reasonable wildlife *habitat* and to improve the aesthetic quality of areas along the high water mark that are in transition, and that are subject to erosion. The development plan shall also include a design for uniform and ecologically and aesthetically compatible treatment of *lots* or tracts that are proposed to surround the *water feature*. Erosion control protection and landscaping plans shall be provided for *parcels adjacent* to the high-water mark.
4. *Water rights*. No development plan shall be approved which would have the effect of injuring or diminishing any water supply determined to be an *environmentally sensitive feature*. The creation of new *water features* shall comply with all City Water Resource Management regulations.

104-2.6 Land Disturbance Regulations

- A.** Whenever the City requires, erosion control, and bank stabilization of *floodways*, washes, swales and streams, the *use* of native vegetation and nonstructural control techniques shall be utilized for such purpose. The *use* of native vegetation shall be the principal means of channel and bank stabilization. The *use* of riprap, concrete, gunite or other similar hard-surface materials for channel and bank stabilization shall be restricted to locations where the *use* of vegetation techniques is not reasonably feasible.
- B.** All stormwater drainage shall utilize nonstructural control techniques to the greatest extent possible and shall provide for safe and controlled wildlife permeability and connectivity through these corridors by using the following methods:
1. Limitation of land disturbance and grading.
 2. Maintenance of vegetated *buffers* and natural vegetation.
 3. Minimization of impervious surfaces.
 4. Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined waterways.
 5. Use of infiltration devices.
 6. Use of recharge basins, seepage pits, dry wells, seepage beds or ditches, porous pavement, and/or drains.
 7. Use Low Impact Development design strategies such as those prescribed in the “Low Impact Development Toolkit” prepared for Glendale, AZ.
- C.** All exposed *fill* in the disturbed area shall be contained behind retaining walls or covered with a natural rock veneer and treated with an aging agent and landscaped with indigenous plant material.

104-2.7 Transition Standards

- A.** If the project contains or *abuts* a publicly owned natural area, the development plan shall be designed so that it will be compatible with the environmental management of the public property. In order to achieve this, the development plan shall include measures such as:
1. Appropriate non-vehicular *access* to the natural area from or through the development, and
 2. *Setbacks* or *open space* tracts to provide a transition between the development and the natural area, and

3. Educational *signage* or printed information regarding the natural values, management needs, and potential conflicts associated with living in close proximity to a natural area.
- B. Development plans containing or *abuts* a publicly owned natural area shall include such easements and *rights-of-way* necessary to allow appropriate non-vehicular public *access*, unless such *access* is deemed to be unnecessary and undesirable. Any such *access* requirement or dedication shall be credited towards the *open space* requirements of the development. If the development site contains any privately owned natural area, any *access* provided to such area, whether for private or public *use*, shall be designed and managed in such manner as to minimize the disturbance of existing wildlife using such area.

104-2.8 Hillside Development Area Regulations.

- A. Slope Category Analysis.
 1. The Slope Category Analysis shall include a topographic map, at a scale not less than two hundred feet (200') to the inch, that identifies the different slope bands that exist on the development site in the below categories of slopes. The slope analysis shall be prepared at two foot (2') intervals for slopes less than ten percent (10%) and at five foot (5') intervals for slopes over ten percent (10%) and in a graphic (color coded) method that describes the following range of slope categories:
 - a. 0 to 10% slopes (*non-hillside*)
 - b. 10% to 15% slopes (*hillside development area*)
 - c. 15% to 20% slopes
 - d. 20% to 25% slopes
 - e. 25% to 30% slopes
 - f. 30% to 35% slopes
 - g. 35% to 40% slopes
 - h. 40% and Over
 2. All contour lines shall be extended onto the *adjacent* properties, a minimum of fifty feet or to a greater distance if necessary, to establish the overall slope of the land.
 3. As part of the Slope Category Analysis and mapping include the location of *ridgelines* and *significant rock outcroppings* and indicate the location and dimensions of the *buffer areas* around or along the perimeter of those

protected *environmentally sensitive features*. Include information on the location and mitigation measures proposed for those unstable *slopes* on the site.

4. *Applicants* seeking a waiver for the requirements for a Slope Category Analysis may submit a written waiver request to the Community Development Director along with an explanation of why a waiver is warranted and shall include such supporting materials as follows:
 - a. Site photographs;
 - b. Site specific topography information;
 - c. All other such information which may provide information on the request.

B. Gross Residential Density Limitations: The maximum number of *lots* into which land located in a *hillside development area* may be *subdivided* shall be the sum of the number of *lots* allowed in each slope category of land as shown in **TABLE 104-2.b** below.

Table 104-2b – Hillside Gross Residential Density Allocation	
Slope of Land/Lot	Maximum Number of Lots Per Gross Acre
0% to 10%	Underlying Zoning
10% to 15%	1.30 *
15% to 20%	1.00 *
20% to 25%	0.70
25% to 30%	0.50
30% to 35%	0.30
35% to 40%	0.20
40% and Over	0.10
Notes: * The allowable gross <i>residential density</i> of these slope categories may exceed the Maximum Number of <i>Lots</i> shown above when density is transferred from a higher slope category (refer to Section 104-1.10 for details). In no case shall the <i>gross residential density</i> exceed the sum of the number of <i>lots</i> allowed by the <i>zoning district</i> and in no case shall units be transferred to a location of higher elevation within the project.	

C. Land Disturbance Regulations.

1. Grading for utility lines, including water and sewer lines and lateral lines, electric, gas, telephone and cable services shall be restored to the natural *grade* and revegetated with native plant material as listed in **Appendix B** of the **PEDS**.
2. Mass grading shall not be permitted in any *hillside development area*.

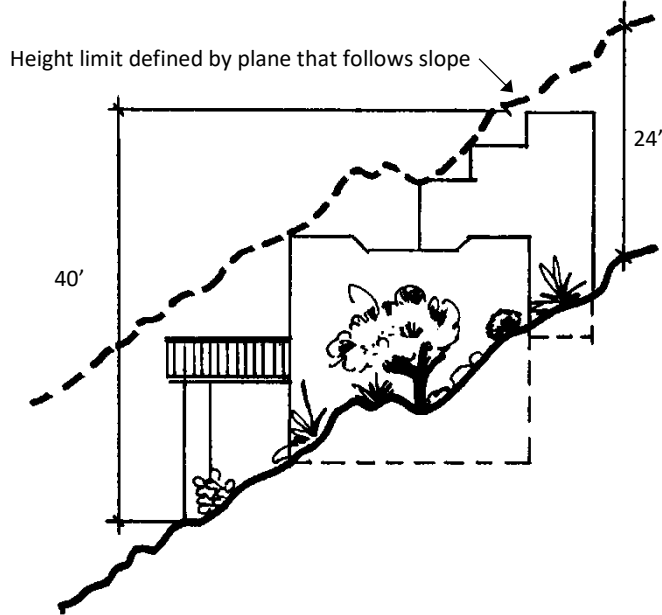
3. Raw spill slopes are prohibited.
4. Vegetation shall be reestablished on all exposed *fill* slopes, *cut* slopes, utility lines, driveway(s), and *graded* surfaces, except for cosmetic landscaping *abutting buildings* in accordance with the landscape standards in **Chapter 107** of this Ordinance pursuant to an approved landscape plan. All surplus excavated material shall be removed from the *lot* prior to any final inspection or the issuance of the Certificate of Occupancy. All *cut* and *fill* areas visible from *off-site* locations shall be treated with a natural staining or aging agent to match *adjacent* areas of the property.
5. The total combined maximum height of any *fill* and/or the depth of any *cut*, including grading for the construction of public or *private streets* or any subsequent grading, along with the establishment of any *building* site or driveway shall be ten (10) feet, as measured from natural *grade*, regardless of whether the *fill* or *cut* is retained, un-retained, or a combination thereof. These limitations may be amended on a site-by-site basis by the Planning and Zoning Commission. However, the Community Development Director may approve unexposed basement *cuts* exceeding the maximum ten foot depth if all of the following criteria are met:
 - a. The *building* site shall not be *graded* so as to create a flat, visible pad surrounding the main residential *structure*.
 - b. All portions of the *cut* in excess of ten feet shall be completely *screened* from view and retained by *building* walls, or retaining walls in the case of light wells.
 - c. Natural *grade* shall be reestablished in accordance with the "*Building height*" definition in Chapter 101 of this Ordinance.
 - d. The total depth of *cut* shall not exceed 24 feet at any point (refer to detail in Chapter 5 of the PEDS).
6. Any un-retained *fill* slope, if allowed, shall have a minimum three feet horizontal to every one foot (1') vertical *fill*. The maximum slope of *fill* grading for *roadway* construction shall be at the discretion of the City Engineer.
7. Maximum steepness of exposed *cut* slopes is dependent on the stability of the material excavated.

D. Architectural Standards.

1. For development within the *hillside development areas*, the height of *structures* shall be determined by the following three (3) sub-sections and not by the *zoning district* regulations that apply to *lots* or *parcels* outside the *hillside development area*.

- a. The height of a *building* or *structure* is limited to a twenty-four foot (24') imaginary plane that parallels the existing pre-development natural *grade*, as measured vertically from any point under the *building* (see **Figure 104-2a** below). The subterranean portion of the *structure* is not included in the total height calculation provided that at least half ($\frac{1}{2}$) of the volume of the subterranean portion of the *structure* is below natural *grade*.

Figure 104-2a – Building height in Hillside Development



- b. In the case where the natural *grade* has been *cut* and is not restored back against the *building*, no exposed face in any vertical plane shall exceed a twenty-four (24') foot height measured from the lowest, finished *grade*.
- c. The maximum overall height of the *building* or *structure*, including chimneys and *accessory structures*, shall not exceed forty feet (40') from the highest point of the *building* to natural *grade* at the lowest point *adjacent* to the *building structure* or column (see **FIGURE 104-2a** above).

104-2.9 Archeological or Cultural resources

A. Development Standards and Construction Process

1. Any *developer* whose land has been identified as requiring an archaeological assessment shall adhere to the following standards and procedures:
 - a. An archaeological assessment and survey shall be performed by a qualified archaeologist before any grading or other ground

modification takes place. If cultural features or remains are found, testing and data recovery shall be completed as per Arizona Revised Statutes.

- b. *Landowner(s)* must enter into an agreement to ensure the proper method for conserving or repatriating any remains and/or artifacts founds at the site.
 - c. Copies of final clearance reports from the State Historic Preservation Office (SHPO) shall be submitted to the City prior to construction work commencing.
2. In the event evidence of a significant historic, pre-historic or archeological nature is unearthed during construction on a site proposed for development, all work on the site shall be halted immediately, and the appropriate state agency (i.e. Arizona State Museum (ASM), SHPO) shall be contacted, additionally a professional archeologist shall be retained by the *developer* to confirm or deny the evidence, as well as the extent of land coverage of the find.
3. In the event evidence that is unearthed is determined to be of archeological significance, the *developer* shall be required to make arrangements to either remove the archeological find from the site using acceptable archeological standards and practices, or restore the site to its original condition and set aside the area as *open space*. Documentation of the ASM or SHPO and the archeologist's findings and recommendations shall be submitted to the City.
4. If during construction, human remains and associated burial items are discovered, ground disturbing activities in the vicinity of the discovery shall cease, the discovery site shall be secured, and the Arizona State Museum shall be immediately notified as required under Arizona Revised Statutes.
5. As indicated by the *Environmental Inventory Plan* those areas deemed important as *cultural resource* sites shall be preserved as closely as possible in their natural state and integrated into the development in a manner that makes such land areas part of the development's overall *community open space system*.

ARTICLE 3 – STORMWATER MANAGEMENT

104-3.1 Purpose of Provisions.

- A. The area of the City south and west of Grand Avenue prior to *urban development* was predominantly irrigated *farms*. Presently there are two (2) major systems for conveyance of stormwater to the Agua Fria River via drainage channels located along the west side of Reems Rd and the Loop 303. Understanding these drainage patterns necessitates special attention in order to control stormwater collection and *retention*.

104-3.2 Applicability.

- A. Each development shall provide storm drainage facilities and appurtenances as required by the PEDS-Volume 2: Engineering Development Standards; as well as by all current City storm drainage master plans, design criteria, and construction standards and requirements.
- B. All required storm drainage infrastructure shall be constructed and in place and available to serve the new development in accordance with an approved storm drainage master plan, an erosion control report, and utility plans.
- C. For projects involving the issuance of only one (1) *building permit* and certificate of occupancy, the installation and acceptance of the certification of the drainage facilities shall be required prior to the issuance of the certificate of occupancy.

104-3.3 Plan and Report.

- A. Conceptual stormwater collection and *retention* plans shall be submitted with a *preliminary plat* or site development plan and approved prior to the approval of such *plat* or plan. The plan shall include, but not be limited to, the following:
 - 1. Method of collection (surface and/or subsurface);
 - 2. Depth, side slopes and area of *retention*;
 - 3. Calculations of volume held and required;
 - 4. High water elevation;
 - 5. Method of disposal of water within 36 hours;
 - 6. Any other data to form a complete plan.
- B. A final drainage report must be submitted with the final plans showing compliance with the conceptual drainage plan, and shall be received and approved by the City engineer.

104-3.4 Development Regulations.

- A. All water from a 100-year storm of a two-hour duration which falls within the area being developed, including the respective one-half (1/2) of all *abutting streets* (whether or not it is a dedicated *street* which may exist by an improvement district and owned by the City), shall be retained within the boundaries of the developed land. No *retention* shall be allowed in public *rights-of-way*. The method of collection and *retention* shall be approved by the department of public works. The method of *retention* calculation, drainage flows and removal of stormwater within thirty-six (36) hours shall conform to **Section 104-3.5**.
- B. Two or more *developers* are encouraged to join together to provide a common *retention* facility. A letter of agreement signed by all *developers* participating in the common *retention area* must be presented to the department of public works, and the *recorded plat* shall indicate that the *retention area* is a joint facility. The joint *retention area* must meet all criteria as a single area.
- C. All *retention* basins shall have a design capacity to preclude a water depth in excess of three feet resulting from a 100-year, two-hour storm. The depth of *retention* basins shall be measured from the lowest *adjacent* top of the curb. In no event shall stormwater stand in the *retention* basins longer than thirty-six (36) hours. Drywells shall be required for any depth of *retention* in excess of one foot (1') and for *retention* basins that have a volume greater than one thousand cubic feet (1,000 f³). Basin bottom percolation shall not be used to reduce the volume used for drywell requirement calculations. Bleed-off pipes are not allowed.
- D. No *retention* basins will be controlled or owned by the City unless dedicated as part of the City's *park and community open space system*. Non-dedicated *retention* basins shall be maintained by the *owner*. All non-dedicated *retention* basin areas shall be designated as easement areas for *retention* purposes and shall have a recorded restrictive covenant requiring perpetual maintenance.
- E. Curbed *local streets* shall be designed and constructed to carry the stormwater runoff from a ten-year storm between curbs. Curbed collector and *arterial streets* shall be designed and constructed with no curb overtopping and to maintain one (1) dry twelve-foot (12') minimum driving lane in each direction. No inverted crown *streets*, of any type, shall be permitted. When peak flows from the designated storm exceed the *street* capacity, open area drainage and *retention* systems shall be designed to carry the excess stormwater. The rational methods shall be used to determine peak flows. Fifteen minutes' maximum may be used for the time of concentration for the runoff across the *lots*.
- F. Peak flows from a 50-year storm shall be carried within the cross section between *buildings* (*front setbacks* and *streets*). The finish floor elevation of all *buildings* shall be above the 100-year storm in compliance with the PEDS Volume 2-Engineering Development Standards. All finished floors shall be above the low outfall of the site according to the Surprise Development Directives.

- G. For nonresidential areas the required landscaping areas within the parking *lots* may serve as *retention areas* utilizing LID methods to convey stormwater to these areas. In residential areas the *parking areas* may not hold *retention* volume.
- H. The City shall not be responsible for the design, performance, operation or maintenance of the *retention* basin.
- I. The property *owner* of a single *lot* of one acre (1 ac) or smaller will be excluded from the requirements to provide on-site *retention*.

104-3.5 Retention Calculations, Drainage Flows, and Dry Wells.

- A. Formula. *Retention* calculation shall be submitted as follows:

Total volume required = (intensity for the 100-year, two-hour storm event from the Drainage Design Manual for Maricopa County, Volume I, and Surprise Development Directives) × (drainage area) × (average runoff coefficient)
- B. Runoff factors. The runoff factor used in computations must be justified by a typical cross section or actual area calculation. Refer to the Drainage Design Manual for Maricopa County to determine the runoff coefficients.
- C. Dry wells. Infiltration into the dry well cannot be considered to reduce the size of the *retention area*. The property *owner* of record shall be responsible for the design, performance, operation or maintenance of dry wells used with on-site *retention*. A dry well maintenance program shall be submitted for each dry well and documentation of maintenance performed on each dry well shall be submitted to the City engineer on an annual basis. A percolation rate of 0.5 cfs (or less, if required by the City engineer) per drywell over a 36-hour period shall be used in calculating the number of drywells.

104-3.6 Right of City to Drain Basin.

- A. It is unlawful for any person owning or controlling a *retention* basin to permit stormwater to stand therein longer than thirty-six (36) hours. In addition to any penalty provided by law, should the person owning or controlling any privately owned and maintained basin fail, neglect or refuse to drain said *retention* basin within thirty-six (36) hours, as required in **Section 104-3.4**, it shall be the right of the City upon the authorization of the water services director, or appointed designee, to enter upon the privately owned *retention* basin property and take such action as may reasonably be necessary to drain said basin. The draining of said basin shall be at the expense of the property *owner* of record or person controlling such property.

104-3.7 Assessment of Costs for Drainage.

- A. Upon completion of the work, public works director or designee shall prepare or cause to be prepared, a verified statement of account of the actual cost of draining of said basin, the date the work was completed, and the *street* address and the legal description of the property on which said work was done, including five percent for inspection and other incidental costs in connection therewith and shall serve a duplicate copy of such verified statement upon the property *owner* of record or person controlling such property in the manner prescribed in **Section 104-3.9**.

104-3.8 Appeal to Council.

- A. The property *owner* of record or person controlling such property shall have 30 days from the date of service upon him of the assessment to appeal in writing to the council from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the City Council within such 30-day period, the amount of the assessment, as determined by the public works director, shall become final and binding. If an appeal is taken, the council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made. The decision of the council shall be final and binding on all *persons*.

104-3.9 Service of Notice.

- A. Notice shall be personally served on the *owner* or person controlling such property in the manner provided in rule 4(d) of the Arizona Rules of Civil Procedure, or mailed to the *owner* or person controlling such property at his last known address by certified or registered mail, or the address to which the tax bills for the property were last mailed. If the *owner* does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address.

104-3.10 Lien for Drainage of Basin.

- A. If no appeal is taken from the amount of the assessment, or if an appeal is taken and the council has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the *office* of the county recorder and, from the date of its recording, shall be a lien on the *lot* or tract of land until paid. Such liens shall be subject to and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The City shall have the right to bring an action to enforce the lien in a court of competent

jurisdiction at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment for such purposes, and any number of liens on the same *lot* or tract of land may be enforced in the same action.

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ARTICLE 4 – NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

104-4.1 Floodplain Administrator.

- A. The City of Surprise elects not to assume the responsibility of *floodplain* management from the flood control district of Maricopa County as provided for in A.R.S. §48-3609; § 48-3610. The City engineer is designated as the NFIP [National Flood Insurance Program] Floodplain Administrator for the City, is responsible for coordinating with the Flood Control District of Maricopa County, and will serve as the community point of contact on NFIP issues for county, state and federal officials.

104-4.2 Flood Insurance Studies Adopted by Reference.

- A. Those public records entitled "Flood Insurance Study for Maricopa County, Arizona and Incorporated Areas" dated October 16, 2013 with accompanying FIRMs dated October 16, 2013 and all subsequent *amendments* and/or revisions, copies of which shall be kept on file in the *office* of the City clerk, are hereby adopted by reference as the basis for establishing the special flood hazard areas in the City of Surprise. The special flood hazard areas documented in the FIS and FIRMs are the minimum area of applicability of the *floodplain* management regulations and may be supplemented by studies for other areas as allowed in the regulations.

104-4.3 Floodplain Regulations Adopted by Reference.

- A. That public record designated as the "*Floodplain* Regulations for Maricopa County" dated June 25, 2014 and all subsequent *amendments* and/or revisions, copies of which shall be kept on file in the *office* of the City clerk, is hereby adopted as the legal basis for implementing *floodplain* management in this community.

CHAPTER 105 – BUILDING AND BUILDING REGULATIONS

ARTICLE 1 – IN GENERAL

105-1 Removal of rubbish, trash, weeds, filth, debris and dilapidated structures.

- A. The *owner*, lessee or occupant of property shall remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated *structures* which constitute a hazard to public health and safety from *buildings*, grounds, *lots*, contiguous sidewalks, *streets* and *alleys*.
- B. Upon failure to comply with a violation notice by the city, the responsible party shall correct the violation. In the event the violation is not corrected, the violation is considered a public nuisance that may be abated. This remedy is in addition to any other remedy.

105-2 - 105-18 Reserved.

ARTICLE 2 – TECHNICAL CODES

DIVISION 1 GENERALLY

105-19 Construction codes. The following codes and appendices as published by the International Code Council, and the *amendments* to those codes, as adopted by ordinance, are hereby adopted as amended and declared to be public records. At least three copies of each code and its corresponding *amendments*, if any, shall be filed in the city clerk's *office* and kept available for public use and inspection.

- A. 2012 International *Building* Code.
- B. 2012 International Residential Code.
- C. 2012 International Electrical Code.
- D. 2012 International Mechanical Code.
- E. 2012 International Plumbing Code.
- F. 2012 International Fuel Gas Code.
- G. 2012 International Energy Conservation Code.
- H. 2006 International Property Maintenance Code.
- I. 2012 International Existing *Building* Code.
- J. 2012 International Fire Code.

A certain public record entitled "2016 *Amendments* to the 2012 International Codes," dated September 20, 2016, specifically amends the 2012 *building* code, residential code, mechanical code, plumbing code, fuel gas code, energy conservation code, existing *building* code, and fire code.

State Law reference — Adoption by reference, A.R.S. § 9-801 et seq.; state plumbing code, A.R.S. § 41-619.

105-20 Interpretation of language.

Wherever the word "city" or "town" is used in any code adopted by this article, such word shall be held to refer to the city.

105-21 Code references.

All references to the International *Zoning* Code are hereby deleted in all of the codes adopted by this article.

105-22 Copies on file.

At least three copies of each code adopted by reference in section 105-19, including three copies of any revisions or *amendments* thereto, shall be filed in the *office* of the city clerk and shall be available for public use and inspection.

105-23 Administration and enforcement; conflict of laws.

The administrative authority for enforcement of this article shall be vested in the city manager or such delegate as the city manager may authorize or appoint. This article shall be construed and enforced in conjunction with chapter 125. In the event there is a conflict between the provisions of this article or the codes adopted by this article and any other provision of this Code, then the provisions of this article or the codes adopted by this article shall prevail.

105-24 Extensions and improvements.

Extensions and improvements shall be in accordance with the city's specifications and standards and approved by the city.

105-25 Penalties for violations.

Any person who violates any provision of this article or any provision of any code adopted by this article; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents or directive of the *building* official, or of a permit or certificate issued under the provisions of any code adopted by this article, shall be guilty of a civil or criminal violation.

105-26 – 105-53 Reserved.

DIVISION 2 RESERVED

105-54 – 105-89 Reserved.

ARTICLE 3 – RENTAL ACCOUNTABILITY

105-90 General Provisions

This article shall be known as the "Surprise Rental Accountability Ordinance" and may be cited as such.

105-91 Purpose and Scope

The purpose of this article is to promote the health, safety, and welfare of the citizens of Surprise, Arizona, by providing for accountability of property *owners* for slum conditions and criminal conduct. This article shall apply to all *buildings* and *structures* within the City of Surprise without regard to their use or date of construction or *alteration*.

105-92 Definitions. For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them in this section:

"Managing Agent" means a *person*, corporation, partnership or limited liability company that is authorized by the *owner* to operate and manage the property.

"Residential Rental Property" means property that is *used* solely as leased or rented property for residential purposes. If the property is a space rental *mobile home park* or a *recreational vehicle park*, "residential rental property" includes the rental space that is leased or rented by the *owner* of that rental space but does not include the *mobile home* or *recreational vehicle* that serves as the actual *dwelling*, if the *dwelling* is owned and occupied by the tenant of the rental space and not by the *owner* of the rental space.

"Responsible Party" means an *owner*, occupant, lessor, lessee, manager, licensee or other person having control over a *structure* or *parcel* of land; and in the case where the demolition of a *structure* is proposed as a means of abatement, any lien holder whose interest is recorded in the official records of the Maricopa County Recorder's Office.

"Slum Property" means residential rental property that has deteriorated or is in a state of disrepair and that manifests one (1) or more of the following conditions that are a danger to the health or safety of the public:

- (1) Hazardous electrical systems or gas connections.
- (2) Lack of safe, rapid egress.
- (3) Accumulations of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.

- (4) Structurally unsound exterior surfaces, roof, walls, doors, floors, stairwells, porches or railings.
- (5) Lack of potable water, adequate sanitation facilities, and adequate water or waste pipe connections.

105-93 Community Development Director—Duties, Appeals

- A. It shall be the duty and responsibility of the Community Development Director to administer the provisions of this article; and, pursuant to this duty, the community development director is authorized to make safe any *structure* in whole or in part, which in the opinion of the community development director, is an imminent threat to the health or safety of any person or *persons* due to the conditions of such *structure*, or to abate any nuisance established herein.
- B. No person shall, by threat or use of violence or physical force or by any other act that can be reasonably anticipated to cause physical harm to any person, including the perpetrator, intentionally obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this article.
- C. Appeals of designation of slum property:
 - (1) An appeal to a civil hearing officer may be made by filing a written request at the *office* of the code enforcement division within 35 days from the date of the notice of violation.
 - (2) Appeal application form. Appeals to a civil hearing officer shall be made on an application form supplied by the city. The application for appeal shall contain the grounds for appeal, the relief sought and the appellant's mailing address.

State Law reference— A.R.S. § 33-1905.

105-94 Rules and Regulations

The community development director is authorized to make rules and regulations necessary to carry out the provisions of this article.

105-95 Authority and Inspections

- A. The city is authorized to make inspections of property to determine compliance with the provisions of this article as allowable by law.

- B. An inspector may expand the scope of any inspection to include other City Code violations noted during inspection.
- C. If upon inspection, one (1) or more violations of the city's adopted property maintenance code exist, the *owner* or responsible party will be required to correct all violations within a reasonable amount of time.
 - (1) In the event that the *building, dwelling or dwelling unit* is unoccupied or becomes unoccupied, future occupancy will be prohibited until a compliance letter is issued by the city. Upon receipt of a written request by the *owner* or responsible party, the city will re-inspect for the purpose of re-occupancy within a reasonable time.

State Law Reference— A.R.S. §§ 33-1904, 9-1302 and 1303.

105-96 Specified Unlawful Activities—General Penalty

Wherever in this article an act is prohibited or declared unlawful, and wherever in this article the doing of any act is required or the failure to do any act is declared unlawful, the violation of any such provisions of this article is a misdemeanor, punishable by a fine or imprisonment. Officers of any corporation or partners of any firm who is the responsible party pursuant to this article, which is found to have violated any provision of this article, shall be individually subject to fine and/or imprisonment.

105-97 Jurisdiction of Court

- A. Jurisdiction of all proceedings to enforce the provisions of this article shall be in the Municipal Court of the City of Surprise.
- B. Civil actions to enforce this article may be adjudicated by a judge or court hearing officer.
- C. The Municipal Court of the City of Surprise shall have jurisdiction to issue orders permitting the city to abate conditions that constitute a violation of the provisions of this article.

105-98 Prosecution of Civil or Criminal Action

The provisions of §§ 2-233 through 2-237 of the Surprise Municipal Code shall apply to this article.

105-99 Registration of Residential Rental Property

- A. An *owner* of residential rental property shall maintain with the Maricopa County Assessor information required by this section in a manner to be determined by the Maricopa County Assessor.
- B. An *owner* of residential rental property who lives outside this state shall designate and record with the assessor a statutory agent who lives in this state and who will accept legal service on behalf of the *owner*. The *owner* shall designate the agent in a manner to be determined by the Maricopa County Assessor.
- C. Residential rental property shall not be occupied if the information required by this section is not on file with the Maricopa County Assessor.
- D. All records, files and documents that are required by this section are public records.
- E. A *person* who fails to comply with any provision of this subsection is responsible for a civil infraction and shall be assessed a civil penalty.
- F. Notwithstanding subsection (e) of this section, if a *person* complies within ten days after receiving the complaint that notices the violation, the court shall dismiss the complaint and shall not impose a civil penalty.
- G. Nothing in this section shall be construed to prohibit criminal prosecution of the violations of this section in addition to enforcement of any civil penalties.

State Law Reference — A.R.S. § 33-1902.

105-100 Abatement of Slum Property

All *buildings* or portions thereof which are determined after inspection by the community development director to be slum properties as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures allowable by law.

105-101 Designation of Slum Property; Recordation

- A. A residential rental property may be designated as a slum property if it meets all of the following:
 - (1) The definition of slum property, and
 - (2) Has three or more of the conditions or defects described in the city's adopted Property Maintenance Code at the time of the inspection, and

- (3) The conditions or defects set forth in a notice of violation provided per the city's adopted Property Maintenance Code have not been remedied within the time set forth in the notice of violation, and
 - (4) No proper and timely appeal of the notice of violation has been filed.
- B. Where designation of a property as a slum is appropriate pursuant to subsection (a), the community development director shall designate a slum property by filing in the Office of the Maricopa County Recorder a certificate describing the property and certifying that the property is a slum property and that the *owner* has been so notified. Whenever the corrections ordered thereafter have been completed or the *building* demolished so that it no longer exists as a slum property, the community development director shall file a new certificate with the Maricopa County Recorder certifying that all required corrections have been made and that the property is no longer a slum property.

105-102 Notice of Designation

In addition to any notice provided pursuant to this article, a designation of slum property shall contain a warning stating that any residential rental property designated as a slum property is subject to the provisions of Title 33, Chapter 17, of the Arizona Revised Statutes providing for penalties, the appointment of a temporary receiver, annual inspections and payment of costs for inspections.

State Law reference — A.R.S. §§ 33-1903 and 1904.

105-103 Appointment of Temporary Receiver, Property Management Firm and Recovery of Costs

In addition to other remedies provided in the Surprise Municipal Code for the abatement of slum property, the community development director is authorized to seek the appointment of a temporary receiver, require hiring of a property management firm and recovery of costs. Recovery of costs may be collected through any legally permissible means, including fees for inspections, the placement of a lien or assessment on the property.

State Law reference — A.R.S. §§ 33-1903, 1906 and 9-1305.

105-104 – 105-106 Reserved.

105-107 Penalties for Violations.

Any person who violates any provision of this article or any provision of any code adopted by this article shall be guilty of a civil or criminal violation.

105-108 Suspension or Revocation of Business License; Hearing; Appeal

Pursuant to Chapter 26 of the Surprise Municipal Code a *business* license may be denied, suspended or revoked for fraud, misrepresentation, or false statement in the application for license or in the course of conducting *business*; or by conducting a *business* in violation of any city or county ordinance or state law. All such denials, suspensions or revocations of any *business* license shall be administered under Chapter 26 of the Surprise Municipal Code.

105-109 Preferred Rental Property Program

- A. Rental properties in the city that meet the requirements of this chapter, and that satisfy three of the following criteria, shall be eligible for the preferred rental property program:
- (1) *Owner*, manager, or leasing agent, at least once every three years, attends: a crime free training program offered in any Arizona political jurisdictions; or landlord tenant training offered by a non-profit organization or an Arizona Department of Real Estate Certified real estate *school*;
 - (2) Use the crime free lease or lease addendum for all tenants;
 - (3) Conducts background checks on all prospective tenants;
 - (4) Is a certified crime free or Arizona Multihousing Association Five Star program property or the American Rental Property *Owners* and Landlords Association (ARPOLA) Crime-Free Program;
 - (5) The residential rental property is located in a *homeowners'* association or *apartment* community that participates in the Surprise Neighborhood Watch Program.

CHAPTER 106 - ZONING AND USE STANDARDS

ARTICLE 1 – IN GENERAL

106-1.1 Zoning Classification

- A. In accordance with the authority granted in A.R.S. §9-462.01B in order to classify and regulate the *use of land, buildings and structures*, and to regulate the open areas around and between the *buildings and structures*, and to regulate the density of *dwelling units*, the City is hereby divided into the *zoning districts* and overlay districts as incorporated herein **TABLE 106-1a** below:

Table 106-1a Land Development Ordinance (LDO) Zoning districts and Density		
Symbol	District Name	Dwelling Units ratios
RR	Residential Rural	43,560 sf/du
R-1	Residential Low Density	4,950 sf/du
R-2	Residential Medium Density	4,000 sf/du
R-3	Residential High Density	
SHD-RO	Surprise Heritage District-Residential Overlay	Overall 8 du/ac
SHD-CO	Surprise Heritage District-Commercial Overlay	Overall 10 du/ac
TND-R	Traditional Neighborhood Development-Residential	Overall 8 du/ac
TND-C	Traditional Neighborhood Development-Commercial	
TND-MU	Traditional Neighborhood Development-Mixed Use	Max. 18 du/ac
TND-OS	Traditional Neighborhood Development-Open Space	
MU-1	Mixed Use Medium Density	8 du/ac
MU-2	Mixed Use High Density	Min. 8 du/ac
MU-3	Mixed Use Resort	8-20 du/ac
C-O	Office Commercial	
C-1	Neighborhood Commercial	
C-2	Community Commercial	
C-3	Regional Commercial	
BP	Business Park	
I-1	Light Industrial	
I-2	General Industrial	
I-3	Heavy Industrial	
OS-1	Open Space Conservation	
OS-2	Open Space Recreation	
PF	Public Facilities	

- B. *Zoning districts*, and the *uses* and/or development standards associated with said districts, may be added or deleted upon the recommendation of the Planning and Zoning Commission and approval by the City Council by the Text *Amendment* process set forth in **Chapter 102** of the Land Development Ordinance (LDO).
- C. The City utilized a Planned Area Development (PAD) *zoning district* prior to the adoption of this Ordinance. The PAD *zoning* designation now serves only to preserve the governing entitlement documents adopted by City Council for each PAD at the time of the adoption of this Ordinance. Existing PADs may have individual development standards, land *uses*, and densities that supersede the *zoning* standards contained within this Ordinance. Any *zoning* standard contained within this Ordinance shall apply that is not explicitly identified in a PAD. General references to *zoning districts* within previous City of Surprise *zoning* codes shall follow the conversion chart listed in **Table 106-1b** of this chapter.
- D. Standards and regulations such as, but not limited to, *lot size*, *building height*, *residential densities*, and *setbacks* herein, assure compatibility of properties within a district; protect the quality of the environment from nuisances associated with certain *uses* or constructions; and provide adequate *open space* for privacy, light, air, connectivity, and green space.

106-1.2 Establishment of Zoning Map

- A. The boundaries of the various *zoning districts* are established and are shown on a map entitled "Zoning Map of Surprise, Arizona" (Zoning Map), which is attached to this Ordinance and made a part hereto.
- B. Any change of *zoning district* for a particular property will be memorialized in a City Council approved ordinance that incorporates a map *amendment* depiction.
- C. In the event that the map becomes damaged, destroyed, or lost, the City Council shall adopt a new *zoning* map consistent with the latest backup and/or all available records pertaining to its adoption or *amendment* that will supersede the previous map.
- D. City staff shall update the *zoning* map upon the effective date of the adopting Ordinance of a *zoning* change. City staff may also correct drafting and clerical errors or omissions, but corrections shall not have the effect of amending the official zones established.
- E. Where uncertainty exists with respect to any of the boundaries of the *Zoning districts* as shown on the Zoning Map, the following rules shall apply:
 - 1. *Zoning* boundaries shall be extended from the *abutting parcel* and indicated as following the center lines of *street*, highway, or railroad *rights-of-way* or such lines extended, such center lines or such lines extended shall be construed to be the boundaries;

2. Where *zoning* boundaries are indicated as approximately following the corporate limit line of the City, such corporate limit line shall be construed to be such boundaries;
3. Where *zoning* boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries;
4. No *zoning* boundary line shall hereinafter be established to divide one (1) *lot* into two (2) or more zones;
5. Where any public *right-of-way* is officially vacated or *abandon*, the *zoning districts* applied to the *abutting* properties shall thereafter extend to the former centerline of the vacated or *abandon right-of-way*; and
6. If determination of boundary cannot be resolved through reference to the preceding rules, the *Zoning administrator* shall determine the location of the district boundary.

106-1.3 Conversion Chart

- A. The following conversion table (**Table 106-1b**) compares the previous terminology used for the *zoning district* classifications from previous City of Surprise development regulations to the *zoning* classifications and regulations established by this Ordinance listed in **Section 106-1.1 (Table 106-1a)** above. Only those *zoning* districts that existed at the time of adoption of the prior regulations that are being changed by this Ordinance appear in the table.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Table 106-1b Conversion Table of Zoning Districts Nomenclature					
Title 17 and 1986 Code		Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)	
Symbol	District Name	Symbol	District Name	Symbol	District Name
R1-43	Single-family Residential	RR or RE	Residential Ranch or Residential Estate	RR	Rural Residential
R1-18	Single-family Residential	RL-2	Residential Low Density	R-1	Residential Low Density
		RL-3	Residential Low Density		
R1-8	Single-family Residential	RL-4	Residential Low Density		
R1-5	Single-family Residential	RL-5	Residential Low Density		
R-2	Multi-family Residential	RM	Residential Medium Density	R-2	Residential Medium Density
R-3	Multi-family Residential	RH	Residential High Density	R-3	Residential High Density
		RC	Residential Cluster		(district eliminated)
		CS	Countryside Center		(district eliminated)
		PUD	Planned Unit Development	PUD	Planned Unit Development
PAD	Planned Area Development	PAD	Planned Area Development	PAD	(district eliminated)
		MU	Mixed Use	MU-1	Mixed Use Medium Density
				MU-2	Mixed Used High Density
C-1	Neighborhood Commercial	CN	Neighborhood Commercial	C-1	Neighborhood Commercial
C-2	Community Commercial	CC	Community Commercial	C-2	Community Commercial
C-3	General Commercial	CR	Regional Commercial	C-3	Regional Commercial
		C-RS	Resort Commercial	MU-3	Mixed Use Resort
		BP	Business Park	BP	Business Park
I-1	Light Industrial	IP	Industrial Performance	I-1	Light Industrial
I-2	Heavy Industrial	IG	Industrial General	I-2	General Industrial
I-3	Landfill and Mineral Extraction	ILM	Industrial Land Mineral Extraction	I-3	Heavy Industrial
GU	Governmental use	PF	Public Facilities	PF	Public Facilities

106-1.4 Establishment of Land Uses

- A. The Land use Matrix (**Table 106-1c**) describes allowed primary land *uses* within the different *Zoning districts* and overlay *Zoning districts* on the basis of common functional characteristics and land use compatibility. The symbolism used in **Table 106-1c** is defined as follows:
1. “P” designates that the *use* is permitted by right.
 2. “AUP” designates that the *use* is permitted with an “*Conditional Use Permit*” as well as any Use Specific Standards per Article 10 of this chapter herein; processed as a Type 1 development application (see **Chapter 102**).
 3. “CUP” designates that the *use* is permitted with a “*Conditional Use Permit*” as well as any Use Specific Standards per Article 10 of this chapter herein; processed as a Type 3 development application (see **Chapter 102**).
 4. “(blank space)” a blank space designates that the *use* is not permitted.
- B. The *Accessory use* Matrix (**Table 106-1d**) further describes *accessory structures* and land *uses* that may be allowed *accessory* to the legal *primary uses* within the different *Zoning districts* and overlay *Zoning districts*. The symbolism used in **Table 106-1d** is the same as those defined in **Section 106-1.4 A.** above.
- C. The *Zoning administrator* shall determine if *uses* not expressly listed in **Tables 106-1c** and **106-1d** are significantly similar or dissimilar to particular *uses*:
1. Uses that are found to be similar shall meet the same requirements as the related *use* listed in this section.
 2. Uses that are found to be dissimilar, yet appropriate, shall require a text *amendment* processed in accordance with **Chapter 102**.
 3. Uses that are not listed in this section and are found to be dissimilar and inappropriate shall be prohibited.

106-1.5 Specifically Prohibited Uses

- A. The following *uses* are either inappropriate or dissimilar from any allowed *uses* as listed in **Table No. 106-1c** below and therefore are specifically prohibited in the City. When annexation of lands that have such land *uses* occurs and those *uses* are lawfully occurring, those *uses* may not prevent such annexation but will be considered to be legal non-conforming *uses* upon annexation.
1. Rendering or refining of animal by-products or the storage of offal, tanning or hides.

2. Concentrated animal feeding operations (CAFO); dairies; livestock and fowl production facilities.
3. *Junkyard, auto salvage yard, or wrecking yard.*

106-1.6 Regulations within Zones

- A. Within each of the zones the *use*, location, *height*, and size of *buildings* and *structures*, the *use* of land the size of *lots*, *yards*, *setbacks*, *open spaces*, and the *density* of population are regulated as set forth in the following Articles of this Chapter, and elsewhere in this Ordinance. Any *site plan*, *structure*, *building*, or *use* that is not in compliance with these regulations is a violation of this Ordinance.

106-1.7 Development Standards and Encroachments

- A. Setbacks. *Setbacks* shall not include any *structures*, *parking spaces*, or *drive aisles*; except as listed herein and/or other sections of this Ordinance.
 1. Driveways, *ingress/egress* aisles.
 2. Landscaping, trails, and *multimodal* paths.
 3. Outdoor dining, when allowed.
 4. Utility meters and mechanical equipment.
 5. *Accessory uses* identified in **Table 106-1d** and regulated in Article 10 of this chapter.
 6. Additional design features as regulated in the PEDS and other chapters of this Ordinance (for example: posts, *fences*, *walls*, mailboxes, floodlights, authorized lights for illuminating *parking areas*, and other features) as determined by the Community Development Director or designee.
- B. Height Limits. Maximum *height* limitations are measured to the highest rooflines and/or *parapets* necessary to *screen* mechanical equipment.
 1. Chimneys, church steeples, and other appurtenances (such as spires and flues) may be erected at a *height* exceeding the maximum *height* requirements.
 2. Mechanical penthouses and elevator and stair towers (for *multi-family* and nonresidential *buildings* only) may exceed the maximum requirements by no more than ten feet (10').

- C. Lot coverage. Measured by the total square footage of *structures* used for protection or shielding from the elements or weather divided by the square footage of the *lot*.
- D. Encroachments. To further clarify the *setback* requirements, the following exceptions shall be considered as permitted encroachments for *setback* requirements in all *zoning districts* as described in this article and elsewhere in this chapter:
 - 1. Terraces, uncovered porches, *platforms*, exposed ramps, and all other ornamental features that do not extend more than three feet above the *adjacent* natural *grade* may project into the minimum *setback* but shall be at least three feet (3') from the *adjacent lot line* or one foot (1') from any existing or proposed *access drive*;
 - 2. Sills, belt courses, cornices, eaves, lintels, gutters, awnings, and all other ornamental features may project five feet (5') into the *setbacks*, but shall be at least three feet (3') from any *adjacent lot line*;
 - 3. Chimneys may project two feet (2') into the minimum *setback*, but shall be at least three feet (3') from any *lot line*; and
 - 4. Attached covered porches, canopies, and awnings projecting over windows may extend into any minimum *rear setback* by a maximum of five feet (5'), but shall be at least three feet (3') from the *adjacent right-of-way (ROW)* or *lot line*, provided the required *side yard setbacks* are met;

106-1.8 Compliance with Other Provisions

- A. Planning and Engineering Design Standards (PEDS) as referenced in **Chapter 107, Article 1**. The Articles within the PEDS shall apply where applicable, based on the specific *zoning* and *land use*, and will govern the general site design and development, *open space* design, circulation design, landscape and *streetscape* design, and *building* form and architecture of a development in addition to those listed below.
- B. Use Specific Standards. Those *land uses* listed in **Table 106-1c** and **Table 106-1d** that have specific *use* standards associated with them shall comply with the specific standards outlined in **Article 10** herein as well as to the PEDS in **Chapter 107**.
- C. Parking Regulations. In addition to the PEDS, the parking regulations in **Chapter 107, Article 4** herein shall apply.
- D. Landscaping Regulations. All landscaping associated with development shall comply with the PEDS and **Chapter 107, Article 2** herein.

- E. Outdoor lighting. All *outdoor lighting* shall comply with the PEDS and **Chapter 107, Article 3** herein.
- F. Environmentally Sensitive Land Regulations. All development, regardless of *zoning* or *use* of the land, on lands that are determined to contain *environmentally sensitive features* or that contain *cultural resources* shall comply with **Chapter 104, Article 2** herein and **Chapter 5** of the PEDS.
- G. Land Division and Subdivision Regulations. The additional regulations governing the division of land in **Chapter 108** herein shall apply.
- H. Signage. All *signage* proposed shall comply with **Chapter 109** herein.
- I. Life Safety Codes. All life safety codes as adopted per **Chapter 105** herein.

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Table 106-1c- Land Use Matrix for All Zoning Districts

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Table 106-1c- Land Use Matrix for All Zoning Districts

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Table 106-1d – Accessory Land Use Matrix for All Zoning Districts

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ARTICLE 2 – RESIDENTIAL ZONING DISTRICTS

106-2.1 General Standards

- A. Purpose. Residential *zoning districts* create, maintain, and promote various housing opportunities for individual households and lifestyles, and maintain the desired physical character of the City's existing neighborhoods. While the districts primarily accommodate residential *uses*, some non-residential *uses* that are compatible with the residential neighborhoods may be allowed.
- B. Development Standards. In addition to **Section 106-1.8** above and **Article 2** of the Planning and Engineering Design Standards (PEDS) in **Chapter 107**, the regulations specific to residential land *uses*, shall also apply and govern the design of a development.
- C. Residential Density. Requesting *gross residential density* higher than the existing entitlement may be permitted with a Type 3 rezoning application district based on the criteria outlined in **Section 104-1.11** of the LDO to meet the intent of a variety of housing opportunities, well-designed and functional *open space*, and have a creative design around *environmentally sensitive features*.
- D. New *recorded plats* shall comply with the regulations of Chapter 108 and the PEDS, Volume 1 for *buffering* and transitioning design requirements.

106-2.2 Rural Residential (RR)

- A. Purpose. The Rural Residential (RR) *zoning district* provides areas for *single-family* homes on large *lots* in a rural setting and acts as an equivalent *zoning* for properties zoned RU-43 within the County prior to annexation by the City.
- B. Applicability and Density. The (RR) *zoning district* reflect the Rural Development Type and is allowed in the Neighborhood Character area, and the Scenic Lands Development Sub Area in accordance with the *General Plan* with a maximum *net residential density* not to exceed one (1) *dwelling unit* per acre and a maximum of one (1) *dwelling unit* per *lot* of record.
- C. Development Standards. **Table 106-2b** below identifies the required development standards for the Rural Residential (RR) *zoning district*.

Table 106-2b - Rural Residential (RR) Zoning district	
Min Lot Area (sf)	≥ 43,560
Min Lot Width	130
Min. Front setback (ft)	30
Min. Rear setback ¹ (ft)	30
Min. Side setback ¹ (ft)	20
Min. Street side setback ¹ (ft)	20
Max. Bldg. Height (ft)	40
Lot coverage	25%
Open space (% of gross acres of residential development) ²	10%
Notes: 1. <i>Garage</i> face and embellishments shall be <i>setback</i> a minimum of twenty feet (20') measured from the opposing property line except rear, <i>alley</i> loaded <i>garages</i> , which shall be <i>setback</i> nine feet (9') from edge of <i>alley</i> line 2. The City requires <i>open space</i> on a new subdivision; if recorded as metes and bounds or by a <i>minor land division</i> than <i>open space</i> will be required on each individual <i>lot</i> ; such as <i>open space</i> or trail easements	

106-2.3 Residential Low Density (R-1)

- A. Purpose. The Residential Low Density (R-1) *zoning district* provides areas for *single-family* homes on varying *lot* sizes and a mix of densities together with *schools*, *parks*, and other public services necessary for suburban residential neighborhoods.
- B. Applicability. The (R-1) *zoning district* reflects the Suburban Development Type and is allowed in the Neighborhood Character area in accordance with the *General Plan* with a maximum of one (1) *dwelling unit* per *lot* of record.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

- C. Development Standards. Table 106-2c below identifies the required development standards for the Residential Low Density (R-1) *zoning district*.

Table 106-2c - Residential Low Density (R-1) Zoning district						
Lot Categories	A ³	B	C	D	E	F
General Plan Compatibility	Suburban	Suburban	Suburban	Suburban and Rural	Rural	Rural
Lot Area (sf)	4950-7,999	8,000-11,999	12,000-17,999	18,000-27,999	28,000-43,559	≥ 43,560
Min Lot Width (sf)	45	60	80	90	100	130
Min. Front setback ¹ (ft)	12	12	15	20	20	30
Max. Front setback (ft)	25	25	30	35		
Min. Rear setback ¹ (ft)	15	20	20	25	30	30
Min. Side setback ¹ (ft)	5 & 8	5 & 10	10	10 & 15	20	20
Min. Street side setback ¹ (ft)	15	15	15	15	20	20
Max. Bldg. Height (ft)	35	35	35	35	35	35
Max Lot coverage		45%	40%	30%	30%	25%
Open space (% of gross area of residential development) ³	20%	20%	20%	15%	15%	10%
Notes: 1. <i>Garage</i> face and embellishments shall be <i>setback</i> a minimum of twenty feet (20') measured from any opposing property line; except rear <i>alley</i> loaded <i>garages</i> , which shall be <i>setback</i> six feet (6') from edge of <i>alley</i> line. 2. The City requires <i>open space</i> on a development/subdivision basis rather than on a <i>lot-by-lot</i> basis. Subdivisions with more than one lot category will provide the higher percentage of open space. 3. Subdivisions shall contain no more than seventy-five percent (75%) of lots less than forty-eight feet (48') wide and will include mitigating designs outline in Chapter 108 of this ordinance.						

106-2.4 Residential Medium Density (R-2)

- A. Purpose. The Residential Medium Density (R-2) *zoning district* allows for a variety of housing opportunities including *detached* and *attached buildings* that *single-family dwellings*, *two-family dwellings*, and *three-family dwellings* together with *schools*, *parks*, and public services necessary for an urban and suburban residential environment. While the district primarily accommodates residential *uses*, nonresidential *uses* that help to support, and are compatible with, residential neighborhoods may also be allowed when compatible with adjoining neighborhoods.
- B. Applicability. The (R-2) *zoning district* is allowed in the Neighborhood Character area in accordance with the *General Plan* with a maximum of three (3) *dwelling*

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

units per lot of record. Minimum lot area is four thousand square feet per dwelling unit (4,000 sf/du), except lots in Column A and B are permitted one dwelling unit (1 du) as shown in **Table 106-2c** below.

- C. Development Standards. **Table 106-2d** below identifies the required development standards for the Residential Medium Density (R-2) *zoning district*.

Table 106-2d - Residential Medium Density (R-2) Zoning district					
Lot Categories	A ^{4,5}	B ⁴	C	D	E
General Plan Compatibility	Urban	Urban	Suburban	Suburban	Suburban
Lot Area (sf)	2,000 – 3,400	3,500-4,949	4,950-7,999	8,000-11,999	≥12,000
Min Lot Width (sf)	35	40	45	70	80
Min. Front setback ¹ (ft)	5	10	12	12	15
Max. Front setback (ft)	N/A	25	25	25	30
Min. Rear setback ¹ (ft)	5	10	15	20	20
Min. Side setback ¹ (ft)	5 ²	5 & 7 ²	5 & 8 ²	5 & 10	10
Min. Street side setback ¹ (ft)	10	10	10	10	10
Max. Bldg. Height (ft)	30	35	35	35	35
Open space (% of gross acres of residential development) ³	25%	25%	20%	20%	20%
Notes: 1. <i>Garage</i> face and embellishments shall be <i>setback</i> a minimum of twenty feet (20') measured from any opposing property line, except rear <i>alley</i> loaded <i>garages</i>, which shall be <i>setback</i> nine feet (9') from <i>alley</i> edge line. 2. May be reduced to 0' <i>setback</i> for <i>Single-family dwellings</i> as <i>attached building</i> and separated by a <i>common wall</i> along the property line. End units must maintain the larger <i>setback</i> 3. The City requires <i>open space</i> on a subdivision or development site basis rather than on a <i>lot-by-lot</i> basis. Subdivisions with more than one lot category will provide the higher percentage of open space. 4. Subdivisions shall contain no more than seventy-five percent (75%) of lots less than fifty feet (50') wide and will include mitigating designs outline in Chapter 108 of this ordinance. 5. Only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley					

106-2.5 Residential High Density (R-3)

- A. Purpose. The Residential High Density (R-3) *zoning district* is to provide for the development of high-density residential *uses* in areas of the City where adequate *semipublic features* and services exist with capacity to serve the area. The district is designed to create a high-quality environment by incorporating design excellence as well as substantial recreational and aesthetic *amenities*.
- B. Applicability. The (R-3) *zoning district* reflects the Urban Development Type and is allowed in the Neighborhood Character area in accordance with the *General*

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Plan. Multi-family residential shall have a minimum of four (4) dwelling units per lot and a net residential density of more than eight (8) dwelling units per acre. The minimum lot size for R-3 zoning is one (1) acre.

C. Development Standards.

1. **Table 106-2e** below identifies the required development standards for the Residential High Density (R-3) zoning district.

Table 106-2e - Residential High Density (R-3) Zoning district			
Net Density (du/ac)	8-11.9	12-14.9	15+
Min. Setback to Arterial ROW (ft) ²	20	20	20
Min. Setback to Collector and Local ROW (ft) ²	15	15	15
Min. Setback Adjacent to Residential Zoning (ft)	10	15	20
Min. Setback Adjacent to Non-Residential Zoning (ft)	20	20	20
Max. Bldg. Height ¹ (ft)	45	50	60
Open space (sf/du)	150	150	150
Notes: 1. The <i>height</i> of any <i>structure</i>, or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to <i>Single-family, Two-family, Three-family development parcels</i>. The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i> 2. <i>Setback</i> may be reduced to 10' along Collector or Local <i>right-of-way</i> for units that open to the <i>street</i> and exclude a perimeter wall			

2. All projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.
 - a. Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
 - c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides

amenities such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.

- d. On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space for entertaining, gathering, or exercise equipment and fitness activities.
- e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

ARTICLE 3 – SURPRISE HERITAGE DISTRICT (SHD) ZONING DISTRICTS

106-3.1 General Standards.

- A. SHD Description. The “Surprise Heritage District” (SHD) is the area bounded by Bell Road on the north, Greenway Road on the south, El Mirage Road on the east and Dysart Road on the west.
- B. Purpose. The SHD overlay *zoning districts* enhance and protect the historic character of the Original Townsite (OTS) while providing *infill* opportunities and encouraging redevelopment for both residential and commercial *uses* that further reflect the scale and cultural character of this historic neighborhood.
- C. Establishment of *Zoning districts*. The SHD *zoning district* is an umbrella district that is applicable to all properties within this geographic area and includes either the *zoning* regulations and standards present on the property at the time the SHD *zoning* was adopted or one (1) of the overlay *zoning districts* specifically associated with the SHD *Zoning district* as further described below:
1. SHD-RO: This residential overlay (RO) is permits *uses* allowed as shown in **Table No. 106-1c** and **Table 106-1d**. Designs should be indicative of historic residential neighborhoods and the small scale *cottage industry uses* that are pedestrian-oriented and support the residents and allow for them to live, work, and play within their neighborhood. Limited commercial *uses* and *multi-family uses* shall be designed to match the scale, massing, and appearance of the *single-family* neighborhood may be appropriate on adequately sized *infill parcels*. Commercial *structures* are limited to three thousand square feet (3000sf). A minimum of five thousand square feet (5000sf) of *lot area per dwelling unit* (5000sf/du) is required for all residential *lots*. *Gross residential density* for the SHD-RO *zoning district* shall be compliant with the Suburban Development Type in the *General Plan* for up to eight (8) *dwelling units* per acre.
 2. SHD-CO: This commercial overlay (RO permits *uses* allowed as shown in **Table No. 106-1c** and **Table 106-1d** in **Article 1** of this Chapter. Designs should promote the local arts and culture as well as *business* opportunities that are compatible with and supportive of the Residential Overlay. A mix of neighborhood-scale commercial, retail, *entertainment establishments*, *live-work buildings*, and *mixed use* development shall be the primary land *uses*. Commercial *uses* shall be limited to forty-five thousand square feet (45000sf). *Multi-family* complexes may also be permitted within this overlay district if appropriately located at the fringes of the district to serve as a *buffer* to the *adjacent* residential neighborhood. A minimum of four thousand square feet of *lot area per dwelling unit* (4000sf/du) is required for allowed *multi-family* and *mixed use* developments. *Gross residential density* for the SHD-CO *zoning district* shall be compliant with the *Mixed*

Use Residential and Commercial Development Types in the *General Plan* for up to ten (10) *dwelling units* per acre.

- D. Development Incentives. Development that is zoned one (1) of the SHD overlay *zoning districts* shall be eligible for any of the following incentives:
1. New *mixed use* projects and *multi-family* projects may be reduced to three thousand square feet of *lot area per dwelling unit* (3000sf/du) when the development provides recreational facilities, community space, and connectivity to existing *adjacent* developments and the greater neighborhood.
 2. In lieu of providing on-site parking, participation in a joint *use parking lot* project or a parking improvement district shall be permitted.

106-3.2 Design and Development Standards in the SHD Zoning district.

A. Design Standards.

1. These Design Standards shall apply to any and all new development in the SHD and supersede any conflicting design standards in other parts of this Ordinance. The regulations specific to commercial and *mixed use* land uses, in **Article 3** of the **PEDS**, may apply to the design of new non-residential development when not in conflict with those outlined herein.
2. Prior to any permits being issued for new development, or renovation of an existing *building*, the architectural, site, and landscape plans shall be reviewed by Development Services for adherence to these Design Standards, in addition to other adopted regulations.
3. Plants and landscape materials shall be low water *use*, drought-tolerant plants as delineated in **Appendix C** of the **PEDS**. All areas of bare soil shall be covered with grass, drought tolerant plantings, or decomposed granite to discourage weeds and to control dust. Edible citrus and nut trees are also permitted. All landscaping shall be well-maintained with diseased and/or dead plant material removed and replaced promptly.
4. Trellis work, open front porches, and *cloth* shade sails will not be counted as part of the *lot coverage* allowance.
5. Architectural features of all *buildings* and *structures* shall reflect the historical character of Phoenix-valley architecture from the 1880's to the 1950's. These architectural features shall be present on all *elevations*.
 - a. Residential architectural designs include but are not limited to Bungalow (Classical, California, and Craftsman), Spanish Colonial Revival, California Ranch, Southwest Style, and Pueblo Revival.

- b. All *new construction* should include features and embellishments that were prominent in historical architecture to avoid bland, monotone styles. The features include but are not limited to:
 - (1) Projections and reveals; back and side porches on residential *structures*; varied roof and cornice lines; doors, windows, and window treatments such as shutters, awnings, and lintels; and traditional brick or river rock wainscoting, other architectural features such as porte-cocheres, *garage* doors, dormers, chimneys, and patios.
 - (2) *Building* materials, textures, roof treatments and pitches, *building heights*, *building* mass, and proportions indicative of historical Phoenix-valley architecture.
- 6. An open and covered porch on the front elevation for all new *single-family* residential development shall be required as a means to help create a pedestrian scale connection to the *street*, permit interaction with neighbors, enhance citizen Block Watch programs, and enhance the sense of neighborhood. *Building* orientation shall consider the existing environmental conditions and solar orientation.
- 7. Although not required, residential *fences* may be built to a *height* not exceeding six (6') feet in a *side* or *rear yard* or thirty-six (36") inches in a *front yard*. The *fence* material shall be compatible with the design style and material of the main *structure*, preferably masonry, wrought iron, or painted wood. The *use* of chain link fencing (with or without slats) is prohibited.
- 8. All non-residential land *uses*, excluding *parks*, that *abut* residential properties are required to provide visual *screening* from those residences by an opaque fence/wall or landscaping of approved drought-tolerant plant materials in combination with a wall. This *screening* shall include *accessory uses*, *loading areas*, and trash receptacles. The *use* of concertina wire is prohibited when *adjacent* to a public *right-of-way*.
- 9. On-site *retention* shall be required for all non-residential properties, all *multi-family* residential properties, and residential properties with more than one (1) *single-family dwelling*. Rainwater harvesting for plant irrigation is encouraged.
- 10. A color palette of earth tones shall be the predominate colors used. The use of accent colors is encouraged to provide a festive and lively *streetscape*. Accent color, contrasting the primary wall color, should be used to accent entryways and special architectural and trim elements (i.e. columns, trellises, lintels, sills, door and window frames, cornices, and moldings).

11. Roof-mounted mechanical equipment shall be *screened* from public view and designed to appear as an integral part of the *building*, with the exception of solar panels. Mechanical equipment, propane tanks, water filters, coolers and air conditioning units, and similar utility equipment installed at *grade* or wall mounted shall be *screened* from public view.
12. Assembly *uses* over 5,000 square feet and *multi-family dwellings* shall adhere to the following *use-specific* standards:
 - a. The residential development shall have a *building frontage* presence to the neighborhood *street* rather than primarily facing a parking lot. The front entry shall include a walkway to the *street* or surrounding neighborhood.
 - b. All multi-story *buildings* shall have unified and stylistic design elements present on all sides of the *building(s)*. A variety of massing and *building heights* and stepping rooflines are strongly encouraged. Straight rooflines should be minimized by using offsets, differing *heights*, stepping, or different orientations to produce variety within a development.
 - c. A color palette of earth tones shall be the predominate color used. The use of accent colors is encouraged to provide a festive and lively streetscape. Accent color, different from the dominate wall color, should be used to accent entryways and special architectural features of a *building*.
 - d. The required *off-street parking spaces* shall be located in the rear, to the side, or beneath the *structures* with cars recessed one-half (1/2) level to avoid interrupting the rhythm of the established *streetscape*, to make land on site available for gardens and courtyards rather than for surface parking, and to provide a pedestrian level connection to the neighborhood.
 - e. Mechanical equipment and similar utility devices, whether at *grade* or roof mounted, shall be *screened* from public view and designed to appear as an integral part of the *building*, with the exception of solar panels. The mechanical equipment *screening* shall be included in the overall allowed *building height*. Mechanical equipment shall be treated to be non-reflective. Electrical meters, service components, and SES cabinets should be *screened* from public view or designed to appear as an integral part of the *building*.
 - f. Reflective *building* materials are prohibited. Metallic surfaces, including roof materials, shall be treated to be non-reflective.

- g. The *use* of metal or corrugated metal as the primary *building* material is prohibited; it may however be *used* as an architectural accent or decorative element.
- h. The *building* materials of a project shall be durable, require low maintenance, and be of the same or higher quality as surrounding developments. The city strongly encourages all new *buildings* to meet LEED (Leadership in Energy and Environmental Design) certification standards and *building* sites to utilize low impact development (LID) technologies.
- i. All *buildings* shall harmonize architecturally with the residential character of the neighborhood.
- j. Assembly *uses* may be required to provide a traffic study, depending on the specific location.

B. Development Standards.

- 1. Existing *mobile homes* and *manufactured homes* that are not in compliance with the use-specific standards of **Section 106-10.25** herein as of the effective date of this Ordinance shall be considered as legal non-conforming *structures*. However, the existing *mobile home* or *manufactured home* may be replaced in its' entirety with a conventional site-built home or with a *manufactured home* that complies with the Use Specific Standards outlined in **Section 106-10.25** herein.
- 2. The development standards shown in **Table 106-3a** and **Table 106-3b** below are applicable to all properties within the SHD. These tables identify the development standards for properties zoned into one (1) of the overlay zones.

Table 106-3a – SHD - Residential Overlay Zoning (SHD-RO)

	Commercial	Single-family, Two-family, Three-family	Multi-family Residential
Min. Lot Area (sf)	5,000		15,000
Min. Lot Area (sf/du)		5,000	5,000
Min. Front setback (ft)	15	12 ^{2,3}	15 ^{2,3}
Max. Front setback (ft)	30	30 ⁴	30 ⁴
Min. Side setback (ft)	10	5 & 10 total ^{1,3}	20 ³
Min. Rear setback (ft)	12	12 ³	20 ³
Max. Bldg. Height (ft)	30	30	35
Lot coverage %		65%	65%

Notes:

1. May be reduced to 0' setback for *Single-family dwellings* as attached to and separated by a *common wall* along the property line. End units shall maintain the larger setback.
2. A covered front porch may encroach into the *front setback* by up to five feet (5').
3. *Garage doors/embellishments* shall be setback a minimum of twenty feet (20' alley) measured from the opposing property line, except rear, *alley loaded garages*, which shall be setback six feet (6') from the *alley* edge line.
4. Measured from the primary *dwelling*, excluding front porch.

Table 106-3b – SHD – Commercial Overlay Zoning (SHD-CO)

	Commercial Overlay
Front setback (ft)	15
Side setback (ft)	10
Rear setback (ft)	10
Max. Bldg. Height (ft)	35 ¹
Min. Lot Area (sf)/DU	4000 sf/du

Notes:

1. *Mixed Use buildings* that include vertically integrated residential have a max *height* of forty-five feet (45')

ARTICLE 4 – TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) ZONING DISTRICTS

106-4.1 General.

- A. Purpose. The purpose of the Traditional Neighborhood Development (“TND”) *zoning district* is to provide *alternative zoning district* beyond the typical single *use* residential *zoning* category. The TND *zoning district* is a hard zone that is ready-made for master planned communities. Consistent and predictable development standards, a specific list of permitted land *uses*, and basic design standards are outlined in this Article and throughout the PEDS to ensure a well-designed and walkable multi-use development. This district provides flexibility to create a sense of place, allows a mix of land *uses* and blended densities, and allows different *building* types to create neighborhoods that are more economically, socially, and environmentally sustainable than would otherwise be obtainable through conventional *zoning* and development methods.
- B. Intent. The intent is to provide for a sustainable development pattern that can reduce trip demand; provide a wide variety of residential *uses* to accommodate diverse *family* sizes, age groups, and income levels; promote a specific range of commercial *uses* focused on meeting the daily needs of the residents while being compatible with and integrated into the residential neighborhoods; promote walkability and a healthy lifestyle; create more viable self-sustaining neighborhoods where people can live, work, and play; and achieve design excellence that will enhance the unique character and setting of the City of Surprise.
- C. General Provisions.
1. The TND *zoning district* may be appropriate for land that is within the Surprise *General Plan* Neighborhood Character Area and may incorporate both suburban and urban residential development types.
 2. The minimum land area for TND *zoning* shall be 320 contiguous acres; all under single *ownership* or unified control and planned as a single comprehensive and complete development. For the purposes of this Ordinance “contiguous” means sharing a common boundary for not less than three hundred feet (300’), exclusive of *rights-of-way*.
 3. The TND *zoning district* allows a phased development with multiple land *use parcels* and a mix of land *uses*.
 4. All land *uses* shall comply with the Land *use* Matrix in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 5. Any residentially designated *lot* within a residential *development parcel* may be *used* for a non-residential land *use* (limited to those *uses*

delineated in **Table 106-1c**) only if the *lot* fronts onto a *collector street*; provided the maximum *building* size is limited to 5,000 square feet.

6. Age qualified/restricted communities are prohibited within all TND projects.
7. In addition to the other provisions, as listed in **Section 106-1.8** herein, the TND *zoning district* is intended to work in conjunction with the TND specific standards outlined throughout the PEDS.

106-4.2 Establishment of TND Zoning districts.

- A. The TND *zoning district* shall be applied to all properties within the specific geographic area of the development and in conjunction with one (1) of the overlay zones and associated regulations identified in this Section.
- B. The overlay zones indicate the proposed future land *uses* that are anticipated for the different *development parcels* that are shown on the “TND Plan of Development,” but the definitive boundaries are not confirmed until the *platting* process is completed. The overlay zones associated with TND *zoning district* are described below:
 1. TND-R: This Residential overlay is for those *development parcels* that are predominately designated for residential and the other neighborhood oriented land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 2. TND-C: This Commercial overlay is for those *development parcels* that are predominately designated for commercial land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 3. TND-MU: This *Mixed Use* overlay is for those *development parcels* that are designated for *mixed use* by vertically or horizontally integrating residential with commercial land *uses* listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
 4. TND-OS: This *Open space* overlay is for those *development parcels* that are designated as *open space*, to be retained in perpetuity as such, per the percentages required for the particular TND development. *Uses* shall be limited to those listed in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
- C. Required Mixture of Land Uses.
 1. All TND developments will be required to provide a mixture of land *uses* that include residential, commercial, *mixed use*, and *open space*. **Table 106-4a** below identifies the specific ratios for the target mix of land *uses*

based on the approved number of *dwelling units* in the overall TND project. An alternate mix of these land uses may be approved by the city council based on the individual characteristics of the TND development, including its topography, location, overall design and quality, the interface of its various components and the integration of the project into the overall community.

2. The target *gross residential density* for a new TND development is eight *dwelling units* per acre (8du/ac) with the opportunity for greater or fewer *lot* yield being approved by the City Council based on the overall design and quality of the project, its walkability and overall connectivity, the interface of its various components, and the integration of the project into the overall community (refer to **Section 106-2.1C**).
3. TND developments shall provide housing types and varying *lot* sizes to prevent creating homogenous subdivisions filled with repetitive housing types. Every TND development shall provide a minimum of three (3) distinctly different lot categories (as defined per table 106-4b) that meet the following criteria:
 - a. A minimum of one thousand five hundred square foot (1,500 sf) differential in *lot* area in combination with;
 - b. A *lot* width differential of at least twenty percent (20%); and
 - c. No one (1) *lot category* shall comprise more than sixty percent (60%) of the total number of residential *lots* within a TND development and each of the three (3) lot categories must individually comprise a minimum of twenty percent (20%) of the total number of residential lots within a TND development.
 - d. Alternatives to these criteria may be approved as part of the TND plan of development if the proposed alternatives meet the intent of these lot diversity criteria.
4. Each TND development shall have at least one (1) main *civic use* (excluding utility land *uses*), such as but not limited to a, public library, community center, museum, live performance theater, multi-generational recreation center, or equivalent type use as approved by the Planning Director. The square footage or area of this *civic use* may be calculated as a percentage of the required ratio of commercial land *use* (not to exceed five (5%) of the required commercial ratio).

Table 106-4a - Required Mix of Land Uses –Ratios for TND Zoning District

<i>Gross area</i>	<i>TND Total Dwelling units</i> ^{1,2,3}	<i>Commercial</i> ⁴	<i>Mixed use</i> ^{4, 5}	<i>Open space</i> ¹
320 acres (min.)	Approved with TND rezoning	0.0125 ac/du	0.023 ac/du	0.03 ac/du

Notes:

1. *Gross area* of the whole TND project. Open space shall be dispersed throughout all development parcels.
2. Typical *single-family* detached residential may be developed up to a maximum *gross residential density* of 8du/ac. Any *gross residential density* greater than 8du/ac shall be developed as an *attached building* product, shared court, shared cluster, mansion *apartment*, rowhouse/townhouse, *apartment*, or *mixed use* residential units.
3. The *net residential density* of any one (1) *platted* residential lot or a *mixed use development parcel* within the TND may be increased, up to a maximum of 18du/ac, if approved by the City Council.
4. Provided specific restrictions are met (see Section 106-4.1.C.5. above) a residentially *platted lot* may be used for a commercial or *mixed use* land use that is listed in **Table 106-1c** herein.
5. Not required for TND projects with an overall *gross residential density* of less than 4 du/ac.

5. Golf course(s) (not including disc golf courses) may be calculated as *open space* up to a maximum of fifty percent (50%) of the total required *open space* for a TND development. In order to be credited as *open space* the golf course must be designed so that at least fifty percent (50%) of the course is visible to the public from and along public trails or *rights-of-way*.

106-4.3 Review and Process.

A. Procedures.

1. A “TND Plan of Development” shall be submitted as part the *rezoning* process pursuant to **Chapter 102** of this Ordinance. The TND Plan of Development is the compilation of exhibits that demonstrate compliance with all requirements of this Ordinance; which at a minimum shall include the following.
 - a. A Master Development Plan Map that identifies the size and location of each *development parcel*.
 - b. Each *development parcel* shall be labeled with one (1) of the overlay *zoning districts* outlined in **Section 106-4.2B**.
2. The final approved TND Plan of Development, which will govern the development progress of a specific TND project, shall reflect the project’s acreage, approved *lot* yield, and land *use* ratios approved by the City.
3. *Platting* of the individual subdivisions within the TND boundary will still be required and shall comply with the PEDS and other design standards as referenced and outlined in **Chapter 107** and the Land Division and Subdivision Regulations in **Chapter 108** of this Ordinance.
4. *Parcels* within a TND development that are proposed for any multiple-*building apartment* complex, *mixed use* development, *civic use*, or a commercial development project shall require *Site plan* Review.

5. The specific overlay boundary lines and associated land *uses* (per **Table 106-1c**) along with the blended *lot* sizes for the residential *parcel(s)* shall be identified at the time of either the *site plan* approval or the *preliminary plat* and recorded on the *final plat*. The *gross residential density* for each residential and *mixed use development parcel* shall be in accordance with the approved TND Plan of Development.
6. At the time of *Final plat* recordation, or approval of the *site plan* if no subdivision is required, the overlay *zoning* boundaries are administratively set for the *development parcel*. The City shall monitor each TND development, from the approval of the TND Plan of Development through the *platting* stage, and then at the *building permit* stage to ensure that the land *use* mixture agreed upon through the initial *rezoning* process and the required variety of *lot* sizes and housing types is maintained. The City shall amend the official Surprise *Zoning* Map to reflect the approved “TND Plan of Development” and overlay *zoning* boundaries at each stage.

B. Amendments.

1. A Council approved TND Plan of Development may be amended administratively for the following circumstances
 - a. Up to a ten percent (10%) transfer (increase or decrease) in the allowed quantity of *dwelling units* between *development parcels* within the TND;
 - b. Up to a ten percent (10%) increase or decrease to the overall *gross residential density* of the TND as compared to the City Council approval;
 - c. Up to a ten percent (10%) shift in the individual *development parcel gross area* or configuration, as compared to the City Council approval.
2. Requests for an administrative *amendment* shall require the following:
 - a. The master *developer*, or the specific *applicant* if the master *developer* is no longer involved in the project, shall provide the City with a “Revised TND Plan of Development” that reflects any and all administratively approved *alterations* to date.
 - b. No further applications for *plats*, *site plans*, or *building permits* shall be submitted to the City until after the administrative *amendment* request has been determined; and if approved, a new “Revised TND Plan of Development” showing the latest approved *amendment* has been submitted back to the City.
3. Administrative *amendment* to the TND Plan of Development shall not be allowed if:

- a. Any *amendment* would require backbone infrastructure (water and wastewater) upsizing, or change the parameters for the master drainage design, or change the amount or intent of the *open space* component of the TND as compared to the initial approval.
4. Any *alteration* to the “TND Plan of Development” that exceeds the limits set for administrative approval, as listed above shall require City Council action as a TND *Amendment*.

C. Incentives.

1. The TND *zoning district* complies with the Neighborhood Character Area of the *General Plan* by allowing a variety of residential Development Types and specific supportive commercial. Additionally, the ratios *used* for defining the mix of required land *uses*, delineated in **Table 106-4a**, are based on *dwelling unit* and population as described in the *General Plan*. Thus a *General Plan Amendment* should not be required, provided all other provisions of the Surprise *General Plan* are satisfied.
2. After the TND *Zoning* and the associated TND Plan of Development is approved by the City, through the public hearing process, further *rezoning* of the individual *development parcels* will not be necessary provided development adheres to the approved TND Plan of Development.
3. The City allows for certain infrastructure improvements within the public *right-of-way* to be calculated as *open space* if certain *amenities* are provided or design aspects are utilized (see the PEDS in **Chapter 107** for specific details).
4. The TND Residential (TND-R) overlay is the only *zoning district* where the “shared court” (commonly known as 4-packs and 5-packs), “shared cluster”, “mansion *apartment*”, or rowhouse/townhome housing products are permitted to be utilized in the city (see **PEDS, Sec.2.5D** for specific details).

106-4.4 Development Standards.

- A. The specific development standards for the TND *zoning district* are outlined in **Table 106-4b** and **Table 106-4c** below. Each *lot*, regardless of the product type or land *use*, shall adhere to the development standards outlined in the following tables.
 1. All *multi-family* projects shall provide one hundred and fifty square feet (150 sf) of on-site *open space* per *dwelling unit*, which shall include surfacing and safety features such as lighting, and *amenities* that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below.

- a. Common *open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible to all *dwelling units* by sidewalks or local paths. The space shall be oriented maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
 - c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*, provided the space provides *amenities* such as seating areas, barbeques, fireplaces, recreational spaces, shade and landscaping.
 - d. On-site indoor recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space* provided the space is designed for communal *use* by all residents and provides space for entertaining, gathering, or exercise equipment and fitness activities.
 - e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with features such as trails and benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.
- B.** Deviations to the development standards in this section for any TND zoning district shall be considered part of a rezoning application and will be based on the individual characteristics of the TND development, including its topography, location, overall design and quality, the interface of its various components and the integration of the project into the overall community.
- C.** All *development parcels* shall adhere to the approved TND Plan of Development.

Table 106-4b – Development Standards for TND-R Parcels

Lot Categories	A ⁹	B	C ¹	D ¹	E ¹	F ¹	G ⁷	H ⁷
Lot Area (square feet)	2,000 - 3,499	3,500 - 4,949	4,950 - 7,999	8,000 - 11,999	12,000 - 17,999	18,000 and over	Multi-family 16,000	Commercial & MU 16,000
Min Lot Width (sf)	35	40	50	70	80	90	N/A	N/A
Min. Front setback (ft)	5	10 ^{2,5}	12 ^{2,5}	15 ^{2,5}	25 ⁴	30 ⁴	15	15
Max. Front setback (ft)	N/A	N/A	N/A	N/A	N/A	N/A	25	25
Min. Side setback (ft)	5 & 5	5 & 7 ³	5 & 8 ³	5 & 10	10	10 & 15	10	10
Min. Rear setback (ft) ²	5	10	15 ⁵	20 ⁵	25	30	20	15
Max. Bldg. Height (ft)	30	30	30	30	30	30	45 ⁶	35 ⁶
Lot coverage %	70%	60%	50%	50%	50%	40%	60%	60%

Notes:

1. Minimum *lot* area of four thousand square feet per *dwelling unit* (4,000 sf/du); except *lots* in Column A and B are permitted one (1) *dwelling unit*.
2. *Garage* face and embellishments shall be *setback* a minimum of twenty feet (20') measured from any opposing property line; except rear *alley* loaded *garages*, which shall be *setback* six feet (6') from *alley* edge line.
3. May be reduced to zero feet (0') *setback* for *single-family dwellings* as *attached building* and separated by *common wall* along property line. End units must maintain the larger *setback*.
4. A covered front porch may encroach closer to the *street* by up to eight feet (8').
5. A covered porch may encroach into the *setback* by up to five feet (5').
6. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to *Single-family* or *Two-family lots*. The *height* of the *structure* may increase at a ratio of one-foot (1') vertical for every one-foot *setback* horizontally (1':1'), as measured relative to the property line, to the maximum allowed *height*.
7. Minimum *lot* area of twenty-five hundred square feet per *dwelling unit* (2,500 sf/du).
8. TND projects shall contain no more than seventy-five percent (75%) of lots less than fifty feet (50') wide and will include mitigating designs outline in Chapter 108 of this ordinance.
9. Only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley

Table 106-4c – Additional Development Standards

	TND-C	TND-MU ¹	TND-OS
Min. Lot Area (sf)	6,000	16,000	N/A
Min Lot Area per Dwelling unit (sf/du)	N/A	2,000	N/A
Min. Setback to Arterial ROW (ft) ¹	20	20	15
Min. Setback to Collector and Local ROW (ft) ¹	15 ²	20 ²	15
Min. Setback Adjacent to Residential Zoning (ft) ¹	10 ³	10 ³	15
Min. Setback Adjacent to Non-Residential Zoning (ft)	15	20	15
Max. Bldg. Height (ft) ⁴	40	45	35

Notes:

1. *Setbacks* shall not include any *parking spaces* or *drive aisles* except *ingress and egress*.
2. *Setback* may be reduced to ten feet (10') for units that open to the *street* and exclude a perimeter wall
3. *Setback* increased to twenty feet (20') from *single-family* residential.
4. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to *Single-family, Two-family, Three-family development parcels*. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning*

ARTICLE 5 – MIXED USE ZONING DISTRICTS

106-5.1 General.

- A. Purpose. The *Mixed Use zoning districts* are designed to provide an integration of residential with commercial activities such as retail and service *uses, offices, public/semipublic features, recreational use and entertainment establishments*. The purpose of these districts is to create an area with diverse housing options and lifestyle *amenities* that are incorporated with social, entertainment, and employment opportunities that creates economic and social vitality and provides flexibility in the design of new developments.
- B. Intent. It is intended for the *Mixed Use zoning districts* to permit a wider variety of residential *uses* but a more specific range of commercial *uses* focused on meeting the daily needs of the residents while being compatible with and integrated into the residential neighborhoods. It is also the intent of these districts to create the *live-work-play* environment designed to promote a pedestrian scaled walkable development. All land *uses* shall comply with the Land use Matrix in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.
- C. General Standards.
1. All development, regardless of the land *use* mix, shall comply with **Chapter 107** of this Ordinance and adhere to the Planning and Engineering Design Standards (PEDS) as applicable.
 2. A *mixed use* project may integrate allowed land *uses* either vertically within the same *building* and/or horizontally as separate but *adjacent uses* within the same *development parcel*. Horizontally integrated *mixed uses* shall be both physically and visually connected for pedestrian and vehicular *uses*.
 3. *Mixed use buildings* that contain residential *uses* may be asked to demonstrate, through a report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts in residential livability or that the impacts can be mitigated through appropriate design.
 4. Vertically integrated *mixed use buildings* contain a residential component of some type above or adjacent to a variety of permitted commercial *uses*.
 5. Horizontally integrated *mixed use* developments may have residential and commercial components in separate building that are designed to have:
 - a. A unifying architectural character (style, form, and material);
 - b. An integrated circulation system and parking concept;

- c. An integration of different land *uses* and may include the *use* of vertically integrated *mixed use buildings*;
 - d. Designed as a pedestrian-oriented development.
- 6. A *mixed use* development may achieve an increased *net residential density*, up to twenty-five (25%) percent, when designated as a “receiving site” through the *Transfer of Development Rights (TDR)* regulations (refer to **Chapter 104** of this Ordinance for details on TDR).
- 7. A mix of residential and commercial occupancy shall be constructed in each stage of phased developments so that no single type of land *use* is exclusively developed at any time.
- 8. Within the *Mixed Use zoning districts* there shall be no restriction on combining different allowed non-residential *uses* within the same *building* other than those imposed by *building code* (refer to **Chapter 105** of this Ordinance) and Arizona Revised Statutes.
- 9. All projects shall provide one hundred and fifty square feet (150 sf) of on-site usable *open space* per *dwelling unit*; unless otherwise indicated in the following MU development standards tables. Onsite *open space* shall include *amenities* and safety features that enable residents to *use* the *open space*. Acceptable types of *open space* are listed below and the design of such areas is further detailed in the PEDS (see Volume 1, Chapter 3).
 - a. Common *Open space* (excluding *setbacks*) with a minimum dimension of fifteen feet (15') in any direction that is accessible via sidewalks and local paths to all *dwelling units*. The space shall to be oriented maximize the afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.
 - b. Individual balconies or patios (excluding front stoops) may be *used* for up to twenty-five percent (25%) of the required *open space*. To qualify as *open space*, balconies or patios must be at least forty square feet (40 sf) with no dimension less than five feet (5').
 - c. Rooftop decks and terraces may be *used* to meet up to fifty percent (50%) of the required *open space*.
 - d. On-site indoor fitness, entertainment, and/or recreation areas may be *used* to meet up to twenty-five percent (25%) of the required *open space*.
 - e. Environmentally sensitive areas may count toward *open space* requirements if integrated into the site design to be visible and usable by residents with passive features such as trails and

benches. Sensitive or critical areas meeting these requirements may count for up to fifty percent (50%) of the required *open space*.

- D. Process. A Type 3 review is required to establish any of the *Mixed Use zoning districts*. All development within a *Mixed Use zoning district* shall require a Type 2 *Site Plan Review* prior to the submittal for a *building* and/or grading permit. Some proposed *uses* may require a *Conditional Use Permit* (see **Table 106-1c** and **Table 106-1d** in Article 1 herein for requirements).

106-5.2 Mixed Use Medium Density (MU-1).

- A. Purpose. The *Mixed Use Medium Density (MU-1) zoning district* provides for the development of a vibrant suburban neighborhood setting through the integration of diverse housing opportunities and a limited range of commercial *uses* as an *amenity*, service, or *business* employment option for the residents within the neighborhood. Generally, the commercial *uses* shall be in keeping with the character and scale of the surrounding neighborhood.
- B. Applicability and Density.
1. The MU-1 *zoning district* may be applicable for land that is within the Neighborhood Character Area of the Surprise *General Plan*; as a suburban development type.
 2. MU-1 developments will be limited to locations at intersections or in conjunction with a *park*, *school*, *civic use*, or public space and shall have *building frontage* along collector *rights-of-way*.
 3. The maximum allowed *gross residential density* of a MU-1 development is eight *dwelling units* per acre (8 du/ac) with a minimum of four (4) *dwellings* units per *lot* of record.
- C. Diversity and Scale. MU-1 developments shall provide a mixture of both residential and non-residential *uses*.
1. Twenty-five to seventy-five percent (25-75%) of the total floor area within a MU-1 development shall be designed and constructed for residential occupancy.
 2. The ground floor of a vertically integrated *mixed use structure* shall be designed for commercial occupancy.
 3. Any individual *building* shall be limited to a maximum footprint of five thousand square feet (5000sf).
- D. Development Standards. **Table 106-5a** identifies the development standards required for the MU-1 *zoning district*.

Table 106-5a - Mixed Use Medium Density (MU-1) Zoning	
Min Development parcel Size (sf)	1 acre
Min. Lot Area per Dwelling unit (sf/du)	5,500
Min. Setback to Arterial ROW (ft)	20
Min. Setback to Collector and Local ROW (ft) ¹	15
Min. Setback Adjacent to Residential Zoning (ft)	15
Min. Setback Adjacent to Non-Residential Zoning (ft) ²	10
Max. Bldg. Height (ft) ³	45
Max individual building footprint (sf)	5000
Notes: 1. <i>Setback</i> may be reduced to ten feet (10') for units that open to the <i>street</i> and exclude a perimeter wall. 2. <i>Setback</i> may be reduced to five feet (5') when <i>adjacent</i> to other MU zoning districts 3. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to RR, R-1, and R-2 zoning districts and established <i>uses</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i>	

106-5.3 Mixed Use High Density (MU-2).

- A. Purpose. The *Mixed Use High Density (MU-2) zoning district* provides for the development of a vibrant urban residential setting with a range of high density and *multi-family* housing options mixed with employment and *entertainment establishments*.
- B. Applicability and Density.
1. The MU-2 *Zoning district* may be applicable for land that is:
 - a. Within the Neighborhood Character Area of the Surprise *General Plan*; as an Urban Development Type.
 - b. Within the Commerce and Office Character Area of the Surprise *General Plan*.
 - c. Within the Transit Oriented Development District Sub-Area of the Surprise *General Plan*.
 2. MU-2 developments must have *building frontage* along a collector or arterial *rights-of-way* and be within a quarter (¼) mile of a transit node or transit corridor.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

3. The minimum *development parcel* size to request MU-2 zoning is one (1) acre. The allowed overall *gross residential density* of a MU-2 development is between eight and twenty *dwelling units* per acre (8-20 du/ac).
- C. Diversity and Scale. MU-2 developments shall provide a mixture of both residential and non-residential *uses*.
1. All MU-2 developments shall be designed and constructed to a residential occupancy of twenty-five to seventy-five percent (25-75%) of the total floor area within a development.
 2. The ground floor of all *mixed use structures* shall be designed for commercial occupancy; except residential *structures* in a horizontal *mixed use* plan.
 3. Non-residential land *uses* shall be limited to a maximum tenant space of fifteen thousand square feet (15,000sf) when developed as a horizontal *mixed use* plan.
 4. Any individual *building* shall be limited to a maximum footprint of thirty thousand square feet (30,000sf).
- D. Development Standards. Table 106-5b below identifies the development standards required for the MU-2 zoning district.

Table 106-5b - Mixed Use High Density (MU-2) Zoning		
Lot Categories	A	B
Lot Area (sf/du)	3,700-5,500	2000 minimum
Min. Setback to Arterial ROW (ft)	20	20
Min. Setback to Collector and Local ROW ¹	15	15
Min. Setback Adjacent to Residential Zoning (ft) ²	15	20
Min. Setback Adjacent to Non-Residential Zoning (ft) ³	20	20
Max. Bldg. Height (ft) ²	50	60
Max Building Footprint (sf)	30,000	30,000
Max non-residential Tenant Occupancy (sf)	15,000	15,000
Notes: 1. <i>Setback</i> may be reduced to 10' for units that open to the <i>street</i> and exclude a perimeter wall 2. The <i>height</i> of any <i>structure</i> , or portions thereof, shall not exceed thirty feet (30') in <i>height</i> measured at the <i>setback</i> line when <i>adjacent</i> to RR, R-1, and R-2 zoning districts and established <i>uses</i> . The <i>height</i> of the <i>accessory structure</i> may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum <i>height</i> equal to the <i>zoning</i> 3. <i>Setback</i> may be reduced to fifteen feet (15') when <i>adjacent</i> to other MU zoning districts		

106-5.4 Mixed Use Resort (MU-3).

- A. Purpose. The *Mixed Use* Resort (MU-3) zoning district provides for the development of resort areas into the natural environment and setting with

ancillary recreational *amenities* as well as residential *cluster development*. This *zoning district* also allows limited commercial establishments that specifically cater to the needs of the tourist oriented trade and which are designed and located to be walkable from the resort area without interference to other daily functions of the surrounding community and other *uses* in the vicinity.

B. Applicability and Density.

1. The MU-3 *Zoning district* may be applicable for land that is:
 - a. Within the Scenic Lands Development Sub Area of the Neighborhood Character Area, of the Surprise *General Plan*; as a rural development type.
 - b. Within the Commerce and Office Character Area of the Surprise *General Plan*; as a *mixed use* residential development type.
2. The minimum *development parcel* size to request MU-3 *zoning* is twenty acres (20 ac). The allowed overall *gross residential density* of a MU-3 development is between eight and twenty *dwelling units* per acre (8-20 du/ac) when the resort development includes an *ancillary* residential component.

C. Review and Process.

1. Procedures:
 - a. A Resort Master *Site Plan* (MSP) shall be submitted as part of the *rezoning* process pursuant to **Chapter 102** of this Ordinance. The Resort MSP is the compilation of exhibits that demonstrate compliance with all requirements of this Ordinance and shall identify the size and location of each allowed *development parcel* listed below.
 - (1) Residential. A residential *development parcel* does not require space designed for commercial occupancy but is meant for a variety of housing.
 - (2) Non-residential. A non-residential *development parcel* has no residential requirement associated with the land *uses* permitted in **Table 106-1c** and **Table 106-1d**.
 - (3) *Mixed use*. A *mixed use development parcel* incorporates *multi-family* housing with space designed for commercial occupancy. The ground floor of all *mixed use structures* shall be designed for commercial occupancy; except residential *structures* in a horizontal *mixed use site plan*.

- b. *Development parcels* labeled as Residential will be *platted* as per **Chapter 108** of this Ordinance and shall comply with the PEDS and other design standards in **Chapter 107**.
 - c. A *Site Plan* Review will still be required for any multiple-*building apartment* complex, *mixed use*, or non-residential development.
- 2. *Amendments*: A Council approved Resort MSP may be amended administratively for the following circumstances:
 - a. Up to a ten percent (10%) transfer (increase or decrease) in the allowed quantity of *dwelling units* between *development parcels* with the Resort MSP;
 - b. Up to a ten percent (10%) increase or decrease to the *gross residential density* of the Resort MSP as compared to City Council approval;
 - c. Up to a ten percent (10%) shift in the individual *development parcel gross area* or configuration, as compared to City Council approval.
- 3. Requests for an administrative *amendment* shall require the following:
 - a. The master *developer*, or the specific *applicant* if the master *developer* is no longer involved in the project, shall provide the City with a “Revised Resort MSP” that reflects any and all administratively approved *alterations* to date.
 - b. No further applications for *plats*, *site plans*, or *building permits* shall be submitted to the City until after the administrative *amendment* request has been determined; and if approved, a new “Revised Resort MSP” showing the latest approved *amendment* has been submitted back to the City.
- 4. Administrative *amendment* to the Resort MSP shall not be allowed if:
 - a. Any *amendment* would require backbone infrastructure (water and wastewater) upsizing, or change the parameters for the master drainage design, or change the amount or intent of the *open space* component of the Resort MSP as compared to the initial approval.
- 5. Any *alteration* to the “Resort MSP” that exceeds the limits set for administrative approval, as listed above, shall require City Council action as a Resort MSP *Amendment*.

D. Development Standards.

- 1. The Resort MSP will comply with overall development standards shown in **Table 106-5c** related to the perimeter to the overall development.

2. Each *development parcel* shall further comply with the development standards identified in **Table 106-5d** and **Table 106-5e** related to the internal development within the overall Resort MSP.
3. Each residential *lot* of record will be allowed a maximum of three (3) *dwelling units*, provided that said *lot* has a minimum *lot* area of three thousand five hundred square feet per *dwelling unit* (3,500 sf/du).
4. The individual *building* footprint for a *mixed use* or non-residential land *use* shall be limited to a maximum of thirty thousand square feet (30,000sf); excluding the main resort *structure* and *ancillary restaurant*.
5. Within the thirty thousand (30,000) *building* footprint limits, non-residential *uses* shall be further limited to fifteen thousand square feet (15,000 sf) per tenant.

Table 106-5c – Mixed Use Resort (MU-3) Zoning Overall Project Development Standards	
Min Resort MSP Project Size	20 acres
Gross Residential Density (du/ac)	8-20
Min. Setback to Arterial ROW	35
Min. Setback to Collector and Local ROW (ft)	20
Min. Setback Adjacent to Residential Zoning (ft)	45
Min. Setback Adjacent to Non-Residential Zoning (ft)	30
Net Open space (%)	30%

**Table 106-5d – Mixed Use Resort (MU-3) Zoning
Residential Development Standards**

Lot Categories	A ¹	B ¹	C ¹
Lot Area (sf)	4,000-7,999	8,000-15,999	16,000-20,000
Min Lot Width (sf)	40 ⁶	60	80
Min. Front setback (ft)	12 ^{2, 3}	15 ^{2, 3}	15 ^{2, 3}
Max. Front setback (ft)	30 ⁴	30 ⁴	30 ⁴
Min. Side setback (ft)	5/10 total ^{2, 5}	5/10 total ^{2, 5}	10
Min. Rear setback (ft)	12 ²	12 ²	20 ²
Max. Bldg. Height (ft)	30	30	30
Lot coverage %	50	40	30

Notes:

- Maximum of three (3) *dwelling units* per *lot* of record, provided that said *lot* has a minimum *lot* area of three thousand five hundred square feet per *dwelling unit* (3,500 sf/du)
- Garage* doors/embellishments shall be *setback* a minimum of twenty feet (25') measured from the opposing property line, except rear, *alley* loaded *garages*, which shall be *setback* six feet (6') from the *alley* edge line.
- A covered front porch may encroach closer to the *street* by up to five (5') feet.
- Measured from the primary *dwelling*, excluding front porch.
- Minimum *side setback*: one (1) side / total *side setbacks* on a *lot*. May be reduced to 0' *setback* for *Single-family dwellings* as *attached building* to and separated by a *common wall* along the property line. End units shall maintain the total combined *setback*.
- TND projects shall contain no more than seventy-five percent (75%) of lots less than fifty feet (50') wide and will include mitigating designs outline in Chapter 108 of this ordinance.

**Table 106-5e – Mixed Use Resort (MU-3) Zoning
Non-residential and Mixed Use Development Standards**

	Non-residential	Mixed Use
Min Lot Area (sf)	20,000 (min)	20,000
Lot Area per dwelling unit (sf/du)	N/A	2,100 – 5,400
Min. Setback to Arterial ROW	15	20
Min. Setback to Collector and Local ROW (ft)	30	15 ¹
Min. Setback Adjacent to Residential Parcels (ft)	10	10
Min. Setback Adjacent to Non-Residential Zoning (ft)	12	20
Max. Bldg. Height (ft)	45 ²	50 ²

Notes:

- Setback* may be reduced to ten feet (10') along Collector or Local *ROW* for units that open to the *street* and exclude a perimeter wall
- The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to RR, R-1, and R-2 *zoning districts* and established *uses*. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district*

ARTICLE 6 – COMMERCIAL ZONING DISTRICTS

106-6.1 General.

- A. Purpose. The Commercial *zoning districts* are intended to provide locations, standards and regulations for all varieties of retail shopping, service establishments, neighborhood convenience, entertainment, and *office uses* in a manner that is consistent with the *General Plan* while providing employment opportunities for existing and future residents of the City.
- B. Applicability and Intensity.
1. The commercial *zoning district(s)* may be applicable for land that is within the Neighborhood, Commerce and Office, and Employment Character Areas of the *General Plan*.
 2. The Commercial *zoning districts* listed below represent the different levels of allowed intensity of a development or land *use* in relation to the *building* size, scale, and overall impact on surrounding neighborhoods (i.e. corner store vs. traditional grocery store vs. typical big box with *outdoor display area*) as delineated in the Land use Matrix **Table 106-1c** in Article 1 of this Chapter.
 3. Outdoor *uses* such as dining, display, storage, *drive-through* facilities, entertainment *uses*, and sound systems may be allowed only in certain zones and under certain conditions as delineated in the *Accessory use* Matrix **Table 106-1d** in Article 1 of this Chapter.
- C. Process. A Type 3 review is required to establish a commercial *zoning district*. All development within a commercial *zoning district* shall require a Type 2 *Site Plan* Review prior to submittal for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional Use Permits* per **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

106-6.2 Establishment of Commercial Zoning districts.

- A. **Office Commercial (C-O):** The Office Commercial (C-O) *zoning district* provides for *offices* and services with smaller, supportive shops and dining.
1. The intent of the C-O *zoning district* is to create an employment friendly environment by permitting an *office* and/or service *uses* that limit impact on and can be integrated within the residential neighborhood.
 2. Applicable in Rural, Suburban, Urban, and Community Commercial Development Types of the *General Plan*.
- B. **Neighborhood Commercial (C-1):** The Neighborhood Commercial (C-1) *zoning district* provides for the development of smaller shops, dining, recreation,

entertainment, *offices*, and services in convenient locations to meet the daily needs of the immediate residential neighborhoods.

1. The intent of the C-1 *zoning district* is to create a *pedestrian friendly*, neighborhood environment by permitting a range of commercial, *office*, and/or service *uses* which are limited to a residential scale and integrated within the residential neighborhood.
2. The C-1 *zoning district* may be applicable to the Neighborhood (Rural and Suburban) and Commerce and Office (*Mixed Use Residential*) Character Areas of the *General Plan*.

C. Community Commercial (C-2): The Community Commercial (C-2) *zoning district* provides for retail, *office*, and service activities to satisfy the needs of the community with emphasis on shopping *commerce centers*, clustered *office commerce centers*, and medium sized commercial developments.

1. The intent of this district is to create a *pedestrian friendly*, neighborhood environment and discourage the sprawl of strip commercial development by assembling community-serving *businesses* and services in *commerce centers* rather than in a strip or linear pattern.
2. The C-2 *Zoning district* may be applicable for land that is within the Neighborhood (Suburban and Urban), Commerce and Office (Office, *Mixed Use* and Regional Commercial), and Employment (*Business Park*) Character Areas of the *General Plan*; if the overall development meets the size and intensity guidelines outlined in the *General Plan*.

D. Regional Commercial (C-3): The Regional Commercial (C-3) *zoning district* accommodates the development of large-scale planned commercial and *office* complexes that provide goods, recreation, entertainment, food, and services to regional trade areas.

1. The C-3 *zoning district* provides for a diversity of general *business* and commercial *uses* at a large *building* size, scale, and overall intensity. The C-3 *zoning district* shall emphasize safe and convenient pedestrian mobility in many forms, with planning that concentrates *parking areas* for trip reduction and accommodates internal vehicular traffic flow.
2. The C-3 *zoning district* may be applicable for land that is within the Commerce and Office (Office and Regional) Character Area of the *General Plan*.

106-6.3 Commercial Development Standards.

1. Developments within a Commercial *zoning district(s)* shall comply with development standards shown in **Table 106-6a**.
2. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
3. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.

Table 106-6a - Commercial Zoning Districts

	C-O	C-1	C-2	C-3
Minimum <i>Lot Area</i> (sf)	12,000	12,000	18,000	90,000 ¹
Min. <i>Setback</i> to Arterial ROW	35	35	35 ^{5,6}	35 ^{5,6}
Min. <i>Setback</i> to Collector and Local ROW (ft)	15	20	20 ^{5,6}	20 ^{5,6}
Min. <i>Setback Adjacent</i> to Residential <i>Zoning</i> (ft)	20	20	30 ^{5,6}	45 ^{5,6}
Min. <i>Setback Adjacent</i> to Non-Residential <i>Zoning</i> (ft)	15	15	15 ^{5,6}	15 ^{5,6}
Max. Bldg. <i>Height</i> (ft)	30	35 ²	40 ²	45 ²
Max. size per <i>use/tenant</i> (sf) ³	5,000	5,000	45,000	No limit
Max size per <i>Commerce center</i> (ac) ⁴	10	10	20	No limit

Notes:

1. Minimum *lot area* may be reduced to eighteen thousand square feet (18,000 sf) for *pad sites* within a *commerce center* with a minimum size of ninety thousand square feet (90,000 sf)
2. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to Rural Residential (RR), Residential Low Density (R-1), and Residential Medium Density (R-2) *zoning*. The *height* increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district*
3. Area combines the total square footage of the *use*, which may include but is not limited to the gross floor areas of the *building*, outdoor activities and dining areas (when allowed), storage areas, and all display or *sales areas*
4. Contain *uses* designed around common circulation, parking, and pedestrian connectivity, including but not limited to shared *access* or *access easements*
5. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
6. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the master *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.

ARTICLE 7 – EMPLOYMENT ZONING DISTRICTS

106-7.1 General.

- A. Purpose. The Employment *zoning districts* provide a wide range of employment *uses* to serve the needs of Surprise employers and residents. The standards for the Employment districts are intended to protect employment areas from incompatible *uses* as well as protecting *adjacent uses* from the potential adverse impact of the employment *uses* by establishing standards for compatibility and *screening*, and encouraging quality and variety in *building* and landscape design as further addressed in **Chapter 107** of this Ordinance.
- B. Intent. It is intended for the Employment *zoning districts* to permit a variety of both indoor and outdoor industrial *uses* focused on meeting the needs of the different employment sectors of the community while making certain to *buffer* surrounding land *uses* from the negative impacts that might come from such *uses*.
- C. Applicability and Intensity.
1. The Employment *zoning districts* shall be limited to land that is within the Employment Character Area of the Surprise *General Plan* at locations with appropriate *access* to major roads, transportation corridors, and the necessary utilities.
 2. The Employment *zoning districts* listed below represent the different levels of allowed intensity of a development or land *use* in relation to the *building* size, scale, and overall impact on surrounding neighborhoods and developments. All land *uses* shall comply with the Land *use* Matrix in **Table 106-1c** and **Table 106-1d** herein or otherwise is considered in violation of this code.
 3. The Employment *zoning districts* are intended to work in conjunction with and adhere to Articles 1 and 3 of the Planning and Engineering Design Standards (PEDS) of **Chapter 107** of this Ordinance in general, and any additional *Business Park* or Industrial specific standards outlined below.
- D. Review and Process. A Type 3 review is required to establish any of the employment *zoning districts*. All development within the *Business Park zoning district* or any of the Industrial *zoning districts* shall require a Type 2 *Site Plan* Review prior to the submittal for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional Use Permits* as identified in **Table 106-1c** and **Table 106-1d** in Article 1 of this Chapter.

106-7.2 Establishment of Employment Zoning districts.

- A. *Business Park (BP) Zoning district:*** The *Business Park (BP) zoning district* provides for the development of integrated campus-style employment *uses* to serve technology, research and development, *office*, and product distribution along with limited retail and service *uses* primarily to serve the *business park uses*.
1. The standards for the *BP zoning district* are intended to establish and maintain high quality *site planning* and architecture in a landscaped setting to create an attractive and unified development character
 2. Projects within a *BP zoning district* shall develop in a campus-like setting that allows for a variety of *buildings* and sizes that interact through outdoor seating areas, shaded pathways and landscaped areas.
- B. *Light Industrial (I-1) Zoning district:*** The *Light Industrial zoning district* provides for a mix of industrial activities which have generally negative impacts on the community, and which may be incompatible with other *uses*.
1. Typical Industrial *uses* have limited retail or on-site consumer interaction.
 2. The *uses* permitted within the *I-1 zoning district* are intended to be indoor *uses* with restricted and limited outdoor operations and storage, see **Section 106-10.34**.
- C. *General Industrial (I-2) Zoning district:*** The *Light Industrial zoning district* provides for a mix of industrial activities requiring large land areas unencumbered by nearby residential or commercial development.
1. Typical Industrial *uses* have limited retail or on-site consumer interaction.
 2. The *uses* permitted within the *I-2 zoning district* are a variety of indoor *uses* with outdoor operations and storage, see **Section 106-10.34**.
- D. *Heavy Industrial (I-3) Zoning district:*** The *Heavy Industrial (I-3) Zoning district* provides for *uses* that require major earth moving activities suitable only in certain locations and may require land reclamation upon completion of the operation.

106-7.3 Development Standards.

- A.** All projects within the *BP zoning district* shall adhere to the development standards listed below:
1. There may be a combination of *warehousing, manufacturing* and *office use* under one (1) development provided all activities are conducted indoors and there is no *outdoor storage*.

2. Developments shall be designed in a campus-like setting that allows for a variety of *buildings* and sizes that interact through outdoor seating areas, shaded pathways and landscaped areas.
 3. The minimum *parcel* size for requesting the BP *zoning district* is fifty acres (50ac).
- B.** All projects within the I-1, I-2, I-3 *Zoning districts* shall adhere to the development standards listed below:
1. Projects designed as *commerce center* will comply with overall development standards regarding perimeter *setbacks* from *abutting* developments.
 2. *Pad sites* within a *commerce center* may have reduced *setbacks* along boundaries internal to the *site plan* if the whole development complies with parking and landscaping regulations. Approval by the Community Development Director or designee is required.
 3. Within the indoor tenant space industrial *uses* may include *ancillary offices, showrooms/sales offices*, retail, and service *uses* (as shown in Table 106-1c) no greater than twenty-five percent (25%) of the gross floor area.
- C.** Developments in I-3 *zoning district* shall also adhere to the additional development standards listed below:
1. Primary *access* from an *arterial street* or *streets* specifically designed for intense heavy equipment *use*.
 2. Appropriate warning *signs* shall be installed upon the property indicating hazards and the type of hazards.
- D.** **Table 106-7a** below is specific to individual *lots* and identifies the dimensional standards required for the Employment *zoning districts*.

Table 106-7a - Employment Zoning Districts

	BP	I-1	I-2	I-3
Minimum Lot Area	20 acres ⁶	20,000 sf	5 acres	40 acres
Min. Setback to Arterial ROW	35	35	35	50
Min. Setback to Collector and Local ROW (ft)	25	35	35	50
Min. Setback Adjacent to Residential Zoning (ft)	75 ¹	50 ²	75 ¹	150 ³
Min. Setback Adjacent to Non-Residential Zoning (ft) ⁴	15	15	25	50
Max. Bldg. Height (ft) ⁵	45	40	85	40

Notes:

1. May be reduced to fifteen feet (15') when the development provides a forty-five feet (45') or greater landscape *buffer* "tract" with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
2. May be reduced to fifteen feet (15') when the development provides a thirty feet (30') or greater landscape *buffer* "tract" with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
3. May be reduced to seventy-five feet (75') when the development provides a fifty feet (50') or greater landscape *buffer* "tract" with a public *access* easement to allow paths or trails that may connect to the Surprise Open Trails system.
4. *Setback* may be increased if *abutting* a *parcel* with OS-1 or OS-2 *zoning* that separates residential *zoning* by less than sixty feet (60')
5. *Buildings*, or portions thereof, shall be *setback* an additional one foot for every one foot (1':1') above thirty feet (30') in *height* when *adjacent* to Residential *zoning districts*.
6. Minimum *lot* area may be reduced to one (1) acre for *pad sites* within a *commerce center*

ARTICLE 8 – CIVIC ZONING DISTRICTS

106-8.1 General

- A. Purpose. The purpose of the *civic zoning districts* is to provide *zoning* criteria and development standards for those public land *uses* and facilities that are necessary to serve the community at large, conserve *environmentally sensitive features* and natural areas, or provide recreational *amenities* that enhance the quality of life for the residents of Surprise.
- B. Applicability and Intensity.
1. The *civic zoning districts* are appropriate for land in all character areas of the *Surprise General Plan*. The *civic zoning districts* have no minimum *lot* size
 2. As these civic districts are appropriate in all character areas they are likewise intended to work in conjunction with and adhere to all Articles of the Planning and Engineering Design Standards (PEDS) of **Chapter 107** of this Ordinance and any specific standards outlined below.
- C. Review and Process. A Type 3 review is required to establish any of the *Civic zoning districts*. All development within the Public Facilities or any of the *Open Space zoning districts* shall require a Type 2 *Site Plan* Review prior to application for a *building* and/or grading permit. Some proposed *uses* may require a Type 3 review for *Conditional Use Permits* per **Table 106-1c** and **Table 106-1d** in **Article 1** of this Chapter.

106-8.2 Open space Conservation (OS-1) Zoning districts.

- A. Purpose. The purpose of the *Open space Conservation (OS-1) Zoning district* is to conserve, protect and enhance natural *open spaces* such as but not limited to: desert washes and flood plains; *environmentally sensitive lands*, wildlife *habitats*, and steep *hillsides*; historic or archeological sites; and *open space* lands within the community. The primary purpose of designating these areas is to raise the degree of assurance that designated *open space* for conservation will remain undeveloped while allowing limited passive recreational *uses* such as hiking, horseback riding, and bicycling in a natural setting.
- B. Development Standards.
1. Given the conservation purpose of this *zoning district* the minimum *parcel* size necessary to establish OS-1 *Zoning* is ten acres (10 ac) and shall follow the locational hierarchy identified in **Section 104-1.10** of this Ordinance.

2. Private lands that are proposed to be zoned for OS-1 shall require the express written consent of the property *owner(s)*.
3. Unpaved or paved trails or paths are permitted for *use* only by pedestrians, non-motorized vehicles, and horses (where specifically designated). Limited *access* is permitted for maintenance and emergency vehicles only. Use of motorcycles all-terrain vehicles (ATVs) or off-highway vehicles (“OHVs”) is prohibited.
4. Picnic areas, sitting areas, scenic lookouts, shade *structures*, and restrooms may be permitted as *accessory uses*, subject to minimal disturbance and revegetation of the areas disturbed during construction of these *amenities*.
5. Drainage facilities and utility easements shall be revegetated to be consistent with the surrounding natural vegetation.
6. **Table 106-8a** below is specific to individual *parcels*, tracts, or *lots* and identifies the dimensional standards required for any proposed improvements within the OS-1 *Zoning district*.

Table 106-8a - Open space Conservation (OS-1) Zoning district	
Min. Arterial, Collector, and Local ROW Setback (ft)	15
Adjacent to Residential Zoning (ft)	50
Adjacent to Non-Residential Zoning (ft)	15
Max. Bldg. Height (ft)	15

106-8.3 Open space Recreation (OS-2) Zoning district.

- A. Purpose. The purpose of the *Open space Recreation (OS-2) Zoning district* is to conserve and protect those lands agreed to be developed for recreational *uses* through the plan approval process. The primary purpose of designating these areas is to raise the degree of assurance that designated *open space* for recreational areas will be preserved as such as well as to further the goals and objectives of the Surprise *General Plan*.
- B. Development Standards.
 1. New residential subdivisions shall plan, design, and provide the required *open space* for usage by the general public on a subdivision-wide basis rather than on a *lot-by-lot* basis and shall follow the locational hierarchy identified in **Section 104-1.10** of this Ordinance.

2. The minimum width of any *open space* area *used* for active recreation shall be thirty feet (30').
3. **Table 106-8b** below is specific to individual *parcels*, tracts, or *lots* and identifies the dimensional standards required for any allowed development within the OS-2 *Zoning district*

Table 106-8b - Open space Recreation (OS-2) Zoning district ¹	
Min. Arterial, Collector, and Local ROW Setback (ft)	15
Adjacent to Residential Zoning (ft) ²	15
Adjacent to Non-Residential Zoning (ft) ³	15
Max. Bldg. Height (ft) ⁴	35
Notes: 1. <i>Setbacks</i> shall not contain <i>drive aisle</i>, <i>parking spaces</i>, or <i>buildings</i>. Exceptions allowed for <i>ingress/egress</i> only, seating areas, patios, sidewalks/trails, bicycle parking, and pedestrian <i>amenities</i> 2. Used for whole length of any <i>lot line</i> that <i>abuts</i> any residential <i>zoning district</i> 3. Used for any <i>side lot line</i> that <i>abuts</i> any non-residential <i>zoning district</i> 4. <i>Height</i> may be increased by ten (10') (up to a max of sixty (60')) for each additional five feet (5') away from the <i>side</i> or <i>rear lot line</i>.	

106-8.4 Public Facilities (PF) Zoning district.

- A. Purpose. The purpose of the Public Facilities (PF) *zoning district* is to accommodate development on federal, state, county, and City of Surprise owned land for those land *uses* necessary to serve the needs of the community and/or protect the public health and safety.
- B. Development Standards.
 1. The PF *zoning district* is intended to work in conjunction with and adhere to all Articles of the Planning and Engineering Design Standards (PEDS) in **Chapter 107** of this Ordinance.
 2. The dimensional standards required for the PF *zoning district* will be determined based on *use* and impact on surrounding developments as part of the *site plan* process.

ARTICLE 9 – OVERLAY ZONING DISTRICTS

106-9.1 Planned Unit Development (P) Overlay

- A. Purpose. The planned unit development (PUD) overlay zoning district facilitates development by permitting flexibility to accommodate creative and imaginative designs that may not be possible under conventional regulations. It is intended to accommodate site constraints and unique circumstances that may include topography or *environmentally sensitive lands*.
- B. Applicability. The PUD overlay zoning district is permitted in all Character Areas as set forth in the General Plan. A PUD overlay zoning district provides for the establishment of distinct regulations as adopted by the City Council. A PUD overlay may be applied to any zoning district in the City of Surprise, except for the Surprise Heritage District (SHD), Traditional Neighborhood Development (TND), or on any individual residential dwellings. Where a provision in a PUD overlay zoning district varies from this Ordinance, the provisions in the PUD overlay zoning district shall govern.
- C. Rationale. An application may request deviations from regulations in this Ordinance, as permitted in this section. The proposal shall identify the various constraints associated with site and demonstrate how the design meets the following guiding objectives of a PUD overlay zoning district
1. Development enriches the whole community through creating a unique sense of place for the residents within the PUD overlay zoning district as well as those in surrounding neighborhoods.
 2. Provide for a variety of coordinated and compatible land uses through innovative site planning.
 3. Create a higher standard of development than would be accomplished through the development of individual parcels through conventional zoning regulations.
 4. Planned and integrated comprehensive transportation systems for pedestrian and vehicular traffic as outlined in this Ordinance, which may include provisions for mass transportation and roadways, bicycle or equestrian paths, pedestrian walkways and other similar transportation facilities to meet the site conditions.
 5. Preserve existing *environmentally sensitive lands* that exceeds the minimum open space area required in the ordinance and provide for and well-designed open space *amenities*.
 6. Fulfills the goals, objectives, and policies of the General Plan as well as specific plans for city areas that may include, but are not limited to cultural, educational, medical, and/or recreational facilities.

7. Provide for a variety of housing types, employment opportunities, and commercial services to achieve a balanced community for families of a wide variety of ages, sizes, and levels of income.
8. Site structures to take maximum advantage of the natural and man-made environment, provide view corridors, and minimize adverse environmental impact on surrounding areas during the development stages.
9. Avoid premature or inappropriate development that would result in incompatible uses or would create traffic and public service demands that exceed the capacity of existing or planned facilities.
10. All standards set forth in an approved PUD document shall carry the full force of law.

D. *Permitted uses.*

1. All *uses* shall comply with the underlying zoning district.

E. General regulations and permitted deviations.

1. The PUD Overlay District may establish alternate standards (except lot area per dwelling unit) for those found in Chapter 106 and Chapter 109. Standards developed through the PUD Overlay District rezoning process shall be appropriate to the location and context for the site for which the project is proposed. Standards created through the PUD Overlay should also assist in the fulfillment of the goals, objectives, and policies in the General Plan. Approval of the standards is based on the site plan provided as part of the PUD.
2. All PUD districts shall otherwise adhere to the regulations established in this Ordinance. Any PUD overlay zoning districts containing standards that do not adhere to Chapter 106 or signage standards found in Chapter 109 shall be identified at the time of PUD zoning approval and shall be set forth in the development plan.

ARTICLE 10 – USE SPECIFIC STANDARDS

106-10.1 General Standards for all Use Specific Development

- A. The Use Specific Standards outlined in this Article set forth specific requirements that shall be met before approval may be given for a proposed development. These Use Specific Standards incorporate requirements to address *uses* that require additional regulations to protect public health, safety, and welfare.
- B. Specific proposals for new development may be subject to more than one (1) set of standards and shall also comply with the requirements listed elsewhere in this Ordinance. In the case of conflict with a *zoning district*, Use Specific Standards, or requirements of the Planning and Engineering Design Standards (“PEDs”) the more restrictive requirement shall apply; unless specifically provided to the contrary and clearly intended.
- C. Nothing in these provisions shall relieve any property *owner* or property *user* from satisfying any condition or requirement associated with a previous approval, special permit, *Conditional Use Permit*, *Variance*, or other permit issued under any local, state, or federal ordinance or statute.

106-10.2 Accessory Dwelling Units (ADU).

- A. *Single-family* residential *uses* will be limited to only one (1) *accessory dwelling unit (ADU)* per *lot* of record in the RR, R-1 and R-2, SHD-RO, and TND-R *zoning districts*. A minor *site plan* review shall be required.
 - 1. New *accessory dwelling units* may not be constructed within the 65 DNL pursuant to A.R.S. §28-8481(E) after the adoption of this Ordinance.
- B. The *ADU* shall be located on the same *lot* as the *primary uses* and may not be sold or conveyed as a separate *dwelling unit* nor calculated as a separate *dwelling unit* for the purposes of determining *gross or net residential density*.
- C. An attached *ADU* shall have independent *access* and no direct, internal *access* to the primary *dwelling*. Detached *ADUs* shall not be located in the *front yard*.
- D. The design of any *ADU* shall respect the general *building* scale and architectural character of the primary *dwelling*, and placed to allow sharing of common space on the *lot*, such as driveways and *yards*.
- E. The *ADU* has a maximum area not to exceed fifty percent (50%) of the habitable space of the primary *dwelling unit* or eight hundred square feet (800 sf) of habitable space, whichever is less.
- F. The *ADU* shall not have separate utility services unless the *public utility* determines that a separate meter is required for safety reasons.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

- G. One (1) additional *off-street parking space* is required for the *ADU*. Existing required *off-street parking* for the primary *dwelling* shall be maintained or replaced onsite.
- H. Development Standards. Table 106-10a below identifies the dimensional standards required for an *ADU*.

Table 106-10a - Accessory dwelling units (ADU)

	Max ADU Size ¹	Building Separation ²	Setback (Front yard) ³	Setback (Side and/or Rear yard)	Height
Detached ADU	50% of primary dwelling	5'	Not permitted	5'	9' ^{4, 6}
Attached ADU ⁵	50% of primary dwelling	n/a	Same as Zoning min setbacks	Same as Zoning min setbacks	Same as Zoning allowed height

Notes:

1. Calculated by the floor area of the first floor of the principal *building*. Maximum area of *ADU* shall not exceed 800 sf if the primary *dwelling* exceeds 1600 sf.
2. May be increased as required by the *building* and/or fire codes.
3. The entrance to the *ADU* shall not face be visible from the *street*, except for entrances that do not have *access* from the ground level, such as entrances from balconies or decks. *Access* shall not create the appearance of a *two-family dwelling*.
4. The *height* of an *ADU structure* shall not exceed nine feet (9') as measured at the five-foot (5') *setback* line. The *height* of the *ADU structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* equal to the *zoning district* (See **Figure 106-10a** and **106-b**).
5. The *ADU* shall be connected to the primary *dwelling* by a common roof, covered passageway, or *common wall* without direct *access* to the primary *dwelling unit*.
6. On *lots* 30,000 sf or greater each *ADU* has a maximum *height* equal to the *zoning district* when constructed within the *building envelope*.

106-10.3 Accessory Uses and Structures.

- A. All residential *accessory uses* (including *ADUs*), *buildings*, *structures*, and fencing shall be located on the same *lot* as the principal or main *use* and be at least five feet (5') from other *structure* or as required by the *building* and/or fire codes, except that fencing *used* to separate properties in a subdivision may straddle the common property line. *Accessory structures* in residential districts shall not be located within any easement.
- B. An *accessory structure* that is exempt from the *building permit* requirement still must comply with any other provisions, code, or regulation adopted by the city.
- C. No *accessory use*, *building*, or *structure* shall be constructed or developed on a *lot* prior to the establishment/construction of the *primary uses*, *building*, or *structure*; except for open-wire fencing on an otherwise undeveloped residential *lot* in the Rural Residential (RR) *Zoning district* or retaining walls associated with site development.

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

- D. No *accessory building* shall at any time be *used* as a *dwelling unit*, unless specifically developed as an *ADU* in compliance with the standards outlined in **Section 106-10.2** above and otherwise complies with the applicable *building codes*.
- E. A *structure* shall not be considered *accessory* if it is connected to the principal *building* by a common roof *structure* or covered passageway, except an *ADU* may be connected to the primary *dwelling*.
- F. With the exception of attached *ADUs*, and decorative shade *structures* such as gazebos, pergolas, and arbors, a residential *accessory structure* shall not be located in the *front yard* of a residential *lot*; except in the *RR Zoning district*. *ADUs* and decorative shade *structures*, such as gazebos and arbors, may be in the *front yard*, but may not encroach into the minimum *front or side setbacks*.
- G. An *accessory structure* shall remain *accessory* to and under the same *ownership* as the *primary uses*, and shall not be *subdivided* or sold separately.
- H. No permit shall be issued for the construction of more than one (1) detached *garage accessory structure* for each *dwelling*.
- I. Apiaries may be permitted, provided the hives shall not be located closer than eighty feet (80') to any *dwelling*, *lot line*, or *right-of-way*.
- J. Development Standards. **Table 106-10b** below identifies the dimensional standards required for an *accessory structure*.

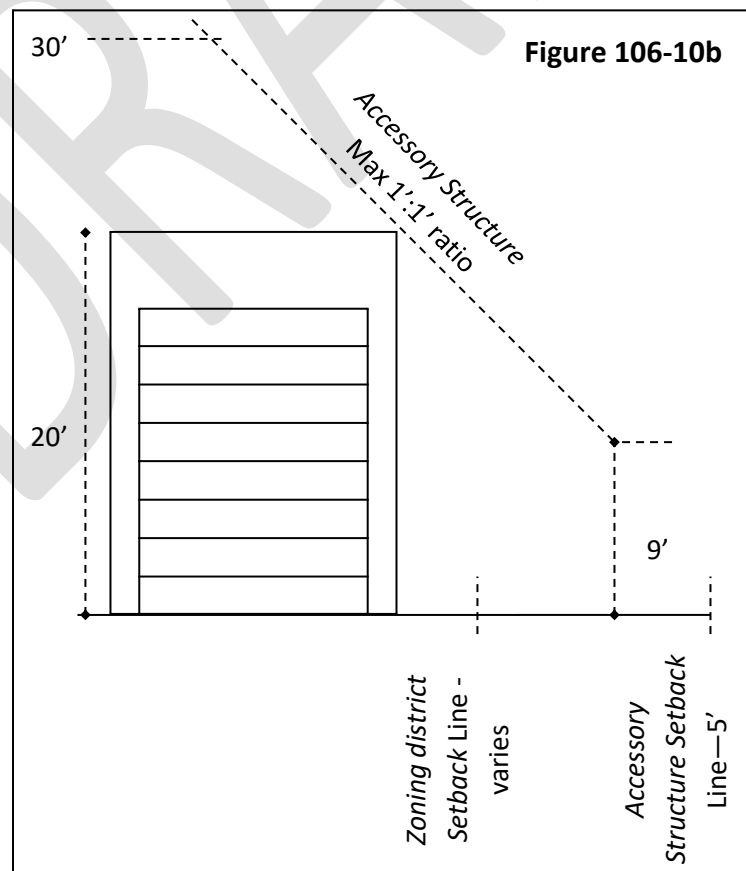
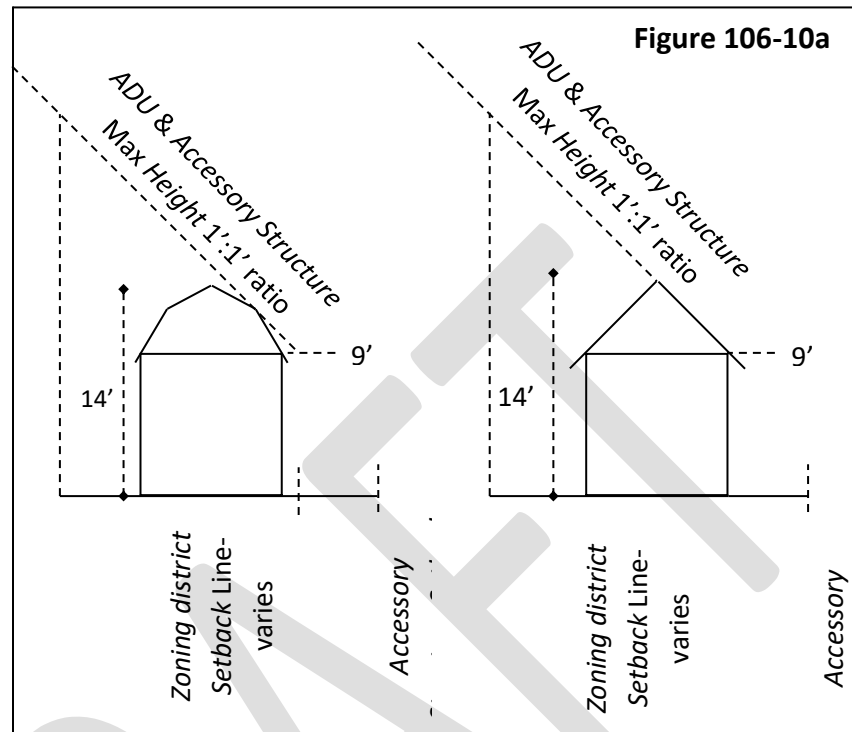
Table 106-10b - Accessory Structures

	Max Accessory Structure Size	Building Separation ²	Setback (Front yard)	Setback (Side and Rear yard)	Height
Shade Structures	400 sf	5'	Same as Zoning min setbacks	5'	9' ³
Other accessory structures	Total lot coverage prescribed by the subject zoning district ^{1, 4}	5'	Not allowed ⁷	5' ⁵	9' ^{3, 6}

Notes:

1. Calculated by the finished floor area of the first floor of the principal *building* and all other accessory structures.
2. May be increased as required by the *building* and/or fire codes
3. The *height* of an *accessory structure* shall not exceed nine feet (9') as measured at the five-foot (5') *setback* line. The *height* of the *accessory structure* may increase at a ratio of one foot vertical for every one foot horizontal (1':1') as measured relative to the property line to a maximum *height* of fifteen feet (15') (See **Figures 106-10a 106-10b**)
4. Each *accessory structure* has a maximum area not to exceed 3,000 sf regardless of lot coverage limits.
5. *Fences* used to separate properties in a subdivision may straddle the common property line
6. On *lots* 30,000 sf or greater each *accessory structure* has a maximum *height* equal to the *zoning district* when constructed within the *building envelope*.
7. In *RR zoning districts*, *accessory structures* are permitted in the *front yard* when constructed within the *building envelope*.

- K. Accessory structures for multi-family, mixed use, commercial, and employment projects shall be included as part of an approved *site plan* and comply with setbacks of the *zoning district*.



106-10.4 Agricultural Animal Keeping.

- A. When allowed, the production and sale, boarding and/or breeding of *agricultural animals* for commercial purposes shall meet the provisions as outlined in **Section 106-10.5** below.
- B. The keeping of *agricultural animals* for non-commercial or personal use shall comply with **Chapter 10** of the Municipal Code.
- C. Apiaries may be permitted for beekeeping, provided the *structures* containing the hives shall not be located closer than eighty feet (80') to any *dwelling*, property line or *right-of-way*.
- D. No shows or other activities that would generate more vehicular traffic than is normal to an area with *single-family* residences are permitted unless the site has direct *access* to an arterial or *collector street*. Occasional shows may be allowed provided a *Temporary Use Permit* is secured and adequate parking for such shows or other special events can be demonstrated.

106-10.5 Agricultural Operations and Facilities.

- A. *Agricultural operations* may be permitted provided the site is a minimum of forty acres (40 ac).
- B. No commercial pen feeding or commercial feedlots or the commercial feeding of garbage to animals shall be allowed.
- C. *Agricultural structures* for storage of and maintenance of specialized machinery and equipment shall not be located closer than 200 feet from any *lot line*.
- D. Open *outdoor storage* is limited to plants, bulk organic dirt, or packaged fertilizer.
- E. All *plant nursery* or greenhouse enclosures, for commercial and wholesale purposes, shall be located a minimum of fifty feet (50') from any *lot line*.
- F. Wholesale growing of plants, trees, bushes, flowers, vegetables, and other food crops, may include limited onsite retail sales as an *accessory use* provided the *sales areas* complies with the *Farm stand* regulations listed below.
- G. Application of pesticides shall comply with the *buffer* requirements of A.R.S. §3-365 for *schools*, *day cares*, and *adjacent residential uses*.
- H. A *Farm stand* may be permitted as an *accessory use* to *agricultural operations* for the purpose of selling produce or other products principally raised or produced on the premises. Exempt from the provisions in **Section 106-10.3**, the *Farm stand* shall be located and constructed to meet the following requirements:

1. The stand shall be *setback* a minimum of thirty feet (30') from the nearest *right-of-way*.
 2. The stand shall be staked or anchored in such a way as to prevent movement into the *right-of-way*.
 3. The site has *access* and *off-street parking* shall be provided. When a stand is located *adjacent* to a *parkway*, *access* shall be from a frontage road or intersecting *roadway*. In no case shall *access* be allowed from a *parkway*.
 4. The *Farm stand* shall be of portable construction and shall be removed during the seasons when it is not in *use*.
 5. The *structure* shall not be more than ten feet (10') in *height* and not be more than four hundred square feet (400sf).
- I. In addition to this Section, keeping of animals shall comply with **Chapter 10** of the Surprise Municipal Code.

106-10.6 Airport or Private Airstrip.

- A. Privately owned or operated airports or airstrips for the landing and take-off operations of aircraft and hang gliders; including any fixed-base operations shall be subject to the following requirements:
1. The land area shall be a minimum of twenty (20) acres.
 2. Landing areas and strips shall be *setback* a minimum of three hundred feet (300') from any property line.
 3. All *buildings* and *structures* shall be a minimum of one hundred feet (100') from any property line.
 4. Hours of operation for any fixed-base operation (FBO) shall not impact surrounding residential land *uses*.
 5. A minimum of one (1) *off-street parking space* per each hanger and/or tie-down space shall be required.
 6. Strobe lights shall be *used* only if no *alternative* lighting is permitted by federal regulation.
 7. Safety fencing, up to six feet (6') in *height* may be required around the fixed-base operations and/or landing strip areas.
 8. Must comply with all federal, state and local regulations, including licensing, and shall not interfere with any governmental or public airport operations.

106-10.7 Amusement/Theme Park.

- A. When allowed, permanent *public features* and *structures* shall be constructed.
- B. The *lot* area shall be a minimum of ten acres (10 ac).
- C. The required *frontage* on a *public street* shall be at least four hundred feet 400 in length.
- D. All points of vehicular *access* shall be from arterial roads, except Fire-Medical may take *access* where appropriate.

106-10.8 Animal Hospital, Clinic, Shelter, or Boarding Facilities

- A. A report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on neighboring residential *uses* or that they can be mitigated through appropriate design may be required.
- B. The *building* construction methods shall incorporate soundproof barriers and be designed to properly eliminate odors, waste, and other contaminants to protect *adjacent* properties.
- C. Activities shall be located within a fully enclosed soundproof *building*. No outdoor boarding shall be permitted, except in the case of *animal hospital/clinics* that service large *agricultural animals*.
- D. Outdoor exercise areas may not be placed immediately *adjacent* to or within one hundred feet (100') of an *adjacent* residential *use* or residentially zoned property.

106-10.9 Assisted Living Home.

- A. An *assisted living home* shall comply with the following requirements:
 - 1. Shall be licensed by the state and shall remain so licensed for as long as the *assisted living home* is in operation.
 - 2. An *assisted living home* shall not be located on a *lot* within one thousand two hundred feet (1,200'), measured by a straight line in any direction, from another *assisted living home*, as measured from property line to property line.
 - 3. The separation requirements shall not apply to *assisted living homes* separated by arterial roads.
 - 4. An *assisted living home* shall contain three hundred square feet (300 sf) of overall living space for each resident.

5. Shall include the installation of an automatic fire sprinkler system.
 6. In the event that the state revokes or terminates a *person's* license to operate an *assisted living home*, then the person operating the *assisted living home* shall immediately inform the city of such revocation or termination of their license.
- B.** The above regulations are not intended to apply to the following facilities, as defined by this Ordinance, provided the appropriate and/or required licensing by the state is obtained.
1. Group home as defined by A.R.S. § 36-551.
 2. Adult development home as defined by A.R.S. § 36-551.
 3. *Assisted living center*.
 4. *Residential care institutions* as defined by A.R.S. § 36-581.
 5. *Nursing care facility*
- C.** A *group home* or an *adult development home* shall not be permitted any *signage*, graphics, display, or other visual forms of identification, other than that permitted for a residential *dwelling*.

106-10.10 Bar/Nightclub

- A.** *Bars* and *nightclubs* shall comply with A.R.S. § 4-207 separation requirements.
- B.** A report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on neighboring residential *uses* or that they can be mitigated through appropriate design may be required.
- C.** Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods and/or being developed within an established entertainment *commerce center*, shall be factors to be considered with the application for a *CUP*.

106-10.11 Bed and Breakfast Establishment.

- A.** The *bed and breakfast* establishment shall be owner-occupied, and the guest rooms shall be part of the *single-family dwelling*.
- B.** No more than four (4) bedrooms per residence may be *used* for the *bed and breakfast* establishment.

- C. A fire escape plan shall be developed and graphically displayed in each guest room. Such plan shall be filed with and approved by the city fire department.
- D. Maximum guest stay at a *bed and breakfast* establishment is limited to thirty (30) consecutive days.
- E. Meals may be served only to overnight guests and residents.
- F. No *alterations* to the exterior of the residence that *alters* the residential character, except fire escapes, accessible entrances and other features may be added to protect public safety as required by the applicable life-safety codes.
- G. There shall be one (1) *off-street parking space* per rental room.

106-10.12 Cemetery.

- A. Cemeteries intended for human burial shall contain a minimum of ten acres (10'). Cemeteries intended for small animal burial shall contain a minimum of five acres (5'). Cemeteries shall be located on a collector or *arterial street*.
- B. The *cemetery* may include *accessory uses* and *structures* such as, but not limited to, a *business office*, chapel, columbarium, mausoleum, and equipment storage that are incidental to the operation of a *cemetery*. A crematorium is not an *accessory use*. *Accessory uses* and *structures* shall be set back at least fifty feet (50') from any property line.
- C. No required *setback* shall be occupied by graves. There shall be a minimum of a fifty-foot (50') landscaped *buffer* between the property line or *roadway right-of-way*; and any *building, structure*, or gravesite. The fifty-foot (50') *setback* shall not apply to roads designed for internal circulation within the *cemetery*.

106-10.13 Community Gardens

- A. A *fence* shall be provided on the perimeter of the garden built to a *height* not to exceed six feet (6') along the *side* or *rear lot lines* or thirty-six inches (36") along the front property line. The *fence* material shall be compatible with the design style and material of all *structures*
- B. The site shall be designed and maintained so that water and fertilizer will not drain to *adjacent* property or *right-of-way*.
- C. Hours of operation shall be limited to the hours between 6 a.m. and 8 p.m.
- D. Waste receptacles shall be provided and *screened* from neighboring properties. Refuse shall be removed so as not to be a nuisance.

- E. Composting equipment and containers, if provided, shall be specifically designed for that purpose and shall be located away from *adjacent* residences, *businesses*, and *parks* and *screened* from public view. Open composting piles are prohibited.
- F. Permitted *Buildings*:
 - 1. One (1) shed limited to two hundred square feet (200 sf) shall be permitted for the storage of any tools, fertilizers, equipment or other materials *used* in conjunction with the *community garden*. If provided it shall be adequately secured and meet *setback* requirements according to Section 106-10.3 of this article.
 - 2. Greenhouses, limited to two hundred square feet (200 sf), may be permitted if constructed of glass or other transparent materials and situated in compliance with all required *setbacks* of the *zoning district* in which it is located.
- G. *Amenities* such as raised/accessible planter beds, rain barrels, picnic tables, benches, bike racks, and garden art may be permitted.
- H. The property shall be maintained in a neat and orderly fashion as required by the Surprise Property Maintenance Code.
- I. Outdoor retailing of fresh produce or flowers grown on the site is permitted with a *Conditional Use Permit* in accordance with **Section 106-10.5H**.
- J. The *community garden signage* shall comply with the Chapter 109 of this Ordinance.
- K. If a *community garden* is no longer in operation or left fallow, for longer than one hundred-eighty (180) days, the site shall be returned to its original form, unless otherwise developed in accordance with this Ordinance. Any reestablishment of a *community garden* on the same site shall require processing and approval of a new *Conditional Use Permit*.

106-10.14 Cottage Industry.

- A. Not more than forty-nine percent (49%) of the *dwelling unit* may be *used* for *cottage industry*. Up to one hundred percent (100%) of *accessory buildings* may be *used* for a *cottage industry*. carry
- B. The aggregate *building* area, including portions of the *dwelling* together with any and all *accessory buildings* *used* in conjunction with a *cottage industry*, shall be limited to four thousand square feet 4,000 (sf) or not more than sixty-five percent (65%) *lot coverage*, whichever is less.
- D. A *cottage industry use* that receives patrons, students, or any *business*-related individuals may only do so between the hours of 8:00 a.m. and 8:00 p.m.

- E. *Accessory buildings* and outdoor areas used for *cottage industry* purposes are intended to be limited to low intensity *uses* that produce or repair a product, and operate in such a way that they do not adversely affect *adjacent* properties. Parking and storage of *business* related commercial-rated vehicles, equipment, and products shall be limited to an enclosed *building* or within the *rear yard* and *screened* by an opaque *fence* or landscaping of approved drought-tolerant plant materials in combination with a fence.
- F. Outdoor dining *ancillary* to a *cottage industry*:
 - 1. Shall not be located within the *front setback*, shall be a minimum of fifteen feet (15') from an *adjacent* residential *use*, and *screened* by a minimum three foot (3') high opaque *fence* or landscaping of approved drought-tolerant plant materials in combination with the barrier.
 - 2. Shall not be more than fifty percent (50%) of the *dwelling unit's* ground floor *gross area*.
 - 3. Shall not operate outside of the indoor *restaurant's* hours of operation.
- G. A *cottage industry use* may not change the character of the *structure* or *alter* the residential character of the neighborhood.
- H. Cottage industries may employ up to 5 employees in addition to those residing in the residence.
- I. *Signage* shall be limited and shall comply with the regulations outlined in **Chapter 109** of this Ordinance.

106-10.15 Day Care Center

- A. A minimum of seventy-five square feet (75sf) of *fenced* in outdoor play space per child shall be provided. *Fenced-in*, outdoor play space shall not include driveways, *parking areas* or land unsuited by virtue of other usage or natural features for children's play space.
- B. The minimum *lot* area shall be no less than six thousand square feet (6,000 sf) or the minimum required by the *zoning district* in which the *day care* facility is proposed, whichever requirement is greater.
- C. Access to the *day care* facility shall be by means of a collector or *arterial street*.
- D. A minimum of one (1) drop off space per every five (5) children or a maximum of five (5) spaces, located out of the main travel way, shall be provided. A five-foot (5') wide sidewalk running from the drop-off spaces to the *day care* entrance shall be provided.

- E. *Day care uses as a home occupation* are exempt from this Section and shall comply with **Section 106-10.23**.

106-10.16 Donation bins.

- A. A *Temporary Use Permit* (“TUP”) is required, subject to the following:
1. *Donation bins* may be placed with a TUP for up to twelve (12) months out of a calendar year with a TUP or prorated through the end of the calendar year.
 2. The TUP for any *donation bin* shall be renewed annually. Each renewal requires a new TUP application and fee. *Donation bin TUPs* shall be renewed within sixty (60) days prior to the first day of every calendar year. If an *applicant* submits for a TUP prior to the 60-day renewal period, the permit shall not exceed the duration of the current calendar year and the permit fees will be prorated.
 3. The property *owner* will control the TUP, and as such, the *owner* or *authorized agent* may rescind their authorization by submitting a cancellation request to the City in writing. At the request of the property *owner* or *authorized agent*, the permit will be revoked.
 4. The Community Development Director or designee may revoke the TUP issued under the provisions of this section when the TUP is issued in error or on the basis of incorrect, inaccurate, incomplete, or fraudulent information.
 5. Failure to comply with the requirements of this section may result in revocation of the TUP by the Community Development Director or designee.
 6. A *site plan* shall be submitted as part of the TUP process. The *site plan* shall indicate the proposed location of all bins on the specific site.
- B. Arizona state law regarding drop boxes will apply to *donation bins* as defined in this Ordinance.
- C. *Donation bins* within residential *zoning districts* may only be permitted in conjunction with *places of assembly* and other *public facilities*.
- D. Locational Standards:
1. *Donation bins* shall be located on a paved surface.
 2. *Donation bins* shall not be located within the *setbacks*, required landscaped areas, or within required *parking spaces*.

3. *Donation bins* shall not obstruct pedestrian or vehicular circulation, or be located within the public *right-of-way*, *drive aisles*, fire lanes, loading zones, or any other location that may cause hazardous conditions, or constitute a threat to the public health, safety, and welfare.

E. Size and Quantity Standards:

1. There shall be no more than one (1) *donation bin* on properties less than one acre (1 ac) in size, no more than two (2) *donation bins* on properties or *commerce centers* of one to three acres (3 ac) in size, and no more than four (4) *donation bins* on a *commerce center* greater than three acres in size. No more than two (2) *donation bins* shall be clustered together and located within one thousand feet (1,000') of any other *donation bin* within a *commerce center*.
2. *Donation bins* shall have a capacity no greater than seven cubic yards (7 cu. yd.).

F. Appearance Standards:

1. Each *donation bin* shall have a firmly closing lid.
2. Each *donation bin* shall be clearly marked to identify the specific items and materials requested to be collected for donation.
3. Each *donation bin* shall be clearly marked to identify the City of Surprise *TUP* permit number with contrasting paint. The numbers shall be a minimum of two inches (2") high and located on the deposit face of the *donation bin*.
4. The name and telephone number of the entity obtaining the *TUP* shall be affixed to the *donation bin* on an area no larger than one foot by one foot (1'x1').
5. If a *donation bin* is damaged or vandalized, it must be removed within five *business days* of discovery or notification. If there is a public health, safety, or welfare concern pursuant to the authority granted to the city, the *donation bin* must then be removed within 24 hours of discovery or notification.
6. It is the responsibility of the entity obtaining the *Temporary Use Permit* to maintain the *donation bin* painted or otherwise un-rusted and un-dented and in good repair.
7. It is the joint responsibility of the property owner or *authorized agent* and the entity obtaining the *Temporary Use Permit* to keep the area around the donation boxes free of litter and debris, and remove any graffiti within 24 hours of discovery or notification, whichever occurs first.

- G.** All donated items must be collected and stored in the *donation bin* and all contents cleared no less than once a week. Any items or materials left outside of the *donation bin* shall be removed within 24 hours of discovery or notification, whichever occurs first.
- H.** This Ordinance authorizes the city and property *owner* to remove and dispose of any *donation bin* (including its contents) which is unauthorized, unpermitted, or is otherwise in violation of this Ordinance.

106-10.19 Drive-through Window/Facilities.

- A.** *Drive-through* facilities shall be located a minimum of twenty-five feet (25') from a public *right-of-way* and a minimum of seventy-five feet (75') from a residential district. The entry to each *drive-through* shall be separated by a minimum of three-hundred feet (300') and should be separated by a drive aisle so as to avoiding stacking conflicts.
- B.** *Drive-through* aisles shall be clearly identified through the *use* of striping, landscaping, and *signage* and shall be designed to

 - 1. Contain aisles that are a minimum eleven feet (11') wide. Any curved sections shall be a minimum of twelve feet (12') wide with a minimum radius of twenty-five feet (25') on curved section;
 - 2. Minimize the conflict between pedestrians, parking and the *building* entrance. Pedestrian walkways should not intersect the *drive-through* aisles, but where they do; they shall have a minimum of fifteen feet (15') clear visibility and be emphasized with enhanced paving. Appropriate pedestrian crossing *signs* shall be visible from both the vehicle *drive aisle* and the pedestrian walkway; and
 - 3. Be integrated with the on-site circulation of the larger development.
- C.** *Drive-through* exits shall be directly onto a public *right-of-way* and shall be separated by fifteen feet (15') from a parallel, main *ingress/egress drive aisle* to avoid conflicts with other vehicular traffic.
- D.** Each *drive-through* lane shall have the following minimum distances

 - 1. Forty feet (40') between the entry point and the ordering facility (i.e. *restaurant* menu board, teller machine or ordering window)
 - 2. One hundred feet (100') between pick-up/service window and ordering facility or entry point if no ordering facility is present
- E.** *Drive-through* speakers shall not be audible from the right-of way or *adjacent* residential *uses*. Additional landscaping, sound attenuation walls, or other mitigation measures may be required to reduce the sound level.

- F. *Drive-through* facilities shall orient pick-up/teller windows away from *adjacent* residential *uses* or from facing the arterial or *collector street*.
- G. *Drive-through* lanes shall be *screened* from the *right-of-way* and *adjacent uses* through the incorporation of a landscaped *berm* with continuous, dense landscaping at least four feet (4') in *height* to effectively *screened* the headlights of the vehicles in line. In cases when a *berm* may not be feasible because of space constraints, a *screen fence/wall* may be *used* in connection with landscaping.
- H. *Drive-through* facilities shall incorporate either an attached canopy over the *drive-through* window or teller area of the facility or plant shade trees within the landscape *screening* areas at the window location. The canopy shall not exceed fourteen feet (14') in *height*, measured from the ground to underside of the canopy. If canopy support pillars are *used*, they shall be finished with the same body and accent materials as the primary *building*. All *lighting fixtures* in the canopy area shall be fully recessed.
- I. The architecture of *drive-through uses* shall reflect the architecture of the principal *building*.

106-10.18 Equestrian Centers and Commercial Stables

- A. Shall have a minimum site area of ten (10) acres unless the site is *adjacent* to equestrian trails in which case the minimum site area requirement may be less; to be determined on a case-by-case basis.
- B. All livestock *structures*, containment areas of facilities *used* for the stabling, storing, showing or training of livestock and for temporary manure storage shall be set back a minimum of one hundred feet (100') from any property line. Normal *setbacks* apply to all other *structures* and *uses*.
- C. An attendant must be in residence on the property.
- D. All activity and pasture areas shall be grassed, sprinkled or treated with regularly tilled organic soil mix for dust suppression.
- E. All livestock turnout areas and pens shall be enclosed with *fences* at least five feet in *height*. The design of these enclosures shall be shown on drawings submitted with the *Conditional Use Permit* application.
- F. A specific plan for the physical containment and location of manure storage and/or disposal, which minimizes odor and fly impacts on *adjacent lots or parcels*, must be provided. The spreading and tilling of manure into the soil of the paddock, pasture or arena areas may be considered manure disposal.
- G. No shows or other activities that would generate more vehicular traffic than is normal to an area with *single-family* residences are permitted when located in a

RR zone unless the site has immediate *access* to an arterial or *collector street*. Occasional small shows may be allowed per stipulations of the *Conditional Use Permit* in other zones. A public address system or other means of outdoor amplification may be *used* as a convenience for announcements and administration during special equestrian events only.

- H. Outdoor activity shall be limited to the hours of 6:00 a.m. and 10:00 p.m. daily.
- I. A minimum of one (1) *off-street parking space* shall be provided for each three stalls. Additional parking must be provided for shows or other special events.
- J. In the review for an *equestrian center*, commercial *stables*, and/or boarding *stables*, the City may also consider lighting, landscaping, *signage*, plan of operation, and neighborhood impact.

106-10.19 Farmer's Market

- A. The sales area shall be a minimum of 50 feet from any residential dwelling.
- B. Outdoor display of only fresh fruits and vegetables is permitted. Seasonal sales that require additional storage area may be permitted in accordance article V. Motor vehicles, including vans, trucks, semi-trucks, mobile homes, travel trailers, and other permanent or temporary structures shall not be used for storage or display purposes.

106-10.20 Gated Communities.

- A. The size of the gated community, or multiple *adjacent* gated communities, shall not exceed 40 acres, unless designed to properly connect with *adjacent* communities by both vehicular and pedestrian connections, with a minimum of thirty (30) percent of the gross land area set aside as improved *open space*.
- B. The planning and design of the gated community shall not impede connectivity of *streets*, improved *open space*, multi-use pathways or other *public improvements* from adjoining and *abutting* property, and in no case shall any connection be greater than 1,320 feet apart. Connections shall remain open and accessible at all times.
- C. The perimeter of the gated community shall be designed with view fencing and that said view fencing is to provide continuous visual connections with *open space* areas of adjoining properties.
- D. There shall be a minimum of two (2) separate entry/exits to the gated community; except when constructed as an *infill* development.

- E. The ongoing maintenance of all *private streets*, water and *sewer* mains, fire hydrants and any other infrastructure required by the City shall comply with the City's minimum operational standards, and shall be fully maintained by the *developer* and/or homeowners association.
- F. The installation of drainage systems, *retention* basins, landscaping, multi-use pathways, *street*/pedestrian way lighting, *screening* and *buffering* shall comply with the City's standards set forth in the PEDS and the Parks and Trails Master Plan.
- G. A public service and emergency *access* easement shall be granted over all *private streets*.
- H. Gate designs shall include emergency hardware to ensure proper 24-hour emergency *access* to the satisfaction of the City fire, police, public works, and utilities departments.
- I. A minimum of one (1) pedestrian *access* gate shall be provided at each gated driveway entrance.
- J. Such "anti-directional" devices as metal spikes that can cause tire damage shall not be allowed at entrances and exits.
- K. Sufficient queuing space between the gated entrance and the gate controller shall be provided such to ensure there is no conflict with *adjacent public street* traffic, and to avoid vehicular stacking across sidewalks, *streets*, bike paths and similar facilities.
- L. The gate entrance shall be designed to allow vehicles to turn around within the driveway without backing into the *adjacent street*.
- M. The style and color of gates and other enclosures shall be coordinated with nearby *structures* and approved by the Community Development Director.

106-10.21 Group Home

- A. No group home or *recovery residence* shall be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the *lot line* of another group home or *recovery residence*.
- B. Evidence of license, certification, or registration with the appropriate local, state or federal agency, if required by such local, state or federal agency.
- C. No identification from a *public street* shall be permitted by *signage*, graphics, display, or other visual means, except for *signage* otherwise permitted by **Chapter 109** herein.

- D. Compliance with all applicable *building*, fire and safety regulations. Such homes must be reviewed and approved by the community development department for *building* code and land *use* compliance prior to the *use* commencing.
- E. No exterior change that would *alter* the *building's* residential character shall be made to the exterior of the *building(s)* and the grounds.
- F. The Community Development Department maintains authority to approve the location of any group home or *recovery residence*. An administrative record of all homes shall be maintained with the community development department.

106-10.22 Heliport.

- A. A heliport may be permitted as an *accessory use* for a *hospital*, medical facility, news station, emergency service, or similar *use*; with a *Conditional Use Permit*.
- B. Helicopter landing pads shall be a minimum of 600 feet from all residentially zoned property or residential *uses*; and a minimum of 100 feet from property lines in all other *zoning districts*.
- C. All take-off, landing, and *parking areas* for helicopter landing facilities must be surfaced with a dust proof material.
- D. Evidence of Federal Aviation Administration approval of the air space and air traffic of the proposed operation and a planning report analyzing environmental impacts including, but not limited to, noise levels and mitigation, traffic generation, land *use* compatibility, number of daily operations, hours of operation, flight corridor, and the identification of any adverse impacts to the operation of other airports shall be approved and implemented prior to the issuance of any permit for a helicopter landing facility.

106-10.23 Home Occupation.

- A. A *home occupation* shall be considered a permitted *accessory uses* in all residential *zoning districts* provided that they are operated and maintained to not interfere with the peace, quiet, and dignity of the property *owners* or neighbors, if it complies with the following standards and requirements:
 - 1. The *use* of the *dwelling* as a *home occupation* location must be clearly incidental and subordinate to its *use* for residential purposes. A valid City *Business License* shall be required for all *home occupations*.
 - 2. All *home occupation* activities shall occur entirely within the residential *dwelling*, *garage*, or *accessory building* unless the Community Development Director or designee determines that the *business* activity conducted outside the *dwelling* is similar to noncommercial activities

normally associated with *single-family* residences. Exceptions to this provision shall be made for swimming lessons or in-home day care.

3. The *use* shall occupy no more than fifty percent (50%) of the gross floor area of the residence or four hundred square feet (400sf) of a *garage* or *accessory structure*.
4. Employees shall be limited to *persons* residing in the *dwelling unit* immediate *family* members, or up to two (2) individuals who are not residents of the *dwelling unit* or immediate *family* members.
5. A *home occupation* that is authorized to receive patrons, students or any *business*-related individuals at the *home occupation* location may only do so between the hours of 8:00 a.m. and 8:00 p.m., unless further regulated by a *Conditional Use Permit*.
6. There shall be no exterior displays, no *outdoor storage* visible from the *street* of equipment or goods, including equipment, materials, vehicles, trailers, or open *lot* storage.
7. The *home occupation* shall not produce offensive noise, vibration, smoke, electrical interference or fluctuation in *off-site* line voltages, dust, odors, heat or other nuisances discernable beyond the property lines or beyond the *common walls* if the *home occupation* is conducted within a multiple-*family* unit.
8. The *home occupation* shall not require *structural alterations* to the principal residence that would change the outside appearance of the principle residence or change the character of the property from that of a residential *use*.
9. The *home occupation* shall not involve the *use* of electrical or mechanical equipment that would change the fire rating of the *structure* or include storage of flammable, combustible, or explosive materials. The *home occupation* shall not *use* or create any hazardous waste.
10. The *home occupation* shall not require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customarily found in a residential area.
11. On-site advertising for the *home occupation* is prohibited, except a Class I Temporary Sign as defined in **Chapter 109** of this Ordinance may be displayed during *business* hours within the property of the residence. Window areas must not purposely, intentionally or unintentionally be *used* as *display areas* or to offer merchandise for sale.
12. No pedestrian or vehicular traffic shall be generated by the *home occupation* in greater volumes than would normally be expected in a residential area.

13. No *home occupation* will be permitted which requires receipt or delivery of merchandise, goods or equipment by a large semi-tractor/trailer *truck* nor substantial retailing or wholesaling of stocks, supplies, or products conducted on the premises.
 14. No *home occupation* shall cause an increase in the *use* of any utilities (water, sewer, garbage, or electric) so that the combined total *use* for *dwelling* and *home occupation* purposes exceeds the average for residences in the neighborhood.
 15. The *home occupation* shall not be conducted in such a manner or advertised in such a way as to attract consumer traffic or other nonresidential traffic. Advertisements that are displayed in any media, including telephone directories, may not give the *street* address of the *home occupation* location.
 16. All vehicles of patrons or students of the *home occupation* must be *parked* in authorized parking locations either on the *lot* where the *home occupation* is located or in the public parking *adjacent* to the *home occupation* location.
- B.** In case of any question as to the suitability of a *home occupation*, the Community Development Director or designee shall determine which *uses* may be allowed as *home occupations*. The following are some examples of *uses*, which would be acceptable as *home occupations*, provided they comply with the above regulations: (this list is not all inclusive and listed *uses* do not automatically qualify as a *home occupation*)
1. Home *office uses* for *service call establishments*, *mobile vending*, professional occupations, and consulting services (accountant, architect, attorney, medical, dental, therapy, insurance or real estate) without client contact at the home.
 2. Art studio that includes but is not limited to painting, sculpting, writing, or composing.
 3. Home crafts such as jewelry making, pottery, weaving and rug making, woodworking, metal working, and home cooking and preserving
 4. *Off-site* sales and/or the *use* of retail shipping services than would normally be expected in a residential area.
 5. Music lessons, swim lessons, and tutoring with no more than four (4) *persons* at any a time.
 6. In-home *day care* with no more than four (4) children or adults that are not related to the caregiver.

7. Services such as *catering*, dressmaking, sewing and tailoring services, (non-vehicular) *repair services*, door-to-door sales, and off-premise party sales without client contact at the home.
 8. Telephone answering, message services, word processing and other computer applications.
- C.** The following *uses* have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for *home occupations* and thereby impair the *use* and value of a residentially zoned area for residential purposes. Therefore, the following *uses* shall not be permitted as *home occupations*: (this list is not all inclusive)
1. *Animal clinics, veterinary offices, and kennels or boarding facilities.*
 2. Dance or gymnastic instruction, and photo studios.
 3. Medical, dental, physical therapy, or psychotherapy *offices*, ambulance services, and mortuary.
 4. Motor vehicle repair or paint shops, storage, restoration or conversion, engine repair or similar *uses*; except on a vehicle personally owned by the resident.
 5. Repair shops, machine shop, furniture refinishing and upholstering.
 6. *Restaurants.*
 7. Private *schools* with organized classes
 8. *Stables or kennels* for commercial purposes.
 9. Beauty shops and barber shops
 10. *Contractor yards*
 11. Sales of weapons or ammunition, retail sales in general, *banks*, credit unions or payday lending
- D.** Complaints by citizens or local residents may be cause for immediate termination of the *home occupation use* if appropriate measures cannot be undertaken to mitigate the complaint or violations. All complaints or violation of the above conditions shall be registered with, and reviewed by, the *Zoning administrator*.

106-10.24 Live-work Dwelling

- A.** The maximum size of a development designed exclusively for *live-work* units shall be 3 acres.

- B. The living space must be occupied by the *business owner* of the work space and not separately leased.
- C. The work space shall be located within the *building frontage* and/or on the ground floor or may be permitted above the ground floor through a *CUP* process.
- D. The work space shall be limited to only the non-residential *permitted uses* for the specific *zoning district* as listed in **Table No. 106-1c** with a maximum work space size of 4,000 square feet and a maximum of two (2) employees in addition to the *family* members residing in the *dwelling unit*.
- E. A *live-work* unit should mirror the *adjacent* residential *structures* in mass and design to be compatible with the diverse neighborhood in which they are located.
- F. There shall be direct pedestrian *access* at the *street frontage* or near *grade* level to each individual *live-work* unit.
- G. A *live-work* unit that has employees or walk-in commercial trade (not just by appointment) shall be fully accessible and meet ADA requirements where these commercial activities occur.
- H. *Mixed use buildings* that contain residential *uses* may be asked to demonstrate, through a report from a qualified acoustical and/or environmental engineer, either that there are no negative impacts on residential livability or that they can be mitigated through appropriate design.

106-10.25 Medical Hospitals.

- A. The minimum *lot* area shall be five acres.
- B. The minimum *lot frontage* shall be 300 feet or the minimum requirement of the district, whichever distance is greater.
- C. Bio-hazardous waste incinerators with an allowable operating capacity equal to or less than 1,000 pounds per hour may be allowed as an *accessory* to a *hospital use* with the following *use* standards:
 - 1. An incinerator *use* shall be set back a minimum of 500 feet from any property line *abutting* a residential *zoning district* or *use*.
 - 2. A *site plan* shall be provided illustrating how the operation functions including circulation routes and the locations, square footage, *height* and location of *buildings*, incinerator and storage areas.

106-10.26 Manufactured Homes.

- A. When permitted a *manufactured home* shall be designed and situated on the *lot* in a manner that assures similarity in exterior appearance and in keeping with, the architectural character of conventional site-built *dwelling*s and the character of the surrounding neighborhood in general as required by the PEDS and with the additional specific standards outlined below.
- B. All *manufactured homes* shall be required to meet the current HUD Code standards, be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and comply with State of Arizona Office of Manufactured Housing regulations.
- C. A *manufactured home* shall be both multi-sectional in design and not constructed more than ten (10) years prior to the date of application for *building* installation permit.
- D. A *mobile home, recreational vehicle, or park model* is not a *manufactured home* and shall not be *used* as or considered to be a primary residential *dwelling*.
- E. Foundations. The *manufactured home* shall be pit set and placed on an excavated foundation with a permanent masonry stem wall. Skirting material is not permitted; rather the stem wall shall be treated to have the appearance of a foundation wall similar to conventional site built homes.
- F. Exterior Building Materials. Reflective *building* materials are prohibited. Metallic surfaces, including roof materials, shall be treated to be non-reflective. The *building* materials shall be durable, require low maintenance, and be of the same or higher quality as the surrounding site-built homes. Acceptable siding materials include: wood, stucco, brick, stone, or other masonry materials or any combination of these materials. Other *building* materials may be considered on a case-by-case basis provided they meet the codes and addendums adopted by the City of Surprise.
- G. Garage or Carports. The design and materials of any *garage* or *carport* shall be compatible with the design and materials of the main *structure*.
- H. Steps. If the *dwelling unit* has steps leading to the front entry the steps shall be attached to a permanent foundation and designed and constructed to compliment the architectural style of the *dwelling unit*.
- I. Anchor Ties. The *structure* shall be anchored to the ground, in accordance with engineered plans and/or approved *manufactured home* installation standards.

106-10.27 Medical Marijuana Uses.

- A.** All medical marijuana *uses* shall comply with all regulations and laws pursuant to the Arizona Revised Statutes. The following provisions will not be construed as permitting any *use* or act which is otherwise prohibited or made punishable by law.
- B.** Any *medical marijuana dispensary facility, medical marijuana dispensary off-site cultivation location, and/or a medical marijuana infusion facility* shall meet the following requirements:
1. Be located in a permanent *building* and may not be located in a trailer, cargo container, storage unit, or motor vehicle.
 2. The *business* location shall not exceed a maximum size of 2,500 gross square feet.
 3. Not have a drive-thru service.
 3. Not emit dust, fumes, vapors or odors into the environment.
 4. Not provide *off-site* delivery of medical marijuana.
 5. Prohibit consumption of marijuana on the premises.
 6. Not have outdoor seating areas.
 7. Disposal of marijuana remnants, by-products, and/or infused products shall not to be placed within the facilities exterior refuse containers.
- C.** Any *medical marijuana dispensary, medical marijuana dispensary off-site cultivation, and/or a medical marijuana infusion facility* shall meet the following minimum separations, measured in a straight line from the boundary of the *parcel* containing the *medical marijuana dispensary, off-site cultivation, or infusion location* to the property boundary of the *parcel* containing any *uses* as listed below in (see **Table 106-10c**).
- D.** A *medical marijuana dispensary off-site cultivation location or a medical marijuana infusion facility* not associated with a *medical marijuana dispensary* is prohibited.
- E.** A *medical marijuana dispensary, off-site cultivation facility, or an infusion facility* lawfully operation is not rendered in violation of these provisions by the subsequent location of a *place of worship, public or private primary or secondary school, public or private day care, preschool, kindergarten facility, public park, or playground* closer than the separation distances outlined below in **Table 106-10c**.

Table 106-106-10c - Separation Distances for any Medical Marijuana Facility

Land use	Dispensaries Off-site Cultivation Facilities Infusion Facilities
From any residentially zoned property	500 feet
From any place of worship	500 feet
From any dwelling unit	500 feet
From any public or private charter, primary, or secondary school	1,500 feet
From any public or private day care, preschool, or kindergarten facility	1,500 feet
From any public park or playground	1,500 feet
From any other medical marijuana facility of any type	3,000 feet
From any sexually oriented business	3,000 feet
From any residential substance abuse facility	3,000 feet

F. Medical marijuana designated caregiver cultivation and qualifying patient cultivation locations shall further comply with the follow requirements:

1. Cultivation locations will be an enclosed, locked facility such as a closet, room, greenhouse or other *building* that does not exceed 50 square feet of cultivation space.
2. Cultivation locations will not be visible from beyond the boundaries of the property on which the cultivation location is situated.
3. Medical marijuana cultivation as an *accessory use* to the qualifying patient primary residence will only be permitted if the residence is located at least 25 miles from a *medical marijuana dispensary*.

106-10.28 Mining and Mineral Extraction

A. Extraction and processing of minerals and natural resources, such as mines, quarries and gravel pits and including concrete or asphalt batch plants as an *accessory use* shall comply with the following standards:

1. No excavation or processing of excavated materials shall be permitted within thirty (30) feet to the exterior boundaries and within one hundred fifty (150) feet to any residential zoned property or existing residence.
2. Material shall be excavated in such a manner so as to assure the convenient, efficient, and successful restoration of the land to hold to a minimum any adverse effects to *adjacent* and surrounding land as a result

of piling or storing the overburden material.

3. Material shall be excavated in such a manner that leaves a minimum of two (2) feet of undisturbed sand, gravel, or soil over the entire excavation tract to provide a water bearing strata for any ground water; or more if the required geological report indicates that it is necessary.
4. The excavation operator shall maintain haul roads within the premise covered by the permit and the perimeter public roads in a dust-free condition.
5. The hours of operation, unless otherwise specified by the City, shall not be prior to 6AM or after 10PM unless the City grants special permission, for temporary expansion of the hours.
6. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.
7. The required development plan shall indicate compliance with the above standards and shall include the following topographic information at a minimum of 5 foot contour intervals:
 - a. pre-excavation contours;
 - b. proposed excavation contours;
 - c. degree of slope of banks for all excavations;
 - d. location of any *public facilities*, irrigation canals, ditches, or streambeds;
 - e. post excavation re-use and contours.

106-10.29 Model Home Complex

- A. A *site plan* shall be required of all *model home* complexes. All requirements, (e.g. *garage* conversions, temporary sales trailers, landscaping, *building permits*, inspections), related to the construction of a *model home* complex shall be satisfied before a certificate of occupancy shall be issued.
 1. Sewage disposal lines and service stub to the *model home lot(s)* shall be installed and operable.
 2. The subdivision water mains and service stub to the *model home lot(s)* shall be installed and operable.
 3. Fire hydrants, as required by and in accordance with the City's Fire Code and the standards outlined in the PEDS, shall be installed and operable.

4. *Streets and alley* improvements are complete.
- B. The *model home* complex shall be *used* only to market homes being built in the subdivision or master development in which it is located. No *off-site* sales are allowed.
- C. *Building permits* for the sales/construction *office* in a *model home*, sales trailer, or *construction trailer* within the *model home* complex can be processed before or concurrent with the *Model home* Complex application. These permits can also be processed after approval of the *model home* complex. The location and parking for trailers shall be included in the *site plan* for the *Model home* Complex application if they are to remain during the public *use* of the *model home* complex.
- D. All *model home* complexes shall prominently display a map identifying all existing and planned land *uses* and *zoning* within the subdivision and within a mile of the boundary of the subdivisions. The map shall also include the location of any proposed *major arterials* or freeways said boundary area; and the type and location of any public or private trails that will be constructed through or *adjacent* to the subdivision. The map shall be colored and a minimum of 24 inches by 36 inches in size.
- E. All *model home* complexes for residential developments must provide notice to prospective buyers and tenants that the project is located within the influence area of Luke Airforce Base and shall be subject to the requirements of Surprise Municipal Code regarding the display of the Surprise/Luke Notification Map.
- F. Models shall be converted to a residential *use* when the last home in the development has been sold. The time limit does not apply to models located within *apartment* complexes or *manufactured home parks*, provided the residential character of the model is maintained. Prior to occupancy as a residential unit, the *model home* complex must remove any temporary parking, sales *office*, lighting, trap fencing, flagpoles, *signage*, and similar improvements and replace *garage* doors, *fences*, and driveways to those typically found within the residential neighborhood.
- G. All site improvements shall be completed and the complex shall have adequate *access* per the adopted City International Fire Code.
- H. *Outdoor storage* of construction materials, supplies, or equipment shall not be permitted.
- I. Where *model homes* complexes consist of two (2) or more than homes, xeriscape landscaping techniques shall be *used* for a minimum of one-third (1/3) of the models.

106-10.30 Outdoor Dining/Seating.

- A. Outdoor dining, patios, and seating areas must be associated and in conjunction with a *permitted use* that serves food and/or beverages for on-site consumption. For purposes of state liquor license spacing regulations the outdoor dining, patio, and seating areas shall be considered part of the premises.
- B. Outdoor dining/seating shall be limited to locations on private property and may encroach into *setbacks* up to ten feet (10') but shall be a minimum of five feet (5') from any property line and not within the public *right-of-way*.
- C. Outdoor dining/seating shall not obstruct sidewalk or trail pedestrian or bicycle traffic or create public health and safety hazards.
- D. Roof material covering an outdoor dining/seating area may be temporary, fixed, or retractable and shall be opaque. Awnings, canopies, or similar protective shelter must be fire-treated or nonflammable.
- E. Any definable decorative barrier element physically separating the outdoor dining/seating area from *adjacent* pedestrian traffic provided shall be handicapped accessible and not exceed forty inches (40") in *height*. The design and materials of such barrier element shall complement and be compatible to the architectural design of the primary *building* façade.
- F. Decorative/accent lighting may be incorporated into the outdoor dining/seating area, landscape, awning, or canopy and shall meet all City code requirements.

106-10.31 Outdoor Display and Sales Areas.

- A. When allowed as an *accessory use*, *outdoor display areas* for the sale, rental, or lease of new or *used* automobiles, *trucks*, boats, trailers, *recreational vehicles*, and *farm* and construction equipment may be permitted provided:
 - 1. The maximum *display area*, which is *used* to highlight sale items excluding the sales *lot* area, shall not exceed ten percent (10%) of the total net *lot* area. Displays may encroach into *setbacks* up to ten feet (10') but shall be a minimum of ten feet (10') from any property line and not within the public *right-of-way*.
 - 2. All sales, repair, and rental activities are conducted within a *building*. Openings to service bays shall not face public *rights-of-way* and shall be designed to minimize the visual intrusion into adjoining properties.
 - 3. The *outdoor display areas* shall be included on an approved *site plan* and on a paved or other hard-surfaced area. Display *platforms* shall be a minimum of thirty feet (30') from other display *platforms*, not exceed four

feet (4') in *height* and incorporate the design components of the primary *building* or landscape features.

4. The sales or rental display of new or *used farm* and/or construction equipment shall have the equipment in the down and transportable position.
5. The areas designated for the parking and/or storage (not *display area*) of all of the above vehicles and/or equipment shall be paved and properly *screened* with a *fence/wall*, hedge, or landscaped *berm* or combination thereof. Adequate *loading areas* must be allocated, specifically identified, and reserved on the site for the unloading of all such vehicles and equipment brought to the site by carriers.
6. The installation and *use* of an outside public address or bell system is prohibited.

B. Other retail *businesses* may be permitted *outdoor display areas* as an *accessory use* provided:

1. The *outdoor display area* is only for merchandise sold on the property with the sale of the merchandise being conducted within the *business building*; no open *outdoor sales* shall be permitted.
2. The *display area* is located on private property (not within the public *right-of-way*), not displayed within the landscaping areas, and does not displace any required parking for the *permitted uses*.
3. The merchandise is displayed in a manner allowing for shopping with a clear walkway and displayed only during *business* hours with the merchandise being brought inside at the close of each *business* day, except for permanent *outdoor displays*.
4. The *outdoor display* shall be in a manner that presents a display vignette rather than lined-up and/or chained together, and has no *signage*, blinking lights, movable or audible aspects to the display.
5. The *display area* shall be limited to only twenty-five (25%) percent of the *business* store *frontage* and located within twenty-five feet (25') of the customer entrance.
6. Permanent *outdoor display areas* may be permitted as part of an approved *site plan* for C-3 Zoning districts.

106-10.32 Outdoor Storage and Use

- A.** When allowed as an *accessory use*, *outdoor storage and use* areas may be permitted provided:

1. Permanent *outdoor storage* and *use* areas may be permitted as part of an approved *site plan*.
2. *Outdoor storage* of materials and *use* areas are not permitted in the required *setbacks*.
3. *Outdoor storage* of materials and *use* areas shall be *screened* from residential *uses* and any public *right-of-way*

106-10.33 Plant Nursery

- A. Retail *plant nursery*, providing all incidental equipment and supplies such as but not limited to soil, fertilizer and empty containers, shall be kept within a completely enclosed *building* or within an area enclosed on all sides by a solid *fence/wall* at least six feet in *height*. No goods, materials, or objects shall be stacked higher than the *fence/wall*.
- B. A minimum *setback* of fifty feet (50') from *abutting* residential *zoning district* shall be maintained for *structures* outlined above; except sales *display areas* for plants and other goods may be outdoors and within *setbacks*.
- C. Outdoor public address systems shall not be allowed.
- D. Only low-level lighting shall be allowed.

106-10.34 Portable Carports.

- A. Portable *carports* may be permitted in all residential districts, subject to the following provisions.
 1. Portable *carports* shall not be permanently anchored to concrete slabs or footings or otherwise anchored in a manner that would impede ready removal and portability; but shall be tied down in such a manner to prevent wind uplift.
 2. Portable *carports* shall remain open on four (4) sides and shall be limited to a maximum of two hundred square feet (200 sf) in size.
 3. Portable *carports* shall not be located in the *front yard* of a residential *lot*.
 4. Portable *carports* shall be limited to one (1) per *lot*.
 5. Portable *carports* shall not encroach into required *front* or *side setbacks* when adequate area and *access* otherwise exist.
- B. If the *lot* size, area, *access*, or configuration limitations do not permit the installation of portable *carports* without encroaching into the required front, *side*

or rear yard setbacks, the Zoning administrator may authorize encroachment into the setback by issuing a *Conditional Use Permit* pursuant to **Chapter 102** of this Ordinance.

106-10.35 Portable Storage Containers and Construction trailers.

- A. The dimensions of a portable storage container shall not exceed 102 inches (eight feet, six inches) in *height* and 96 inches (eight feet) in width. Lengths may vary but shall not exceed 40 feet in length.
- B. The temporary placement of a portable storage container on any residential *lot* for the purpose of loading and unloading household contents shall be permitted for a period of time not exceeding seven days in a calendar year.
- C. In all non-residential districts, portable storage containers are permitted only in accordance with the following:
 - 1. Portable storage containers may be a *temporary use* during the construction, remodeling, or redevelopment of permanent on-site *building* and facilities. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the Community Development Director or designee may require additional measures to ensure compatibility with *adjacent land uses* such as increased *setbacks*, *screening*, landscaping, exterior materials and color.
 - 2. Portable storage containers may be an *accessory* to a *temporary use* such as a special events or temporary retail sale that is periodic, intermittent, or isochronal. In addition to specifying and limiting the number, size, location, and duration of the storage containers, the Community Development Director or designee may require additional measures to ensure compatibility with *adjacent land uses* such as increased *setbacks*, *screening*, landscaping, exterior materials and color.
 - 3. Portable storage containers shall not be located in landscape areas, *open space*, *retention* basins, *drive aisles*, fire lanes, required *parking spaces*, loading zones, or any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding *land uses* and developments.
- D. *Construction trailer* shall be subject to the following requirements:
 - 1. The *construction trailer* shall remain on site only for the duration of an active permit. *Abandoned* trailers shall not be permitted on the site.
 - 2. The *construction trailer*, attendant parking and storage areas shall be located on site so as not to interfere with safe *ingress and egress* to developed areas or areas under construction.

3. The *construction trailer* shall be removed prior to issuance of a final certificate of occupancy.

106-10.36 Racetrack.

- A. Auto racetracks and Animal racetracks shall have the following requirements:
 1. The minimum *lot* size area shall be forty (40) acres.
 2. The site shall not be *adjacent* to *single-family* residential properties.
 3. All *buildings, structures*, and facilities associated with the activity shall be no closer than one hundred feet (100') from any property line.
 4. A public address system or other means of outdoor amplification may be only during race hours or special events times.
- B. In addition to the standards listed in (A) above, animal racetracks shall have the following requirements:
 1. Exercise tracks for animal racetracks and any additional activity areas shall be maintained in non-dust condition at all times.
 2. A manure waste management plan and fly control plan shall be prepared.
 3. All *buildings* shall be maintained in a safe and healthy manner and applicable federal, state or local statute or ordinance.
- C. Other racetracks (e.g. bicycle, motocross) shall follow the requirements as outlined in (A) above with the exception that the minimum *lot* size may be reduced to ten (10) acres.

106-10.37 Recreational Vehicle (RV) Park.

- A. A *recreational vehicle (RV) park* shall provide adequate *streets*, driveways, walkways, proper sanitary facilities, adequate fire protection, adequate water supply, adequate lighting, and adequate protection of surrounding properties. All *RV parks* shall be land-lease developments that comply with the following standards:
 1. No "*park model*", *manufactured homes*, or site built *dwelling units* shall be permitted except for that of the *owner/manager*.
 2. *RV parks* shall be a minimum of ten (10) acres in size and all spaces shall be a minimum of 50 feet from the exterior *recreational vehicle park* exterior property lines

3. *RV parks* shall not be *used* as permanent residences except for that of the caretaker or manager. All *recreational vehicles* within an *RV park* shall display current license *plates/tags* and shall not be *parked* nor occupied for more than one hundred eighty (180) days per calendar year.
4. There shall be a maximum *net residential density* of twenty (20) spaces per net acre.
5. There shall be a minimum of twenty-five percent (25%) *open space* required within the development; excluding the *private streets*.
6. Dimensional requirements for each individual *RV space* are as follows:
 - a. Minimum of two thousand square feet (2,000sf)
 - b. Minimum *frontage/driveway* shall be fifteen feet (15') and space width shall be forty feet (40')
 - c. Minimum space length shall be fifty feet (50')
 - d. The following minimum *setbacks* for *RVs* shall be required for all individual *lots*:
 1. *Minimum front setback*: fifteen feet (15')
 2. *Minimum side and setback*: eight feet (8')
7. Each *park* must provide an adequate and easily identifiable *office* or registration area. The location of the *office* shall not interfere with the normal flow of traffic into and out of the *RV park*.
8. *RV park* developments shall be improved with paved *private streets* built to City specifications. *Private streets* shall be maintained by the private owner of the *RV park*.
9. No *RV space* within the *park* shall have direct *access* to a *public street* outside of the development.
10. An approved decorative perimeter *fence* shall be constructed around the entire *RV Park*.
11. Each designated space in the *park* shall have a concrete slab for the parking of only one (1) *RV unit* per space. There shall be no *RV parking* other than on the paved surface area within the designated space. The concrete slab shall directly connect to the paved *street system* of the *RV park*. A minimum of one (1) *off-street parking space* shall be provided on or *adjacent* to each space.
12. Each *RV unit* shall be equipped with wheels, which remain on the unit; however, the wheels may be blocked for stability.

13. No permanent room addition shall be attached to the *RV* unit nor shall the unit be attached to any permanent *structure*.
14. Recreational *amenities* such as a swimming pool, shuffle board, and tennis and/or social centers, which may be *used* for dancing, crafts, hobbies, games, meeting, banquets, and similar recreational *uses* shall be developed and may be of conventional construction.
15. Restroom and shower facilities shall be provided separately for men and for women. A common *use* laundry facility shall be provided at a ratio of one (1) washer and one (1) dryer for each twenty (20) spaces or fraction thereof.
16. Each *RV park* shall be master metered for both electric and water/*sewer* service. Individual lease spaces shall be developed with a hook-up to these utilities. If approved by the City, the *park* may be allowed some short-term lease spaces without utility hook-ups. Additionally, each development shall provide at least one (1) approved disposal site/pumping station for both water and *sewer* holding tanks for the *RV* units.

106-10.38 Recycling Operations and Facilities.

- A. Indoor *recycling collection facilities* will be subject to the following requirements:
 1. Will be located a minimum of 200 feet from any residential *zoning district*, measured by a straight line in any direction from property line to property line.
 2. Storage and operations will only be performed within an enclosed *building*.
 3. Processing operations are limited to cleaning, compacting, sorting, wire stripping, shearing, and baling.
- B. Outdoor *recycling collection facilities* will be subject to the following requirements:
 1. Will be located within I-1, I-2, or I-3 *zoning districts* and a minimum of 1,320 feet from any residential *zoning district*, measured by a straight line in any direction from property line to property line.
 2. Processing operations are limited to cleaning, compacting, sorting, wire stripping, shearing, and baling.
 3. All operations and storage, including all equipment *used* in conducting such *use*, other than parking, will only be conducted within an enclosed *building* or within an area enclosed by a minimum six-foot (6') high *screen wall*.

4. Storage is not permitted above the *height* of the *screen wall*.
 5. All areas of the facility open to vehicular passage will be paved.
- C.** Reverse vending machines will be subject to the following requirements:
1. Will be located a minimum of 200 feet from any residential *zoning district*, measured by a straight line in any direction from the reverse vending machine to any residential property line.
 2. Will occupy no more than 350 square feet of space.
 3. Will not reduce the number of required *parking spaces* for the hosting site.
 4. Will be clearly marked to identify the name and telephone number of the reverse vending machine *owner* and display a notice stating that no material will be left outside of the *building* or *recycling reverse vending machine*.
 5. Will be located a minimum of one hundred feet (100') from any *right-of-way access point*.
- D.** In addition to the standards listed in (B) above, *recycling processing facilities* will allow for other types of processing operations to occur.

106-10.39 Schools and Universities

- A.** Pre-K through 12 *schools* shall be subject to the following requirements:
1. *School* sites shall not have public *access* directly from a *parkway* or arterial.
 2. *Building setbacks* shall be a minimum of 50 feet for front, side and *rear setbacks*.
 3. Maximum *lot coverage* shall be sixty (60%) percent.
 4. *Open space*, including play area, shall be a minimum of twenty-five (25%) percent.
 5. Designated and separate bus and parental drop off/pick up areas with separate pedestrian pathways shall be provided. The parental drop off/pick up area shall accommodate a minimum of five cars at a time. The bus drop off/pick up area shall accommodate a minimum of three buses at a time.
 6. Special paving, brick, striping, or other methods shall be *used* for pathway areas that cross vehicular *use* areas.

7. Dumpster and trash receptacles shall be *screened* and located a minimum of 75 feet from any residential property lines.
 8. All lighting shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of 16 feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of 30 feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.
 9. Parking may be allowed in the *front setbacks* of the *lot* for *schools* on a *right-of-way* designated as a collector or greater. There shall be a three-foot high landscaped *berm* or *fence/wall* or combination thereof along the *street frontage* where parking occurs. On all other *street* classifications, parking shall be meet minimum *setbacks*. A minimum of 15 percent of all *parking areas* shall be landscaped. A twenty-foot (20') minimum landscaped *setback* shall be provided where parking is *adjacent* to residential districts.
 10. Security fencing of the campus and/or outdoor play areas shall be view fencing and shall allow for emergency vehicle *access*.
 11. All *buildings* shall be designed in accordance with the PEDS (see **Chapter 107** herein) and to be compatible with the surrounding residential neighborhood.
 12. New *schools* shall not be located in areas within the 65 DNL Noise Contours.
 13. *Off-site* improvements may be required to accommodate peak traffic volumes.
- B.** University, college or trade *schools* shall be subject to the following requirements:
1. *School* sites may have public *access* from a *parkway* or *major arterial*.
 2. The site shall have pedestrian and bicycle accessibility.
 3. Campus-like development site shall include a minimum of twenty-five (25%) percent *open space*.
 4. New *schools* shall not be located in areas within the 65 LDN Noise Contours.
 5. *School* sites shall provide adequate on-site parking or participate in the improvements of *off-site* parking facilities or *structure(s)* that would adequately serve student needs without impacting the surrounding neighborhoods or *uses*.

6. All *outdoor lighting* shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of 16 feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of 30 feet from the property line.

106-10.40 Self-storage Facilities.

- A. *Self-storage facilities* may be appropriate in the Neighborhood, Commerce and Office, and Employment Character Areas of the *General Plan*, except expect may be considered incompatible in areas within the Transit-Oriented Development (TOD) Strategic Plan and Scenic Lands Sub Area.
- B. There are four different “types” of *self-storage facilities*; each with different land use needs and varying degrees of regulations.
 1. “Garage style” with single story *buildings* that allow customers to drive directly up to the front of each individual roll-up door storage unit/bay.
 2. “Multi-story/climate controlled” in a single *building* providing *access* to the individual units from an interior hallway within the *building*.
 3. “Parking style” allows *outdoor storage* of vehicles, boats, *RV*’s, and trailers. This type can be a standalone facility or combined with either the garage style or multi-story climate controlled facility.
 4. “Portable container” is the remote facility where small roll-off containers are stored after they have been delivered to and picked up from the customer’s location; with no public or customer *access* to the storage facility.
- C. *Self-storage facilities* are for storage purposes only. No on-site retail sales are permitted from a rented storage unit.
- D. Regardless of the “type” the minimum size of any storage facility site shall be one acre (1 ac). The site should be limited to a maximum of two acres (2 ac) when *adjacent* to a residential *zoning district* or a residential *use*.
- E. The site shall be contiguous to an arterial or collector road, although *access* may or may not be directly onto such arterial or collector, as determined through the review process.
- F. All *buildings* that are visible from a *public street* shall exhibit architectural enhancements, including variation of rooflines, *uses* of multiple material types, and color variations compatible with surrounding *uses* as set forth in the PEDS (see **Chapter 107**) herein. Architectural plans, including material and color samples, shall be submitted for review at the time of application.

- G. A minimum eight-foot (8') high masonry *wall* with architectural enhancements shall be provided around the perimeter of the property or storage area. When *adjacent* to a right-of way or public area, the perimeter wall or *building* wall will be designed in accordance with **item F** of this section.
- H. *Outdoor storage* shall be limited to boats, trailers, or *recreational vehicles*. The storage of these vehicles in conjunction with either the garage style or the "multi-story/climate controlled" storage facility shall be limited to a maximum fifteen percent (15%) of the net site area. All outdoor vehicle storage shall be located in the interior of the site and shall be *screened* from view from surrounding properties. Parking style and garage style storage facilities shall provide an eight foot (8') decorative view-obscuring *wall* to *screen* the entire storage area. There shall be no storage of *abandon*, damaged, or junked boats, trailers or *recreational vehicles* in any storage facility.
- I. Site Design for Garage style facilities:
1. Each site shall provide a minimum of two (2) exits, one (1) of which may be for emergency vehicle *use* only.
 2. All driveways, parking, loading, and circulation areas shall be paved with concrete, asphalt, or similar material.
 3. All one-way driveways shall provide a fifteen-foot (15') travel lane. Signing and painting shall be *used* to designate traffic direction and parking.
 4. All two-way driveways shall meet the Surprise Standard Details in the PEDS.
 5. When the main driveway directly serves storage areas or cubicles, a ten-foot (10') wide parking lane shall be provided in addition to the travel lane(s).
 6. No garage style *self-storage building* shall be more than two hundred feet (200') long.
- J. The maximum *building height adjacent* to a residential *zoning district* or within fifty feet (50') of a residential *dwelling* shall be fourteen feet (14') in *height*. *Building height* may be increased one foot in *height* for every two feet of additional *setback* (1':2') to a maximum twenty-four feet (24') in *height* from finished *grade*. The maximum *building height adjacent* to a non-residential *zoning district* shall be a maximum of thirty-five feet (35') in *height* from finished *grade*.
- K. The required landscape areas shall be provided along all *street frontages* between the *street* and sidewalk, and within areas of the site visible from public view, including areas *adjacent* to all perimeter *fences/walls*.
- L. No hazardous or flammable materials shall be stored in a mini-storage development.

- M. No auctions, commercial sales/rentals, garage sales, or other activities not consistent with the approved storage use shall be conducted on the premises.

106-10.41 Sexually Oriented Businesses (SOB).

- A. A *sexually oriented business* shall not be established or operated any closer to and shall maintain a separation from those *uses* as outlined in **Table 106-10d** below.
- B. Such distances shall be measured between subject *lot lines* at their closest proximity on an aerial view without regard for intervening *structures*, topography, political boundaries, or other objects.
- C. An *SOB* lawfully operating as a conforming *use* shall not be rendered a *nonconforming use* by the subsequent location of a residential district or residential *use*, or any of those *uses* previously listed in **Table 106-10.41a** above. If the *SOB use* is *abandoned* or the *business* license is not renewed, it becomes *nonconforming* and subject to the provisions herein.
- D. Advertisements, displays or other promotional materials displaying or depicting “*specified anatomical areas*” or “*specific sexual activities*” shall not be shown or exhibited so as to be visible or audible to the public from *adjacent streets*, sidewalks or walkways or from other areas outside the establishment.
- E. A map showing the particular property or properties for which the application is being requested and the *adjacent* properties, *buildings* and *structures*, land *uses*, and *public streets* and ways within a radius of 1,320 feet of the exterior boundaries thereof shall be submitted along with the application for a *Conditional Use Permit*.
- F. No *sexually oriented business*, except for an *adult motel* and *adult theaters*, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M.
- G. Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods, shall be factors to be considered with the application for a *CUP*.

Table 106-10d - Sexually Oriented Businesses

Land use	Separation Requirement (feet)
Another sexually oriented business	1,000
Establishment having an Arizona Spirituous Liquor License Series #06: Bar License or Series #07: Beer and Wine Bar License	500
Public park, playground, or public recreational facility	1,320
Schools (public or private)	1,320
Day care facility or preschool	1,320
Place of Worship, cultural institutions	1,320
Residential district boundary	1,320

106-10.42 Special Events and Seasonal Activities

- A.** Special events that necessitate additional parking, special equipment (such as generators or portable sanitation facilities), or security measures, including but not limited as those lawful temporary events listed below, shall require a *Temporary Use Permit (TUP)* from the City.
1. Carnivals, circuses, festivals, fairs, firework shows, and holiday events;
 2. Concerts, exhibitions, special performances or other outdoor live entertainment;
 3. Farmer's markets and temporary retail sales of arts, crafts, souvenirs, gifts, food, and other goods;
 4. Grand opening events, tent sales, sidewalk sales, and other events that include commercial activities or commercial related activities in areas that are not *used* for commercial purposes;
 5. Religious/revival gatherings;
 6. Political/organizational rallies;
 7. Parades, races, walk or bike-a-thons, and sports tournaments;
 8. *School* events beyond the typical *use* of parking or traffic congestion;
 9. Garage or yard sales held in excess of thirty-two (32) hours or two (2) times a year.
- B.** Seasonal activities, as lawful temporary events those listed below, shall require a *TUP* from the City.
1. Special events that exceed the time limit of seven (7) consecutive days;
 2. Temporary retail sales such as but not limited to Christmas trees, pumpkins, fireworks, or other seasonally related *outdoor sales*;
- C.** A time limit shall be established for each event.
1. Special events shall be no more than seven (7) consecutive days and no more than four (4) event periods during a calendar year shall be permitted on any single site.
 2. Seasonal activities shall be no more than forty-five (45) consecutive days per event, and may not occur more than ninety (90) cumulative days per calendar year per property, or in the case of a *commerce center*, per tenant.
- D.** Other lawful temporary events that are minor and do not require additional parking, equipment (such as generators and portable sanitation facilities), or

security measures such as those special events and seasonal activities listed below do not require a *TUP*:

1. Sports tournaments.
 2. *School* events.
 3. City operated events.
 4. Garage or yard sales held for a maximum of 32 hours or two times a calendar year.
 5. *Temporary use* of portable storage containers in residential districts for the purpose of loading and unloading household contents is only permitted for a period of time not exceeding seven days in a calendar year.
 6. Indoor live entertainment, such as ancillary to a restaurant.
 7. Peaceful assembly.
- E. Permanent facilities or *structures* shall not be permitted under a *TUP*. The site shall be cleared of all temporary facilities and *uses* and cleaned of trash and debris when concluded.
- F. If applicable Maricopa County Health Department approval shall be obtained prior to the City issuing the *TUP*.
- G. All *parking areas* must be paved or have a method of dust control. If the *temporary use* is within the existing *parking area* the number of *parking spaces* shall not be reduced by more than ten (10) percent of the total spaces existing.
- H. Any *TUP* that includes retail sales must comply with necessary *business* and/or vendor license. Any *TUP* is subject to revocation if any activities related to the *TUP* are in violation of a Surprise Municipal Code.

106-10.43 Sport Courts.

- A. Outdoor sport courts in residential and *Mixed Use zoning districts*, including the enclosure and lighting elements, may be built as follows:
1. Sport courts other facilities shall not be permitted in the *front yard* when *used* an *accessory* to a *dwelling unit*;
 2. Sport courts other facilities without lighting shall be set back five feet from all *lot lines* (measure from the edge of the playing surface) and when *used* an *accessory* to a *dwelling unit* shall maintain *height* limitations defined in **Section 106-10.3**;

3. Sport courts with lighting shall be set back 20 feet from all side and *rear lot lines* (measured from the edge of the playing surface or base of the lighting standard);
4. Photometric foot-candles shall be zero along property lines and shielded to prevent *light spillage*.
5. Protective fencing/netting may be allowed along the residential property line that *abuts* a ballfield, sport courts, or golf course.

106-10.44 Swimming Pools.

- A.** Outdoor swimming pools, in-ground or above-ground, wading pools, hot tubs, spas, or other similar pools *used* for swimming, wading, purposes are subject to *building* code requirements with the following additions:
1. Private facilities listed above located in residential *zoning districts* are prohibited in the *front yard*. No water surface shall be closer than three feet (3') from any property line.
 2. It shall be the responsibility of both the property *owner* and the occupant of the premises to install and maintain the *fences*, locks, latches, and gates in good condition and proper working order when water is in the pool and both may be deemed in violation of this section for failure to do so.
 3. Swimming facilities listed above as ancillary or as an *amenity* to multi-family or non-residential *uses* shall comply with development standards of the *zoning district*.

106-10.45 Tattoo and/or Body Piercing Establishment

- A.** Tattoo and/or body piercing establishments shall maintain the following minimum separations, measured by a straight line in any direction:
1. Shall not be located within one thousand feet (1,000') from the *lot line* of another tattoo shop or body piercing establishment.
 2. Shall not be located within five hundred feet (500'), from the *lot line* of a residential district.
 3. Shall not be located within five hundred feet (500') from the *lot line* of a *school*, which provides elementary or secondary education.
- B.** A tattoo and/or body piercing establishment lawfully operating as a conforming *use* shall not be rendered a *nonconforming use* by the subsequent location of a residential district or residential *use*, or any of those *uses* previously listed in

above. If the tattoo and/or body piercing establishment is *abandoned* or the *business* license is not renewed, it becomes *nonconforming* and subject to the provisions herein.

- C. Site locations and *site plan* design, such as but not limited to compatibility with *adjacent* neighborhoods *commerce center*, shall be factors to be considered with the application for a *CUP*.
- D. Permanent facial cosmetics service shall be exempted from this section

106-10.46 Truck Stop/Travel Plaza

- A. The *lot* or *parcel* for a travel plaza/*truck stop use* shall be no more than 500 feet from an interstate or state highway interchange *right-of-way* and the minimum *lot* or *parcel* size shall be twenty (20) acres.
- B. On-site improvements, including but not limited to: 1) turning radius; 2) *drive aisle* dimensions and; 3) parking stall dimensional standards shall be in compliance with the American Association State Highway and Transportation Officials standards (AASHTO) when not included in the City of Surprise PEDS.
- C. A masonry sound attenuation *wall* of at least six (6') feet shall be installed along all property lines that *abut* or are *adjacent* to a residential *zoning district* or *use*.
- D. Any fuel dispenser along with underground storage tanks or pumps shall be a minimum of one hundred feet (100') from any residential *zoning district* and at least forty feet (40') from any property line or public *right-of-way* line.
- E. *Amenities*, such as but not limited to, shower and restroom facilities, laundry facilities, driver lounge, and *restaurant* or food services shall be provided.

106-10.47 Vehicle fueling stations

- A. All activities and operations shall be conducted entirely within an enclosed *structure*, except as follows:
 - 1. The dispensing pumps and plug-in stands, water and air facilities;
 - 2. Trash receptacles and windshield cleaning paraphernalia.
- B. The total site area shall not be less than 20,000 square feet unless it is planned to be part of a functionally integrated commercial complex.
- C. All *structures* shall be of a unique design character that is appropriate to the area. If present, pump island plug-in stand canopies shall be architecturally similar to and compatible with the main *structure* unless otherwise approved through the *site plan* review process.

- D. Landscaping shall account for a minimum of 15 percent of the site. For sites that are located at intersections, a landscaped area shall be provided at the intersection and shall extend a minimum of 150 feet in both directions from the *street* corner. Paving shall be limited to functional vehicle and pedestrian areas. All unpaved areas shall be maintained with landscaping.
- E. Sites located on arterial intersections or in other areas of significant pedestrian *use* shall locate pump islands, plug-in stands, and queuing lines away from intersections, driveways, sidewalks and other pedestrian areas.
- F. Site improvements such as *buildings* or *structures* (permanent or temporary) shall be separated from any residential property line by a minimum of 75 feet. *Parking areas* shall be separated from any residential property line by at least 25 feet.
- G. Pump islands and plug-in stands shall be located a minimum of 50 feet from a *street right-of-way* line or non-residential property line and 75 feet from a residential property line.
- H. All sources of artificial light shall be hidden and all lighting shall be *full cut-off* and designed so there is no glare or spillover on *adjacent* properties and *roadways*. Lighting under canopies shall *use* flat lenses (rather than drop lenses or refractors) and/or be fully recessed within the canopy.
- I. No vehicle shall be *parked* on the premises for the purposes of offering the vehicle for sale.
- J. Noise from bells or loudspeakers shall not be audible beyond the property line at any time.
- K. Interior curbs of not less than six inches in *height* shall be constructed to separate driving surfaces from sidewalks, landscaped areas, and *street rights-of-way*.
- L. Driveways for *fueling stations* shall be developed in conjunction with *adjacent uses* and shall be located as part of the total circulation element of such *adjacent uses*. Single *use* driveways for *fueling station use* will only be allowed when environmental or topographic constraints prohibit such shared driveway *access*.
- M. Lighting shall not exceed 50 foot-candles under canopies.
- N. No existing *fueling station* or *abandoned fueling station* may be converted to any other *use* unless the following standards are met:
 - 1. All pumps, canopies, *signs*, insignia, and corporate trademarks, supporting *structures*, mountings, and foundations, and all other aboveground improvements which are uniquely associated with *fueling station* operations shall be taken down, dismantled, and removed from the site.
 - 2. All fuel storage tanks, fuel lines, pumps, and other below ground apparatus related to the delivery or disposal of fuel products shall be excavated and

removed from the site or *filled* in accordance with the provisions of the Fire Code as currently adopted by the city and all other applicable law.

3. Upon the removal of the tanks, *structures*, and apparatus specified in subsections 1 and 2 of this subsection, the proposed converted fuel station site shall be resurfaced and landscaped in a manner appropriate to the proposed commercial or industrial *use*.

- O. If fuel canopies are fronting on an arterial and/or *parkway*, a minimum of 3.5 kV photovoltaic shall be required to be placed on the top of the canopy.

106-10.48 Vehicle Rental Facilities

- A. The primary *business* of a vehicle rental/leasing facility must be the rental and leasing of automobiles and light passenger *trucks*.
- B. No rental or leasing of other vehicles such as utility *trucks*, trailers or RVs shall be allowed.
- C. No more than six (6) vehicles shall be stored on-site in cases where the rental location is located in a *commerce center* or commercial complex that includes other retail *uses*.
- D. No outside storage of any type shall be permitted, except for passenger vehicle storage.
- E. On-site service and repairs of automobiles is prohibited, except for hand washing, vacuuming, window cleaning and checking fluids. Openings to the service bays shall not face public *rights-of-way* and shall be designed to minimize the visual intrusion into adjoining properties.
- F. The area *used* for parking and/or vehicle storage shall be properly *screened* with a *fence/wall*, hedge, plantings or combination thereof.
- G. The area *used* for parking and/or storage shall be paved.
- H. The installation and *use* of an outside public address or bell system is prohibited.
- I. Site improvements such as *buildings* or *structures* (temporary or permanent) shall be separated and *screened* from all residential zones by a minimum of 50 feet.

106-10.49 Vehicle Retail Sales.

- A. The primary *business* of a vehicle and boat sales establishment must be the retail sale of new products, except classic cars and in CR zoned properties.

- B.** When on-site servicing and repair are permitted, the site also shall meet the requirements in **Section 106-10.50**.
- C.** Site improvements such as *buildings* or *structures* (temporary or permanent) shall be separated from a residential zone by a minimum of 150 feet.
- D.** Adequate *loading areas* must be allocated, specifically identified, and reserved on the site for the unloading of vehicles and boats brought to the site by carriers.
- E.** Outside loudspeakers shall not be permitted. Digital pagers or other means must be *used* to communicate between employees in the *office* and on the premises.
- F.** The maximum area for vehicle or boat display shall not exceed 20 percent of the total net *lot* area.
- G.** Vehicle or boat display shall be limited to hard-surfaced areas and shall be incorporated into a setting of significant *open space*.
- H.** All areas designated for vehicle or boat storage (not *display area*) shall be *screened* from view through approved landscape *berms* and *screens*.

106-10.50 Vehicle Service.

- A.** Major repair. When allowed, *major repair vehicle service* facilities shall be subject to the following requirements:
 - 1. All repair and service work shall be performed within a completely enclosed *building*.
 - 2. Openings to the service bays shall not face public *rights-of-way* and shall be designed to minimize noise and visual intrusion into adjoining properties.
 - 3. No *used* or discarded automotive parts or equipment shall be located or stored in any open area outside of the enclosed *building*.
 - 4. No dismantling, *remanufacturing*, or *rebuilding* shall be permitted unless it is clearly incidental to the *business* and the product is sold at retail at the location.
 - 5. All disabled vehicles shall be stored in an area that is *screened* from view from the surrounding properties and adjoining *streets*. Vehicles shall not be stored on the property longer than 30 days.
- B.** Minor repair. When allowed, *minor repair vehicle service* facilities shall be subject to the following requirements:
 - 1. If an installation service is offered, the service shall be restricted to the installation of minor parts only, including batteries, windshield wipers,

hoses, fuses, lights, radios, tires and similar minor elements, but excluding engine, transmission and differential service, or similar installation.

2. All repair and service work shall be performed within a completely enclosed *building* with the exception of gasoline sales.
3. Service bays shall not face public *rights-of-way* and shall be designed to minimize the noise and visual intrusion into adjoining properties.
4. No new stock, or *used* or discarded automotive parts or equipment, shall be located or stored in any open area outside of the enclosed *building*.
5. No dismantling, *remanufacturing* or *rebuilding* shall be permitted.
6. All vehicles waiting for repair shall be *screened* from view through the *use* of a landscape *screen* such as *berms* and dense landscaping.
7. *Outdoor storage and displays* are prohibited.

106-10.51 Vehicle Washing Facilities (also known as car washes)

- A. *Vehicle washing facilities* may be self-serve or full-serve as a *primary* or an *accessory use* to *vehicle fueling stations* or *vehicle service facilities*.
- B. *Vehicle washing facilities* shall be subject to conditions (c) - (f), (h), (j) - (l), under *vehicle fueling stations* as outlined in **Section 106-10.47** above.
- C. Sufficient area on the premise to provide stacking shall be provided. The size of each individual stacking space shall be twenty feet by nine feet (20'x9'). When the stacking lane is adjacent to the *street*, it shall be *screened* by a landscaped *berm*, *screen wall*, or combination thereof not less than three feet (3') in height.
- D. All wash water disposal facilities including sludge, grit removal and disposal equipment shall be subject to the approval of the city engineer, and shall conform to all city ordinances regarding sewage and health and shall be designed so as not to detrimentally affect the city *sewer system*.
- E. The wash tunnel exit shall be oriented away from all *adjacent* residential *uses*.
- F. Self-service and accessory *vehicle washing facilities*. Stacking lanes shall have a minimum capacity two (2) vehicles.
- G. Full-service *vehicle washing facilities*. Stacking lanes shall have a minimum capacity of ten (10) vehicles.

106-10.52 Zoos, Indigenous Wildlife Rescue Facilities

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

- A.** Animals shall be confined at all times within a secured, enclosed or *fenced* area;
- B.** Animals that are kept outdoors must be located at least 2,640 feet from any residential *dwelling, school, or day care* facility;
- C.** The site must have a minimum area of six acres; and all operations and activities shall be in accordance with Surprise Municipal Code.

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CHAPTER 107 DESIGN AND DEVELOPMENT REGULATIONS

ARTICLE 1 – PLANNING AND ENGINEERING DESIGN STANDARDS (PEDS)

107-1.1 Incorporation into the LDO.

- A. The City of Surprise Planning and Engineering Design Standards (PEDS), including any future amendments thereto, are by this reference hereby incorporated into this Ordinance as if fully set forth herein. The PEDS are available as a stand-alone booklet for ease of readability by the development community.
- B. With the formal adoption of the LDO, the PEDS along with all appendices and future amendments are formally adopted and considered to be incorporated herein as a part of this Ordinance.

107-1.2 Deviations and Waivers.

- A. The Community Development Director may approve a deviation to the standards through a Type 1 Procedure when an *alternative* method provides an equal or better approach to solving the problem addressed by the standard.
- B. The Community Development Director may approve through a Type 1 Procedure, on a case-by-case basis, a waiver for a study, report, or an analysis that may otherwise be required by the PEDS when such information has previously been submitted to the City and the circumstances and site conditions have not changed since said information was originally provided to the City.

ARTICLE 2 – LANDSCAPE AND SCREENING REGULATIONS

107-2.1 Purpose and Applicability.

- A. The purpose of the Landscape regulations in this article is to encourage quality development within the city; to provide *buffering* between different land *uses* to mitigate any negative impacts between the different intensities of *use*; to provide *open space* and recreational areas to serve the needs of the residents of the city; to improve erosion and storm-water runoff control; to reduce the particulate matter in the air; and to aid in conserving water and the native *habitat* with the *use* of xeriscape methods and low water *use* drought tolerant plants as specifically listed in Appendices B and C in Volume One of the Planning and Engineering Design Standards (PEDS).
- B. Landscaping shall be provided for all developments and conform to the design standards outlined in the PEDS. The regulations in this Article shall be considered to be the minimum requirements applicable to all *Zoning districts*, all land *uses*, and all applications within the City of Surprise. The regulations set forth in this Article shall qualify or supplement, as the case may be, Chapter 106 and the design standards set forth in the PEDS.
- C. Where there exists extraordinary conditions of topography, land *ownership*, site boundaries and dimensions, *adjacent* development characteristics or other circumstances not provided for in this section, the Community Development Director or designee may modify or vary the strict provisions of this section in such a manner that the purpose and intent of this Article is maintained with such modification.
- D. Any proposed *building*, *building* additions, or *use* of land that requires *Site Plan* Review by the City shall also include, either on the *site plan* or on a separate sheet, information on the required landscaping designed in compliance with the PEDS and, if applicable, the Subdivision Regulations. The Landscape Plan shall be prepared by an Arizona Registered Landscape Architect, an Arizona Certified Nurseryman, or other qualified professional. The landscape plans shall be submitted at the time of application for *rezoning*, *use* permit, *platting*, or at the time of *building permit* if none of the above applications are required. Specific plan submittal requirements are outlined in the PEDS, Volume One, Appendix D.
- E. Projects containing *environmentally sensitive features*, such as but not limited to properties identified in the Surprise *General Plan* as *Open space* Character Area or in Scenic Lands Development Sub Area, natural washes, *floodways*, *wildlife corridors*, and *hillside* slopes above 10% shall maintain undeveloped areas in a preserved desert environment in conformance with the PEDS.F. The intent of the landscaping requirements in this Ordinance is to enhance, conserve, and stabilize property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of a pleasant

community. Landscaping also contributes to the relief of heat, noise, air pollutions, and glare through the proper placement of green plants, trees, and desert landscaping.

- G.** If any section, subsection, sentence, clause, phrase, or portion of this article or any part of the code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.
- I.** All projects within the City of Surprise must follow chapter 58, article VII of the Surprise Municipal Code.
- J.** Any *use* not in compliance with the requirements of this Article will be a violation of this Ordinance.

107-2.2 Maintenance

- A.** The maintenance of all landscaping on the property or abutting *right-of-way, landscape strip, open space, buffer areas, setbacks, parks, retention basins*, or pathways shall be the responsibility of the property owner; unless otherwise accepted by the City for maintenance purpose. Maintenance of medians and median landscaping on arterial roads, or on parkways, shall be the responsibility of the city after acceptance.
- B.** The *developer* must put in place an improvement district, or other City approved mechanism, that shall fund the maintenance of landscape, *open space*, recreation, and/or *retention areas*; unless otherwise accepted by the City.
- C.** All projects required to be landscaped shall pass a landscape inspection prior to the issuance of a final inspection or a certificate of occupancy by the city. Landscaping installation shall be in substantial conformance with the approved plan. Significant *alteration* in the design or installation without appropriate plan *amendment* approval is subject to the withholding of final inspection approval.
 - 1. The city shall have the right to deny any project not meeting the provisions of this section.
 - 2. The city shall also have the right to reject landscape materials as being substandard as to size and/or condition prior to installation.
 - 3. The *owner* shall, prior to *building permit* approval, provide evidence that all plant materials are guaranteed for a minimum period of 120 days from the date of final approval by the city. Trees, shrubs, vines, ground cover, and turf which have to be replaced under terms of the guarantee shall be guaranteed for an additional 120 days from the date of replacement.

- D. No *setback* and/or landscaped area required by this Ordinance shall be *used* for the parking of vehicles or the storage or display of materials, supplies or merchandise.
- E. Landscaping shall be maintained in accordance with the approved site and landscape plan. Required landscaped areas shall be kept free of trash, debris, weeds, and dead plant material, and shall in all respects be maintained in a neat, clean, and healthful condition. This includes proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of dead plants, and the regular watering of all plantings.
- F. The removal or destruction of plants and landscape material, previously approved by the city as part of the landscape plan, shall constitute a violation of this Ordinance. All dead or removed plants shall be replaced with plants of the same variety, and size in accordance with the approved final landscape plan.
- G. Any plant material, that does not survive, shall be replaced within 30 days of its demise or damage.
- H. Plant material shall not be severely pruned but rather maintained based on the specific plant species such that the natural growth pattern, flowering cycle, and characteristic form are not significantly *altered*. Refer to the Arizona Landscape Contractors Association (ALCA) for best practices.
- I. Palm trees shall be pruned once each year to remove dried fronds to eliminate fire hazard and insect infestation.
- J. The property *owner* is responsible for the pruning of any tree overhanging any sidewalk, path or trail, *street*, or *right-of-way* within the city to the degree that maintains visibility of intersections, clearance for large vehicles, and prevent interference with pedestrians and other *multimodal* means of travel.
 - 1. Refer to the PEDS in reference to landscape, fences, and other *structures* regarding potential impacts on sight *visibility triangles* on all *streets*.
 - 2. A minimum vertical clearance of fifteen feet (15') from the top of road pavement shall be required for tree limbs extending over roads and above fire *access* lanes.
 - 3. All dead, diseased or dangerous trees with broken or decaying limbs which the Community Development Director or designee constitutes a hazard to the public shall be removed. A *street* tree that interferes with the proper spread of light along the *street* from a *street* light, or interferes with the visibility of any traffic control device shall be correctively pruned.
 - 4. The City shall have the right, at the expense of the property *owner*, to prune or remove landscaping that the *owner* fails to remove within the time period provided in a notice by the City Code Enforcement. The costs of pruning or removing such hazardous tree or limbs from the public

property or *right-of-way* shall be assessed against the property *owner* and shall constitute a lien on the property until paid.

- K.** All landscaped areas shall be supported by an automatic irrigation system which may be a spray, soaker, or drip type system.
1. The irrigation system shall terminate in an appropriate number of sprinklers or bibs to ensure a sufficient amount of water to sustain plants within the landscape areas.
 2. A reduced pressure-type vacuum breaker shall be required with the installation of all sprinkler systems.
 3. All irrigation systems and landscaped areas shall be designed, constructed, and maintained so as to promote water conservation and prevent water overflow or seepage into the *street*, sidewalk, or *parking areas*.
- L.** Landscaping provided in utility easements
1. If a power line utility easement is included as part of the *open space* of a project, the corridor must be fully landscaped with native and drought tolerant shrubs and tree, which will not exceed a height of twenty-five feet (25'), per Appendices B and C of Vol 1, PEDS. Decomposed granite application shall not be required.
 2. The destruction or removal of plant and landscape material, or *fences*, located in a public utility easement (PUE), water easement or *sewer* easement resulting from installation or maintenance of utility infrastructure by a service provider shall be replaced in accordance with the approved landscape plan by the property *owner*.
- M.** Sidewalks, medians, and *landscape strip* construction and the landscaping within these areas shall adhere to the Property Maintenance regulations as referred to in Chapter 105 of the LDO.

107-2.3 General Landscaping Standards

A. Tree Specifications and Standards.

1. The required trees in the Article are listed in "box size" as the industry standard when identified on landscape plans. All trees materials at the time of planting shall have a specified in the "Container Grown Tree Guide", published by the Arizona Nursery Association (ANA). A copy of the latest edition of the specification list will be maintained by the City of Surprise.
2. Standard trees with one trunk will be measured at six inches above the soil line. The *caliper* of multiple trunked trees is established by taking the

average of the *caliper* of the two (2) largest trunks. *Caliper* is measured at six inches above origination point of the second largest trunk or six inches (6") above ground if all trunks originate from the soil.

3. All trees shall be located, planted, and staked in accordance with this Article and the design standards of the PEDS. Trees to be planted at *street* intersections, extending over roads and *drive aisles*, and above fire *access* lanes shall have an intact leader.
4. All trees shall be planted at a minimum distance from any property line equal to at least half of the typical mature canopy radius.
5. For the purposes of establishing a healthy root system and for water harvesting, deep-root irrigation well may be required for trees near sidewalks and streets, such as but not limited to a perforated PVC pipe, appropriately sized and placed *adjacent* to the rootball, placed at the *grade* surface and extended vertically two feet deep (2') and *filled* with *screened* one-quarter-inch minus gravel.
6. A root barrier shall be required, for species with a known aggressive root system, when trees are planted five (5) feet or closer to a walk or curb.
7. Palm trees, identified as an 'accent plant' in Appendix C of the PEDS, shall not be substituted for any required trees along *streets* and driveways. Palm trees may be utilized in a landscape plan in appropriate locations as approved and permitted by the City of Surprise.
8. Saguaro may be substituted for up to five percent (5%) of the total required shade trees along *streets* and driveways when sized according to Table No 107-2a below.

Table No 107-2a – Saguaro Sizing Standards	
Required Tree Sizes	Substitute Saguaro Heights (minimum)
24" Box	10'
36" Box	15'

- B. Shrubs:** Where required by this Ordinance, shrubs shall be, upon installation, a minimum of one (1) gallon size for fast growing shrubs and five (5) gallon for slow growing shrubs; unless otherwise indicated.
1. The *use* of cactus and/or succulents may be substituted for up to fifty (50%) percent of the required shrubs.
 2. Accent material (cacti and succulents) shall be a minimum of five (5) gallon in size upon installation.

- C. Organic Groundcovers:** Where required by this Ordinance organic groundcovers shall be, upon installation, a minimum of one (1) gallon size; excluding turfed areas (where allowed and outlined in the PEDS) and flowerbeds.
1. All turf areas equal to or greater than five acres (5 ac) in size shall be overseeded with a winter lawn and watered exclusively with reclaimed water, when reclaimed water is available in the *adjacent arterial street*. All infrastructures needed to accept reclaimed water shall be installed as a part of the development.
 2. All turf areas and flowerbeds shall be separated from areas of decomposed granite application by a six-inch (6") wide concrete header; except in golf course applications.
- D. Inorganic Groundcovers:** All landscaped areas shall be finished with an inorganic groundcover which may include decomposed granite (minimum size one-quarter (¼) inch minus), river rock, boulders, expanded shale or a combination thereof.
1. Inorganic groundcovers shall be applied having a depth of two inches (2") or greater and maintained as weed free environment.
 2. All landscape areas shall be *graded* so that finished *grade* surfaces of all inorganic groundcovers are one and one-half inches below *adjacent* concrete or other paved surfaces.
 3. All drainage scuppers, spillways, energy dissipation pads and drywell areas that contain rip rap or river rock shall be separated from turf and decomposed granite landscape areas by a six-inch (6") concrete header.
 4. Use of plastic under ground cover materials is prohibited.
- E. Prohibited:** The *use* of fruit producing species of Olive and Mulberry trees shall be prohibited. The *use* of turf is prohibited within the public *rights-of-way*.

107-2.4 Quantity, Size, and Spacing Requirements.

A. Adjacent to Public Utility Infrastructure

1. Trees measured from trunk center shall be placed a minimum of five feet (5') from rear of fire hydrants. Shrubs as measured from their mature perimeter shall be located a minimum of five feet (5') from the rear of a fire hydrant. All plant materials, other than groundcover, shall not be placed between a fire hydrant and *street* or *roadway* and shall be a minimum of fifteen feet (15') away from either side of a fire hydrant.
2. All trees, shrubs and cactus having significant spines or thorns shall be placed at least ten feet from all public sidewalks, private pathways and gathering spaces as to not harm pedestrians.

3. All perimeter landscaped areas surrounding public works utility sites are to incorporate thorn bearing plant material to discourage entry into said facilities.

B. Within the Public Rights-of-way

1. Landscaping shall be provided within all areas of the public *rights-of-way* not being *used* for *street* pavement, curbs, gutters, sidewalks, or driveways and shall be installed by the contiguous development site in addition to the required on-site landscaping areas for the development.
2. All *arterial street rights-of-way* shall contain *street trees* and additional plant material in conformance with the **PEDS, Appendix B**.
3. **Table 107-2b** describes the minimum quantity of trees, shrubs, and groundcover plants when *adjacent* to specific *street* types, as calculated across *frontage* widths. The priority location shall be in the center medians and the *landscape strip* when present and shall be only those plant materials listed in the PEDS, Appendix B Table 1 and Table 2.

Table No 107-2b – ROW Planting Quantity & Size

	15 Gallon Tree	24-inch Box Tree	5-gallon Shrubs ² and/or 1-gallon Groundcover Plants
Local (residential <i>lot</i> up to 50' wide)	2		4
Local (residential <i>lot</i> over 50' wide)	1	1	6
Local (nonresidential <i>lot</i>)	1 per 20 linear feet	1 per 40 linear feet	4
Collector	1 per 20 linear feet	1 per 40 linear feet	4
<i>Minor arterial</i>	1 per 25 linear feet (10% comprised of 15 gallon trees)		4
<i>Major arterial</i>	1 per 20 linear feet Secondary Tree Type	1 per 40 linear feet Main tree type ¹	4
<i>Parkway</i>	1 per 20 linear feet	1 per 40 linear feet	4

Notes:

1. If no Secondary Tree Type is designated then spacing shall be an average of 1 per 25 linear feet.
2. Up to 50% may be 1-gallon Groundcover Plants

4. Landscaping within center medians and *landscape strips* shall not obstruct the required site visibility lines at median breaks or intersections and shall not create other safety issues. **Table 107-2c** describes the minimum quantity of plants and materials within the ROW while layout and design is subject to the site.

Table NO. 107-2c – Additional Plants/Materials per Median Size			
Minimum Width Curb to Curb	Decorative Brick	Shrubs and Groundcovers	Trees
Under 3'	Only	N/A	N/A
3' to under 10'	N/A	6 plants every 50 linear feet	N/A
10' and wider	N/A	6 plants every 50 linear feet	1 additional tree every 50' linear feet

- Irrigation systems shall be installed by the *developer* and/or home builder and maintain according to the provision in this Article.

C. Parking areas/Lots and Non-residential Setbacks

- On site landscaping shall be provided in parking facilities for *multi-family* and non-residential development within the landscape islands, parking medians, and *setbacks* at the minimum quantities and sizes outlined in **Table 107-2d** below.

Table 107-2d – Parking Lot/Area Landscape		
	24-inch Box Tree	5-gallon Shrubs
Landscape Islands	1	4
Parking Lot Medians/Walkways	1 every 40 linear feet	1 per 5 linear feet
<i>Setbacks</i>	1 every 400 sf ¹	5 every 400 sf
Notes: 1. Thirty percent (30%) of the trees may be fifteen (15) gallon.		

- Shrubs within a landscape island or parking median shall be maintained to a maximum height of three feet (3'), and all trees at maturity shall maintain a minimum vertical clearance of eight feet (8') from the lowest branch to the *adjacent grade* elevation.
- Trees and shrubs planting locations shall not interfere with vehicles, *parking area/lot light fixtures*, pedestrian movement, or *access to parking spaces*.
- Plant quantities for *setbacks* and *buffer areas* shall be distributed throughout the *setbacks*, appropriate to the site conditions with priority towards pedestrian shade, *screening*, and *ROW* visibility.

D. On-Site Landscaping Requirements

1. On site landscaping shall be provided in *single-family* residential *front yards* and the required minimum *setbacks* for *multi-family* residential and all non-residential development.
2. *New construction* on individual R-1 and R-2 residential *lots* shall provide landscaping in addition to the *ROW* landscaping identified in **Table No 107-2b**. Dust control measures, such as inorganic ground cover with a minimum size of one-quarter-inch minus, consisting of decomposed granite or other rock, shall be provided in all remaining unpaved areas.
 - a. A *front yard* landscape package shall be provided by the homebuilder with the Home Product review. These packages may be included with the purchase price of the home or replaced by a “landscape budget” for an *alternative* landscape plan to be approved by City Staff.
 - b. All *front yards* for residential shall provide a minimum of one 24-inch box tree.
 - c. The landscaping shall include a minimum of one (1) five-gallon shrub or accent plant and one (1) one-gallon shrub, accent or groundcover plant per one hundred and twenty-five square feet (125 sf) of unpaved area. Plants must be installed on both sides of the driveway.
 - d. An automatic irrigation system appropriate for the plant material shall be provided.
 - e. Initial landscaping for new homes shall be maintained in conformance with the approved landscape plan for a minimum of one (1) year.
3. In addition to the minimum quantity and sizes, additional trees at the fifteen (15) gallon size and additional shrubs at a smaller size may be installed.
4. Plant location shall be distributed throughout the *setbacks*, appropriate to the site conditions with priority towards pedestrian shade, *screening*, and *ROW* visibility.

107-2.5 Screening and Fence Standards

- A. *Fences* may be provided, unless restricted by other provisions within this Ordinance or PEDS, as part of any development to separate properties, *screen*

portions of a property, as a pool barrier complying with Chapter 105 of this Ordinance, or as a boundary to control animal movement.

- B.** No *fence* or *wall* shall be constructed that does not comply with the *screening* and/or *wall* standards outlined in the PEDS and without first making an application for and securing a *building permit* as required by Chapter 105 of the LDO.
1. All *fence* or *wall* locations, materials, and colors must be specifically identified in a *wall* plan submitted in conjunction with a subdivision *preliminary plat*, or as part of the *site plan* review for *multi-family* and non-residential developments.
 2. *Fences* are prohibited from blocking or impeding connections designed for pedestrian and *multimodal uses* and gates leading to other *adjacent parcels* must provide owner authorization allowing such *access*.
 3. All *fences* shall be *setback* two feet (2') from a P.U.E that is *abuts* a *ROW*.
- C.** *View fences* may be *used* as a preferred approach to enclose areas or restrict *access*, except when visual *screening* is required.
- D.** The height of any *fence* shall be measured from the top of the footer to the top of the *fence* or column, except that a four inch (4") architectural embellishment or decorative cap may be permitted (see **Figure 107-2a**)
1. Placing *fill* solely for the purpose of adding additional height to a *wall* or *fence*, *view fence* or combination thereof is prohibited. If a *wall*, *fence*, or *view fence* is placed on a *berm*, the height shall be measured vertically from the base of the *berm*.
 2. *Fences* located in a residential *zoning district* shall not exceed six (6') feet. In no case shall the height of either side of the *wall* or *fence* exceed eight (8') feet (including architectural embellishment). This requirement does not pertain to *fences* that surround utility installations.
 3. *Fences* in all commercial and industrial districts shall adhere to the *screening* standards outlined in the PEDS.
 4. *Fence* height shall follow the contour of the natural terrain and step when the change in *grade* exceeds eight (8") inches. Columns and/or posts may exceed maximum *fence* heights to meet *grade* changes.
- E.** Chain link, razor wire, barbed wire, and electrified wire fencing shall be prohibited, with the following exceptions:

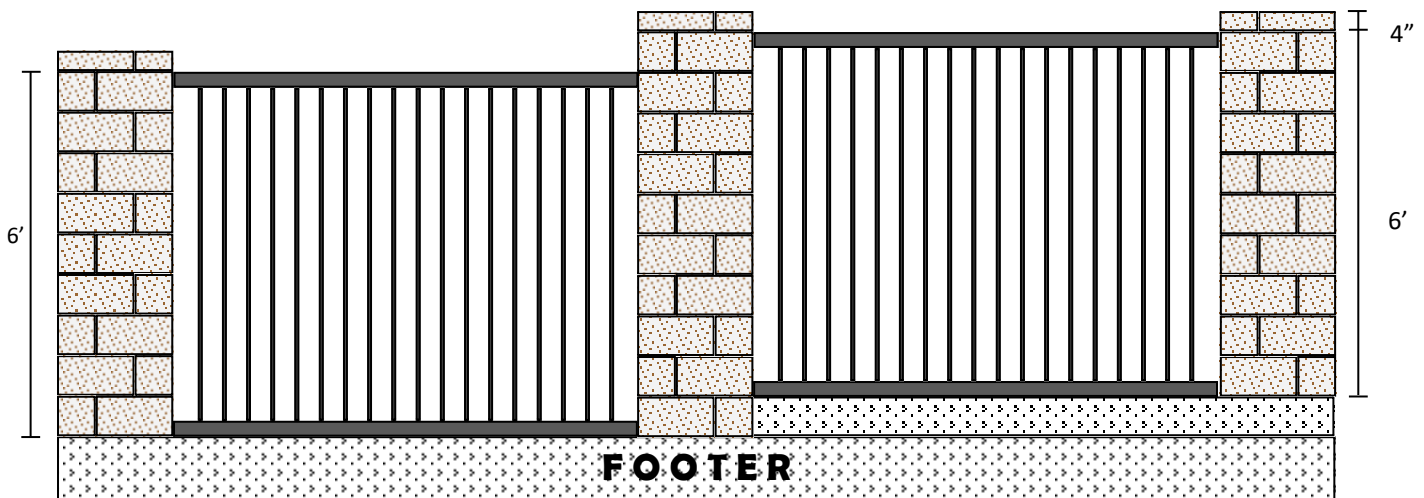


Figure 107-2a

(Illustrates how measurements follow footers; design shall comply with PEDS)

1. Chain link *fences* may be utilized for an approved *temporary use*.
2. Chain link may also be *used* for *public facilities* and recreational *uses*, including but not limited to, enclosures for sport courts/fields, as a protective means with baseball fields, batting cages, golf ranges or other such recreational *amenities*; in which case the fencing may exceed the allowed fencing heights.
3. Barbed wire may be utilized in association with *Agricultural operations* pursuant to **Section 106-10.5** of this Ordinance.

F. Residential *fence* requirements.

1. *Fence returns* shall be set back a minimum of five feet (5') from the front of the *building*. At least one (1) gate that is a minimum of three foot (3') wide should be provided per *lot* to permit emergency *access* to the side and *rear yard*.
2. *RV gates* may be even with the front of the *building*.
3. A solid *fence* located within any required *front setback* shall not exceed two feet (2') in height. A *view fence* may be permitted to a maximum of four (4') feet in height, except Rural Residential zoned properties may be permitted a view fence up to a maximum of five feet (5') in height.
4. A *fence*, up to six feet (6') in height may be permitted within the required *front yard* along the side lot line of a *key lot* when located along the rear property line of the *adjacent lot*.

G. *Off-street parking*. All *off-street parking areas* for *multi-family* and non-residential developments shall be *screened* from *street view* by a landscaped *berm*, *screen wall* or combination thereof not less than three feet (3') in height.

- H. When permitted, *outdoor storage and use areas* for materials, trash, equipment, vehicles or other similar items shall be *screened* with a masonry *screening wall* no less than six feet (6') in height.

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ARTICLE 3 – OUTDOOR LIGHTING REGULATIONS

107-3.1 Purpose, Intent and Applicability

- A. The purposes of this Article is to protect the community and its neighborhoods with appropriately regulated and properly installed *outdoor lighting* that will contribute to the safety, security and wellbeing of *persons* engaged in outdoor public activities at night, while maintaining *access* to the dark night sky. The City will prevent the negative impact created by excessive glare, *light trespass*, and unnecessary waste of energy and resources caused by improper design and installation of *outdoor lighting*.
- B. It is the intent of this article that *outdoor lighting* be installed with the idea of safety and being a "good neighbor" by keeping unnecessary direct light from shining onto *abutting* properties or *streets*. Establishing environmentally responsible lighting regulations that limit the area that certain kinds of *outdoor lighting fixtures* can illuminate will balance the need for safe lighting with the need for dark skies.
- C. All outdoor illuminating devices shall be installed in conformance with the provisions of this article, the **PEDS**, the sign regulations in **Chapter 108**, and the electrical code as adopted by the city under appropriate permit and inspection.
 - 1. The development standards provided herein shall apply to all proposed new land *uses*, developments, *buildings*, *structures*, or *building* additions within the City of Surprise.
 - 2. Any new or modified *outdoor lighting* on an existing *building*, *structure*, or site shall meet the requirements of this article with regard to shielding and *lamp* type; the total amount of lighting after modifications are complete shall not exceed that on the site before the modification, or that permitted by this article, whichever is more restrictive.
 - 3. Legal non-conforming *lighting fixtures* may continue to be *used* provided such *fixtures* are turned off between the hours of 10:00 p.m. and sunrise. This requirement does not apply to *fixtures used* for safety or security purposes. Sign lighting cannot be *used* for security lighting purposes.

107-3.2 General Standards

- A. All *fixtures* installed anywhere in the City of Surprise shall at a minimum be *full cut-off fixtures*; excluding seasonal holiday lighting and decorative string lighting for outdoor seating areas. Other exceptions to *full cut-off fixtures* may be approved on a case-by-case basis by the Community Development Director provided it can be shown that the proposed *fixture* includes *alternative* technology luminaries or artistic attachments/shields that provide similar photometric results as *full cut-off fixtures*.

- B. Fully shielded *fixtures* are generally preferred and may be required in some installations depending on location and *adjacent land uses*. Internally shielded *fixtures* are required except when retrofitting existing *light fixtures* with external shields treated to be non-reflective. See **Figure 107-3a**

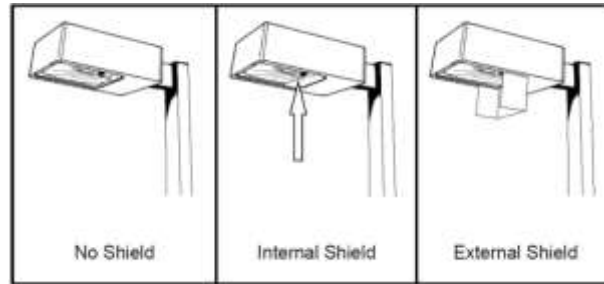


Figure 107-3a

- C. *The maximum light output per acre for new commercial, industrial, mixed use, and multi-family residential developments in the LZ2 Lighting Zone shall not exceed 150,000 lumens per acre when adjacent to residential and 200,000 lumens when not adjacent to residential in order to control the amount of visible light on the property and thus reducing the overall brightness.* Unshielded *fixtures* or lighting sources shall not exceed 3,000 lumens per luminaire.
- D. *Outdoor lighting* installations shall be served by underground electrical service and include *adaptive controls*, including but not limited to, timers, dimmers and/or sensors in order to reduce overall energy consumption, eliminate unnecessary lighting, and to comply with the city's automatic lighting reduction requirements of **Section 107-3.4** herein.
- E. The city is not mandating a specific design, material or *lighting fixture* other than all *lighting fixtures* shall meet the "Fixture Seal of Approval" (FSA) program established by the International Dark-Sky Association (IDA). Below, for illustrative purposes only, are examples of both unacceptable and acceptable *lighting fixtures* for use in the City of Surprise. See **Figure 107-3b**



Figure 107-3b

- F. The style of light standards and *fixtures* should be consistent with the style and architectural character of the proposed development site and in compliance with the light source and shielding requirements for the specific lighting zone per **Table 107-3a** below. The pedestals for pole-mounted *fixtures* are to be finished in a manner and with a material that complements the architectural character of the proposed development site.
- G. All *light fixtures*, including security lighting, shall be located, aimed, and shielded so that the *direct illumination* from the *fixture* will be confined entirely within the property boundaries of the source.

- H. The overall height shall be measured from the finished *grade* to the top of the *light fixture*. Any pedestals upon which pole-mounted *fixtures* are placed shall be included in the overall height measurement. Exceptions to the height limitations shall be allowed only for those *structures* and facilities where lighting must be *used* to illuminate potential obstructions and/or hazards to air navigation.
- I. An approved site lighting plan photometric indicating the lighting zone, type of light source, *fixture* detail, and schedule is required prior to the issuance of a *building permit*.

107-3.3 Outdoor lighting Zones and Lighting uses

- A. There are different lighting zones throughout the City of Surprise. The lighting source, shielding requirements, and automatic lighting reductions are determined by both the lighting zone and the specific *use* of the property. The lighting zones are further delineated as follows:
 - 1. **Lighting Zone 2 (LZ2):** Areas within this lighting zone includes the neighborhood areas that are developed at the suburban and urban level, high *use* recreational and play fields, commerce and *office* areas of the city, and within the Transit Oriented Development District as designated by the Surprise *General Plan*. Lighting levels in the LZ2 are medium to high ambient brightness due to the higher levels of night time activity and the concentration and types of land *uses* allowed by the *zoning districts*; particularly where color rendition is important for the effectiveness and safety of the permitted activities.
 - 2. **Lighting Zone 1 (LZ1):** Areas within this lighting zone includes the neighborhood area that is developed as large *lot single-family*, rural residential, and surrounding natural *open space* as well as *business parks* and industrial areas with limited nighttime activity. Lighting levels in the LZ1 are low ambient brightness with general illumination for safety or security focused at activity centers and along travel corridors.
 - 3. **Lighting Zone 0 (LZ0):** Areas within this lighting zone includes those lands within a Scenic Lands Development area as designated by the Surprise *General Plan* and for other lands determined to have *environmentally sensitive features* or to be located in *environmental buffer areas*. In these areas, the preservation of an intrinsically dark environment both in the sky and in the visible landscape is considered of paramount value and special review will be required for any permanent lighting in this zone.
 - 4. A property located in more than one (1) of the lighting zones described in subsections (1) to (3) above shall be considered to be only in the more restrictive lighting zone.

- B.** *Outdoor lighting fixtures* will be permitted for the following *uses* and activities provided they are allowed in the lighting zone and designed to meet the standards further outlined herein and in the PEDS:
1. *Street* lighting.
 2. *Parking lot* lighting.
 3. Architectural illumination and structural lighting.
 4. Landscape lighting and the illumination of trees, shrubs, *water features*, and *open space* plaza areas.
 5. Outdoor recreational sports fields/courts and play area lighting.
 6. *Signage* (external and internal lighting).
 7. *Product display area*.
 8. *Building* overhangs and open canopies.
 9. Outdoor seating areas at eating and drinking establishments.
 10. Security lighting.
 11. Walkways and trails.
 12. *Agricultural uses*: arenas, corrals and animal containment areas.
- C.** The lighting zones delineated in section **107-3.3** above have specific permitted/prohibited lighting sources and shielding requirements associated with them as outlined in the following **Table 107-3a** and in other subsections herein.

Table 107-3a – Allowed Lighting and Shielding Standards

Lighting Activities in Lighting Zones	LZ2	LZ1	LZ0
Street lighting	LED, (1),(7)	LED, ENV, (1),(7)	ENV, (1),(5),(7)
Parking lot lighting	LED, MH, (2),(5),(7)	LED, MH, (2),(5),(7)	ENV, (1),(6),(7)
Commercial signage (external and internal lighting).	LED, (1),(5)	LED, (1),(5)	LED,(1),(6)
School and Community Facilities such as Sports Field/Court and Play Area Lighting	LED, MH, (1),(6),(7)	LED, MH, (1),(6),(7)	LED, MH, (1),(6),(7)
Architectural/structural illumination,	LED, (1)	ENV, (1)	ENV, (1),(6)
Landscape lighting (trees, shrubs, open space features)	ENV, (2)	ENV, (2)	ENV, (1),(6)
Vehicular sales lot lighting	LED, MH, (1),(5),(7)	X	X
Building overhangs and open canopies	LED, MH, (1),(5),(7)	LED, MH, (1),(5),(7)	ENV, (1),(6)
Plazas and outdoor seating areas at eating and drinking establishments	LED, (3),(4),(5)	LED, (3),(4),(5)	ENV, (3),(4),(5)
Security lighting	MH, (1),(7)	MH, (1),(7)	ENV, (1),(7)
Walkways and trails	LED, MH, (2),(5),(7)	LED, MH, (2),(5),(7)	ENV, (1),(6)
Agricultural uses: arenas, corrals & animal containment areas	X	MH, ENV,(2),(6)	X

Notes:

- (1) Fully shielded
- (2) Partially shielded
- (3) Unshielded – shielding not required but highly recommended
- (4) Decorative unshielded low-wattage incandescent lamps will be permitted.
- (5) Lighting reductions are required.
- (6) Lighting shut-off required.
- (7) Adaptive controls shall be utilized.

Light Source Code:

ENV = “narrow-spectrum amber” LEDs

LED = filtered to have a Correlated Color Temperature (CCT) maximum of 3,000K unless otherwise indicated.

MH = metal halide

X = Not allowed.

107-3.4 Lighting Reduction Requirements

- A. Table 107-3a above delineates specific lighting zones and certain types of lighting uses that require lighting to be reduced or extinguished. The following sections further detail those requirements; which shall be accomplished by providing adaptive controls for the automatic reductions and/or extinguishment of the lighting fixtures.
- B. Lighting reductions and/or shut off is not required for any of the following:

1. With the exception of landscape lighting, lighting for *multi-family* residential properties having *common areas*.
2. When the *outdoor lighting* consists of only one (1) luminaire.
3. Code required lighting for steps, stairs, walkways, and *building* entrances.
4. When in the opinion of the Community Development Director, lighting levels must be maintained.
5. Motion activated lighting.
6. Lighting governed by special *use* permit in which times of operation are specifically identified.
7. Lighting *used* to illuminate potential obstructions and/or hazards to air navigation.

107-3.5 Street Lighting Standards

A. General Requirements

1. All *lighting fixtures* along public and *private streets* should be non-reflective and consist of *full cut-off, fully shielded luminaires* to prevent any glare or *light trespass* onto adjoining property and *adjacent* areas; primarily lighting the pedestrian sidewalk, specifically at intersections and crosswalks, and secondarily to light the driving lanes.
2. Lighting sources shall adhere to **Table 107-3a** and the overall height of the lighting standard, measured from finish *grade* to the top of the *fixture* should be as follows:
 - a. Along *local streets* serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. *Local streets* serving non-residential areas in the LZ0 lighting zone shall not exceed sixteen (16) feet and in all other lighting zones shall not exceed twenty-five (25) feet in height.
 - b. Along *collector streets* serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. *Collector streets* serving non-residential areas in the LZ0 and LZ1 lighting zone should not exceed sixteen (16) feet and in the LZ2 lighting zone should not exceed thirty (30) feet six (6) inches in height.
 - c. Along the city's primary arterials should not exceed thirty (30) feet in height in the LZ0 and LZ1 lighting zones and thirty-nine (39) feet six (6) inches in the LZ2 lighting zone.

3. In residential neighborhoods where *curb separated sidewalks* exist, pole-mounted *lighting fixtures* on local residential *streets* shall be placed within the *landscape strip* between the curb and sidewalk, and spaced in an *alternate* pattern using both sides of the *street*; utilizing the lighting source specified for the lighting zone in which the development is located.
4. The *use of adaptive controls* that regulate and automatically reduce the amount of light based on the traffic flows should be utilized in all circumstances and in all lighting zones.

B. Street Lighting in the LZ2 Lighting Zone

1. Arterial and *collector streets* shall utilize *LED's* filtered to have a CCT of 3,000K.

C. Street Lighting in the LZ1 Lighting Zone

1. Due to the rural nature of the lighting zone limited *use of street* lighting should be expected with lighting provided only as outlined below:
 - a. Major intersecting rural roads.
 - b. Intersections where local roads of a rural subdivision intersect with a major rural road.
 - c. Those areas identified as dangerous and hazardous to vehicular travel due to significant changes in *roadway* alignment, bridges, or hazardous *structures* such as curbs, piers, *abutments* or culverts.
 - d. Locations along roads and highways where police reports indicate nighttime accident rates exceed those of daytime hours.
 - e. Locations along a highway or rural road where traffic turning movements to and from *adjacent* commercial developments threaten public safety.
2. *Arterial streets* only should utilize *LED's* filtered to have a CCT of 4,000K all others shall be limited to 3,000K or a narrow-spectrum amber *LED*.

D. Street Lighting in the LZ0 Lighting Zone

1. Due to the environmentally sensitive nature of the lighting zone minimal *use of street* lighting should be expected with lighting provided only as outlined below.
 - a. Locations along a highway or arterial road where traffic turning movements to and from *adjacent* commercial developments threaten public safety.

- b. Intersections where the entrance of a subdivision intersects with a major road.
2. *Adaptive controls* for the automatic reduction of lighting by 30% between 11:00 p.m. and sunrise will be required for all street lights.

107-3.6 Parking Lot and Loading Area Lighting Standards.

- A. Ornamental parking lighting may be permitted provided it is complimentary to the architecture and meets the intent of this Ordinance and the design aspects of the PEDS.
- B. The maximum height of parking *lot* lighting standards (poles) shall be sixteen (16) feet within the interior of the parking *lot* and twelve (12) feet at or along the perimeter of the parking *lot* and shall be located in such a manner as to not conflict with tree locations within the planting islands and *buffers*.
- C. *Parking area* lighting for all *uses* and within all lighting zones shall achieve, as near as possible, an equal luminance uniformity throughout the *parking area* with a reduced level at the property line when *adjacent* to the public *right-of-way* or a residential property.
- D. Within LZ2 and LZ1 Lighting Zones.
 1. For any non-residential land *use* the minimum lighting intensity shall be 2 *lumens* (2.0 fcs), the maximum intensity shall not exceed 5 *lumens* (5.0 fcs), as measured within the parking *lot*, and shall not exceed 1 *lumen* (1.0 fcs) measured at the property line for parking *lots* adjoining the public *right-of-way* or a residential property.
 2. All lighting shall at a minimum be reduced by 50% between 11:00 p.m. (or 30 minutes after close of *business* whichever is later) and sunrise.
- E. Within LZ0 Lighting Zone.
 1. For any non-residential land *use* the minimum lighting intensity shall be 1 *lumens* (1.0 fcs), the maximum intensity shall not exceed 2 *lumens* (2.0 fcs), as measured within the parking *lot*, and shall not exceed 0.5 *lumen* (0.5 fcs) measured at the property line for parking *lots* adjoining the public *right-of-way* or a residential property.
 2. All lighting shall be extinguished between 11:00 p.m. (or 30 minutes after close of *business* whichever is later) and sunrise; except for *businesses* that operate on a 24hour basis.

107-3.7 Outdoor Advertising Signs.

A. General Requirements.

1. External *fixtures* shall be fully shielded, mounted on top or above the sign, and directed downward onto the sign face.
2. *Lamps used* for internal and external illumination of *signs* shall be counted toward the total *lumen* cap described in Section **107-3.2 C.** above.
3. Illumination for all advertising *signs* both externally illuminated and internally illuminated shall be either reduced or turned off as noted in **Table 107-3a** as further described below.

B. Within the LZ2 and LZ1 Lighting Zones.

1. Electronic Message *Signs* (EMS) where permitted per **Chapter 109** of this Ordinance shall adhere to the following:
 - a. The maximum *lumen* level for all land *uses* shall not exceed 200 *nits*.
 - b. *Signs* shall be required to be equipped with photo cell sensors that are factory locked to dim the sign at night (2 hours after dusk) to 100 *nits*. An affidavit from the manufacturer attesting to the brightness level shall be submitted with the sign permit application.
 - c. The electronic message center portion of the sign shall be turned off when the *business* activities cease (or 11 pm whichever occurs last). *Signs* shall include timers that will automatically turn off the digital display.
2. All *signage* within a non-residential development shall be reduced by thirty (30%) percent by 11:00 p.m. or when the *business* closes whichever is later.

C. Within the LZ0 Lighting Zone.

1. The maximum *lumen* level for any type of sign shall not exceed 100 *nits*.
2. All free-standing *signs*, EMC or otherwise, shall not have white backgrounds.
3. Electronic Message *Signs* (EMS) where permitted per Chapter 109 of this Ordinance shall adhere to the following:
 - a. The sign was to be factory locked at 100 *nits* with an affidavit from the manufacturer attesting to this brightness level.
 - b. The electronic message center portion of the sign shall be turned off when the *business* activities cease or 11 pm whichever occurs last. *Signs* shall include timers that will automatically turn off the

digital display.

- c. The sign shall be equipped with photo cell sensors, reducing the surrounding sign brightness to reflect the surrounding ambient light when the EMS portion is turned off.
4. All *signage* within both residential and non-residential development shall be shut-off by 11:00 p.m. or when the *business* closes whichever is later.

107-3.8 School and Community Facility Sports Field/Court and Play Area Lighting

- A. The City's intent is to follow the IES Recommended Practice for Sports and Recreational Area Lighting and the International Dark-Sky Association (IDA) Criteria for Community-Friendly Outdoor Sports Lighting.
 1. The measurement of on-field illuminance values will be those appropriate for the application per IESNA RP-6-15 Sports and Recreational Area Lighting criteria (or equivalent CIE guidance) together with modeled initial illuminance targets. To limit over-lighting, the design may vary by no more than 10% above the average target illuminance levels for each Class.
 2. The IES TM-15-11 Luminaire Classification System for *Outdoor lighting* is not appropriate for sports lighting.
- B. Provide advanced *adaptive controls* and documentation for the following:
 1. Automatic and/or remote control system via smartphone apps, or direct remote communication to the company/agency/department facility responsible for handling the lighting controls, to enforce shut-off at the established curfew time per the Lighting Zone in which the facility is located, not to be later than 11:00 PM. Illumination of the playing field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances.
 2. On-site manual and/or remote control system shall also be provided to allow for the lights to be turned on or off at will (before curfew) to assure that only active sports fields are lighted.
 3. Provide readily accessible controls to implement uniform and variable adaptive illumination levels for different task lighting needs on field, e.g. IES class of play, competition athletics, band practice, striping, mowing, sports practice, etc. Adaptive dimming shall be possible across the range of 25% to 100% of full illumination.
- C. Maximum mounting heights, measured from the finished *grade* to the top of the *fixture*, for recreational lighting shall be in accordance with the following:

1. Pedestrian and bicycle pathways throughout a *park* or developed *open space* area should not exceed 12 feet in height and should be spaced in a manner to provide continuous illumination of the pathway.
 2. Sport court activities such as basketball, tennis, volleyball, and handball should not exceed 25 feet in height.
 3. Recreational activities such as, but not limited to, horseshoes, lawn bowling and bocce ball courts, shuffleboard, miniature golf, and swimming pool aprons/decks should not exceed 20 feet in height.
 4. Athletic fields for football, soccer, baseball, lacrosse, and nighttime practice golf ranges should not exceed 80 feet in height. Little League baseball fields should not exceed 60 feet in height for fields with a radius of 200 feet and 70 feet in height for fields with a radius of 300 feet.
- D. Lighting for outdoor athletic fields, courts or tracks shall be exempt from the *lumens* per acre limits of Section **107-3.2 C** herein. All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics unless certified by a registered engineer that such shielding is impractical. Every such lighting system design shall be certified by a registered engineer as conforming to all applicable restrictions of this Ordinance. Where *full cut-off fixtures* are not utilized, acceptable luminaires shall include those which:
1. Are provided with internal and/or external glare control louvers and installed so as to limit direct up-light to less than five percent (5%) of the total *lumens* exiting from the installed *fixtures* and minimize *off-site light trespass* as required herein, and
 2. Are installed with minimum aiming angles of twenty-five (25) degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaire maximum beam candlepower as certified by independent testing agency.

107-3.9 Architectural and Landscape Lighting

- A. Architectural/structural and landscape lighting *used* to illuminate the wall of a *building* or elements are permitted in all lighting zones per **Table 107-3a**. Subject to the review and approval of the Community Development Director or designee, said lighting must satisfy the criteria in the following sections:
1. *Lighting fixtures* shall be selected, located, aimed and shielded so that *direct illumination* is focused exclusively on the *building façade*, plantings and other intended site features and away from *adjacent* properties and the public *right-of-way*;
 2. Any lighting that directly shines onto neighboring properties or the public

right-of-way shall be prohibited. Wall mounted (downward lighting) flood or spot *lamps* must be fully shielded, except that unshielded wall mounted lights, whose glare is mitigated by features such as porches and *building* overhangs and minimizes *light trespass* onto neighboring properties.

3. The lighting will illuminate an architectural feature or landscape feature that is unique to the particular project due to the *use* of materials, colors or design characteristics which are not commonly found within the city. Such *fixtures* should be located and designed in such a manner that the actual *lamp* and reflector are shielded so that it is not seen from normal public viewing; such as but not limited to direct glare be protected from vehicular and pedestrian traffic.
- B. Architectural and landscaping lighting in the LZ0 lighting zone shall be shut off from 11:00 p.m. to sunrise except when lighting is required by code for steps, stairs, walkways, and *building* entrances. *use* of motion sensors is encouraged.

107-3.10 Multimodal Pathways and Trails, Plazas, and Outdoor Seating Areas.

- A. Lighting within fifty feet (50') of a residential property line shall not exceed a maximum standard height of twelve feet (12').
- B. Lighting shall be aimed or directed in a manner that any changes in the elevation or turn of the pathway are illuminated so that such pathway features are clearly discernible through the *use* of, but not limited to, freestanding poles, bollards, in-place step, and/or *structure/building-mounted fixtures*.
- C. Bollard lighting shall be a maximum of four (4) feet in height with the *fixture* standard made primarily of concrete. All *fixtures* shall be shielded, have some type of control mechanism for the reduction or shut off , and *use* a low ambient light source as indicated above in **Table 107-3a** herein.
- D. Trailheads, Plazas, and outdoor seating areas, including their entrances and exits, shall be illuminated one-half (½) hour before sunset to one-half (½) hour after sunrise to facilitate natural surveillance opportunities and discourage unsafe activities. All lighting shall be pedestrian scaled and integrated into the total design in a manner that brings definition, order and a sense of security that welcomes pedestrian *use*.

107-3.11 Canopy Lighting.

- A. Canopies include, but are not limited to, the following applications:
 1. All canopies associated with *vehicle fueling stations* and convenience stores.

2. Canopies over store and *office* fronts.
 3. All marquees and projecting overhangs.
 4. Exterior canopies over driveways and *building* entrances.
 5. Pavilions and gazebos.
- B.** Overhead lighting *used* to light *building* overhangs and open canopies shall have a maximum lighting intensity (eye illumination levels) under the canopies no greater than 5 *lumens* (5 fcs) when measured directly under the overhang or canopy or greater than 1 *lumen* (1 fcs) when measured at the property line. Areas outside canopies and pump areas shall be regulated by the type of lighting application and the lighting zone in which the development is located as delineated in other sections herein.
- C.** Overhead lighting *used* to light *building* overhangs, open canopies, fueling facility canopies, *drive-through* canopies, customer loading canopies, and similar *structures* shall be a recessed *fixture* incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy. No portion of the *fixture* shall project below the ceiling of the canopy *structure*.
- D.** Canopies for pavilions and gazebos may utilize indirect lighting beamed upward and then reflected down from the underside of the canopy. Such *fixtures* shall be shielded such that *direct illumination* is focused exclusively on the underside of the canopy.
- E.** Canopy lighting shall be reduced by thirty (30%) percent between the hours of 11:00 p.m. to sunrise. Except for *businesses* open 24 hours, canopy lighting in the LZ0 lighting zone shall be shut off by 11:00 p.m. or thirty (30) minutes after the close of *business* or at such time as the last employee leaves the *business* premises, whichever is later.

107-3.13 Security Lighting.

- A.** **Security lighting shall use** the lowest possible illumination level to effectively allow surveillance **and reduce the negative impacts of crime.**
- C.** Security lighting systems shall utilize the light sources delineated in Table 107-3a herein, be fully shielded *fixtures*, and aimed so that illumination is directed to the designated areas.
- D.** The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning and Zoning Commission to conserve energy, provide safety and promote compatibility between different land *uses*.

107-3.14 Exposed String Lighting.

- A. Lights that are blinking and/or chasing are not permitted in non-residential zones. Only during seasonal periods identified herein may residential zones utilize blinking and/or chasing lights.
- B. Permanently exposed string lights are permitted the following criteria are satisfied:
 - 1. Exposed permanent string lights shall be exclusively a white light with a clear bulb as a commercially available maximum 2.8-watt system and may require a *building permit* according to Chapter 105 of this Ordinance.
 - 2. Exposed string lights shall be limited to designated areas for outside dining, seating, or gathering and main pedestrian entry to a project site.
 - 3. Lighting of living landscape features (trees) may be permitted if *used* in combination with other highlighting or pedestrian *lighting fixtures* within these immediate areas. Lighting of landscape features shall be secured to the landscape feature with bands that will not puncture the skin of the plant.
 - 4. Residential string lights must comply with regulations of this Article herein with regards to *light trespass* and spillage.
 - 5. Applications considered with the development review process may require string lights details to be included with final approval made with the Community Development Director or designee upon satisfactory compliance with the limitations and design parameters above.

107-3.15 Outdoor Display and Sales Areas.

- A. All site lighting not directly associated with the *outdoor display* and *sales areas* shall conform to the lighting standards described in other sections of this Article, including but not limited to the lighting source and shielding requirements of **Table 107-3a** and the *lumens* per acre limits of Section **107-3.2 C**.
- B. Lighting for the *outdoor display* and *sales areas* shall be designed to not exceed the luminance recommendations for the activity as defined by the most current recommended practice of the Illuminating Engineering Society of North America (IESNA). All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics. Every such lighting system design shall be certified by a registered certified engineer as conforming to all applicable restrictions of this Article.
- C. Maximum lighting standard (pole) heights, measured from the finished *grade* to the top of the *fixture*, should not exceed sixteen (16) feet in height along the

perimeter of the *display area* and twenty-five (25) feet within the interior of the *display area*.

- D. *Display area* lighting shall be turned off by 11 p.m. or within thirty (30) minutes after closing of the *business*, whichever is later. Security lighting shall be exempt from these turn-off requirements.

107-3.16 Prohibited Outdoor lighting.

- A. The *use*, installation, sale of any mercury vapor *lamps* is prohibited per AR §49-1104.
- B. The *use* of laser source light or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.
- C. The operation of searchlights for advertising purposes in the LZ2 lighting zone is prohibited between ten (10:00 p.m.) and sunrise the following morning and prohibited at all times in lighting zones LZ1 and LZ0.
- D. Bottom-mounted outdoor sign lighting attached to the sign shall not be *used*.

ARTICLE 4 – PARKING AND LOADING REGULATIONS

107-4.1 Purpose and Applicability.

- A. The purpose of this article is to set standards for *off-street parking* and loading requirements for *new construction* and the expansion of or changes to existing *uses*. The city sets both minimum and maximum levels to avoid congestion on surrounding *streets* while avoiding excessive on-site parking. *On-street* parking is also encouraged in some locations in order to provide a *buffer* between pedestrians and vehicular traffic.
- B. *Applicability*. The standards herein apply to all residential, commercial, industrial and public *uses*.
- C. The Community Development Director or designee shall determine the parking and loading requirements for *uses* that do not correspond to the categories listed in **Table 107-4b** and **Table 107-4d**. In such instances, the *applicant* shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following:
 - 1. Type of *uses*.
 - 2. Number of employees.
 - 3. *Building* design including square footage of public areas, *sales areas*, *display area*, service area, restricted areas, and *ancillary* outdoor spaces.
 - 4. *Parking spaces* proposed on site.
 - 5. *Parking spaces* provided elsewhere.
 - 6. Hours of operation.

107-4.2 General Provisions

- A. Calculations for the minimum number of required spaces shall be based on Gross Floor Area (GFA) that combines the total square footage of all the *uses*, multiple *uses*, and *accessory uses*; which may include, but is not limited to, the floor areas of the *building(s)*, outdoor activities and dining areas, storage areas, and all sales *display areas*.
- B. When units or measurements determining the number of required *off-street parking* and *loading spaces* result in a fractional space, then such fraction equal or greater than one-half (1/2) shall require a full *off-street parking space*.
- C. With the exception of a *shared parking* agreement, *off-street parking* facilities shall be located on the same *lot* as the *use* they are intended to serve.

- D. All vehicular egress from parking *lots, parking structures*, or from any development site to a public *right-of-way* shall be by a forward motion only. All *parking areas* shall be designed with a turnaround area that permits vehicles to turn around without utilizing a *parking space* to do it or without backing onto the public *right-of-way*. Exceptions may be made for a residential *use* in the R-1 or R-2 *Zoning district* that load onto collector or local *ROW*.
- E. Only spaces that are designed consistent with this section are counted toward the minimum number of required *parking spaces*. Spaces at fueling pumps, bays for auto repair/service, and drive through aisles are not counted toward the minimum parking required.
- F. In lieu of *parking spaces applicants* may participate in a parking improvement district or make payments to a parking fund specifically set aside to provide public parking within one-quarter mile (1/4 mi) of the exterior boundaries of the proposed development. The amount of the payment for each space shall be established by a resolution of the City of Surprise and shall be reasonable and based on the actual or estimated cost to provide such spaces. No development approvals shall be issued until improvement district agreement is secured or the complete payment to the parking fund has been received by the City of Surprise.
- G. Provisions in this Article shall work in support of Chapter 54 of the Municipal Code. In the event of conflicting regulations, the more restrictive shall be applied.
- H. Any *use* not in compliance with the requirements of this Article will be a violation of this Ordinance.

107-4.3 R-1 and R-2 Residential Provisions

- A. Required *off-street parking* shall be utilized solely for the parking of licensed and operable passenger vehicles and in addition to Chapter 54, Article IV of the Municipal Code the regulations below shall apply:
 - 1. The *recreational vehicle* or utility trailer stored in the rear or *side yard* shall be behind the front line of the primary *structure*.
 - 2. Placement of a *recreational vehicle* or utility trailer in other than the rear or *side yard* for loading and unloading purposes may be permitted for a period not to exceed seventy-two (72) hours up to two (2) times per month.
 - 3. No person shall *park* a *truck* on any *lot*, except while loading and unloading the *truck*, while services are being provided to the residence by the *truck's* occupant, or for a period of time to exceed twenty (24) hours.
- B. The required *off-street parking spaces* shall not be *used* for storage of commercial equipment.

- C. Residential parking and driveway areas shall be constructed and maintained, with the required *parking space(s)* being located on and *accessed* by a dust-proof surface.

107-4.4 Multi-family, Mixed Use, and Non-residential use Provisions

- A. The minimum number of required *off-street parking spaces*, as outlined in **Table 107-4d**, may be reduced by the number of *on-street parking spaces abutting* the property lines of the *lot* or *parcel*.
- B. *Off-street parking* facilities shall be designed, constructed, and maintained in accordance with Volume 1 of the PEDS and the specifications described below:
 - 1. Parking, loading, and driveway areas will be paved with asphalt, brick, concrete, or other approved surfaces of comparable durability.
 - 2. Parking, loading, and driveway areas will be *graded* and drained utilizing Low Impact Development (LID) methods and water harvesting of surface water run-off for watering of the required landscaping.
 - 3. Parking is prohibited in required *setback* and landscape areas.
- D. *Off-street parking* facilities shall provide landscape islands and landscape medians/walkways to provide shade trees and aid in capturing stormwater as follows:
 - 1. One parking *lot* island with one foot (1') of ribbon curbing shall be provided every ten (10) *parking spaces* and at the end of each parking row.
 - 2. Landscaped medians/walkways shall be provided for every third double rows of parking when the parking exceeds thirty (30) spaces per row.
 - 3. Where wheel stops are not *used* the width of the *abutting* landscape median or sidewalk shall be increased in by at least two feet (2').
 - 4. Exceptions may be made for *parking spaces* that are covered utilizing solar panels as the shade *structure*.
- E. When permitted in commercial or industrial *zoning district* parking and storage of *trucks* shall be within the *screened* storage area or a loading zone of an approved *site plan* and under the specific conditions outlined within the Surprise Municipal Code.

107-4.5 Dimensions

- A. All vehicular *parking space* and *drive aisle* dimensions within on-site parking *lots* shall be as outlined in **Surprise PEDS Standard Detail**; except for spaces identified below.

1. Motorcycle, Scooter, and Golf Cart. *Parking spaces* shall be a minimum of five feet wide by nine feet deep (5'x9'). *Parking lots* with forty (40) *parking spaces* or more may substitute up to two and half percentage (2.5%) of the standard *parking spaces* with motorcycle, scooter, and/or golf cart spaces.
 2. Compact vehicles. Compact vehicles shall be a have the dimensions of eight feet in width and sixteen feet in length (8'x16'). Up to thirty percent (30%) of the required *parking spaces* may be designated for *use* by compact vehicles. Each compact vehicle *parking space* shall be identified with a sign or pavement marking.
- B. Landscape Islands. Each landscape island shall be a minimum width of six feet and length of fifteen feet (6'x15'), measured from back of curb to back of curb.
- C. Landscape Median/Walkways. Each median shall be a minimum width of fifteen feet (15'), measured from back of curb to back of curb.
- D. Off-street loading spaces. The number of such required spaces is outlined in **Table 107-4a** and the dimensions, exclusive of *access* or maneuvering area, *platform*, and other appurtenances, are as follows:
1. Each large space shall have an overhead clearance of at least fifteen feet (15'), shall be at least twelve feet wide and at least fifty feet (12'x50') long.
 2. Each small space shall have an overhead clearance of at least ten feet (10'), shall be at least eight feet wide and at least feet long (8'x20').

107-4.6 Bicycle Parking

- A. Bicycle spaces will be provided at the rate of one (1) bicycle space for every 20 vehicle *parking spaces* in accordance with the below specifications; with the exception of residential *uses* in RR, R-1, and R-2 *zoning districts*.
1. Bicycle racks and other fixtures must be securely affixed to the ground and allow for the bicycle to be locked and chained.
 2. Bicycle spaces shall be located within fifty feet (50') of the primary entrance on paved, drained, and well lighted area. If required bicycle spaces are not visible from the *street* or vehicle *parking area*, *signs* must be posted indicating their location.
 3. The location and design of bicycle racks and fixtures shall be included and identified on *site plans*.
 4. Bicycle racks may be *used* as an architectural embellishment or functional art piece to coordinate with the site or land *uses*.

107-4.7 Off-street loading

- A. *Off-street loading* facilities are required for all *structures* and/or developments containing non-residential *uses* and shall be constructed, maintained, and operated in accordance with the specifications described in this article.
- B. When *off-street loading areas* are *abutting* residentially zoned areas, *truck* usage is only to occur between the hours of 6:00 a.m. to 9:00 p.m.
- C. *Off-street loading* spaces and appurtenances, such as but not limited to trash enclosures, compactors, and storage shall be *buffered* and *screened* by utilizing internal *site plan* design, *structures*, or *screen fences/walls* to ensure residential *uses* and pedestrian connectivity is not unreasonably disturbed by the movement of vehicles or noise of the activities either during the day or at night.
- D. The number of *off-street loading* spaces shall be based on the gross floor area of each *structure* as delineated in **Table No 107-4a**. The Community Development Director or designee may approve a reduced number of spaces based on the varied usage times by the individual *users* and the character of the merchandise. The loading spaces may be designed in a common *loading area*, not more than three hundred feet (300') from the service entrance for the *structure* or tenant space(s) for which they are provided.

Table 107-4a Loading Spaces for Commerce Structures/Centers	
Gross Floor Area in Structure	Required Number of Spaces
0 up to and including 12,500	1 (small)
12,501 up to and including 25,000	2 (small)
25,001 up to and including 40,000	1 (large)
40,001 up to and including 100,000	2 (large)
For each additional 80,000 over 100,000	1 (large)

- E. The required *off-street loading* spaces will in all cases be on the same *lot* as the *use* they are intended to serve. In no case will required loading spaces be part of the area *used* to satisfy the parking requirement.
- F. *Off-street loading areas* shall be properly *graded* for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in a clean and functioning condition free of weeds, trash, and debris.
- G. *Off-street loading areas* may require design with one-way entrances and exits to minimize traffic congestion.

107-4.8 Shared Parking and Loading

- A. *Off-street parking spaces* and *loading areas* required under this section may be provided cooperatively for two (2) or more *uses* in a development or for two (2) or

more individual *uses* with a *shared parking* agreement, subject to the requirements of this section.

1. The quantity of *off-street parking spaces* provided under the *shared parking* agreement meet the minimum requirements of this Article.
 2. The *owner(s)* of the land to be included within the *shared parking* agreement shall submit an application and parking plan with the following information:
 - a. The name and signatures of all *owner(s)* and parties having a legal interest in all *structures*, land, and *uses* associated with the *shared parking* agreement.
 - b. The parking plan (as an Exhibit to the agreement) showing the location of the *uses* or *structures*, the design and layout of the parking facilities, and the schedule of times *used* by those sharing parking in common.
 - c. A written agreement between the *owners* and lessees for cross *access*, *ingress/egress*, loading and *shared parking* to be executed for a minimum of twenty years (20).
 3. Upon approval, the *shared parking* agreement and parking plan will be recorded with the Maricopa County Recorder.
 - a. Should the lease expire or terminate, the *uses* for which the *off-site* parking provided shall be considered *nonconforming* with this article including *CUPs*, which may be subject to a standard *CUP* revocation process.
 - b. Continuation or expansion shall be prohibited unless the *use* is brought into compliance with the parking regulations of this article.
 4. Pursuant to the same procedure and subject to the same limitations and requirements by which the *shared parking* agreement and plan was approved and registered, any such agreement and plan may be amended or withdrawn, either partially or completely, if all land and *structures* remaining under such plan comply with all the conditions and limitations of the agreement and plan, and all land and *structures* withdrawn from such agreement and plan comply with the regulations of this article.
- B. *Off-street parking* requirements of a given *use* may be met with an *off-site* parking facility that is within one thousand three hundred and twenty feet (1,320') provided the following:
1. The *owners/applicants* have submitted the appropriate parking funds to the City for the necessary *parking spaces* within a public parking facility.
 2. The *owners/applicants* have submitted a signed agreement to participate in a parking improvement district for which the *public facility* is included.
- C. *Recorded plats* shall convey, within the dedication statement, agreement to *shared parking* and *ingress and egress* as follows:
1. "Owner hereby grants to the ultimate *owner* of each *parcel* created by this *plat* an easement over, upon and across the entire *plat* for the purpose of providing continuous and uninterrupted *ingress and egress* and parking to each *parcel* created by this *plat*".

- D. *Commerce centers* that contain *uses* designed around common circulation, parking, and pedestrian connectivity may replace the quantity of required parking in **Section 107-4.9** according to **Table 107-4b**.

Table 107-4b Commerce Center Parking Standards		
Zoning	Min. Spaces per Non-residential GFA (square feet)	Min. Spaces per Dwelling unit (DU)
OC and C-1	1 per 400	
MU-1, MU-2, TND-MU	1 per 500	1.5
C-2, TND-C, SHD-CO	1 per 200	1
C-3	1 per 500	
I-1 and I-2	1 per 1000	

1. Projects that only utilize shared *access* or *access* easements without an overall design that incorporates *shared parking* and internal circulation do not qualify as a *Commerce center*.
2. *Commerce centers* that include more than two (2) *Medical Offices* shall still calculate the minimum required number of *parking spaces* per **Table 107-4c**

107-4.9 Minimum Off-street Parking Requirements

- A. Each individual land *use* within the different *zoning districts* and overlay *zoning districts* shall provide the required number of *off-street parking spaces* as described in **Table 107-4c** below.
- B. The Community Development Director or designee will determine if *uses* are significantly similar or dissimilar to particular *uses* not expressly listed in **Table 107-4c**. The parking requirement for *uses* that are significantly dissimilar to *uses* listed in **Table 107-4c** shall be determined by the Community Development Director or designee. In such instances, the *applicant* will provide adequate information by which the proposal can be reviewed, which includes but not limited to the following:
1. Type of *use(s)*.
 2. Number of employees.
 3. *Building* design capacity.
 4. Square feet of *sales areas* and service area.
 5. *Parking spaces* proposed on site.

6. *Parking spaces provided elsewhere.*

Table 107-4c – Parking Standards	
Uses	Min Off-street Parking spaces
Residential	
Assisted Living Center (more than 10 residents)	0.5 per sleeping room
Assisted Living Home (10 or less residents)	2 per dwelling unit plus 0.5 per sleeping room
Dormitory	0.5 per sleeping room
Dwelling, Live/work	2 per DU
Dwelling, Multi-family (4 or more)	Studio-1B=1/unit, 2+B=2.0/unit plus 1 per 250 sf of office and community facility uses 0.2 spaces per DU dedicated to visitor parking
Dwelling, Single-family	2 per DU
Dwelling, Two-family (Duplex)	2 per DU
Dwelling, Three-family (triplex)	2 per DU
Group Home	Same as Residence
Commercial	
Airport (private)	1 per 100 sf GFA of waiting room space or 2 spaces per craft staging/tie down pad
Amusement &/or Theme Park	1 per 600 sf outdoor public activity area
Animal Boarding Facility	1 per 375 sf GFA
Animal Clinic	1 per 200 sf GFA
Animal Grooming	1 per 200 sf GFA
Animal Hospital	1 per 200 sf GFA
Animal Shelter	1 per 300 sf GFA
Athletic or Fitness Club (Commercial)	1 per 250 sf GFA
Bank	1 per 250 sf GFA
Bar	1 per 100 sf GFA
Bus Terminal	Determined by Site Plan
Campgrounds	1 per 4 campsites plus 2 per laundry/shower facilities

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces
Catering Services	1 per 500 sf GFA
Cemetery and Mausoleum	Determined by Site Plan
Cemetery, Pet (Limited to small animals)	Determined by Site plan
Community Facility	3 spaces when on-street parking is prohibited or 1 per 500 sf GFA
Community garden	2 spaces when on-street parking is prohibited or 1 per 500 sf GFA
Day care Center (Child or Adult)	1 per 375 sf GFA
Entertainment Establishment - Indoor	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats
	Bowling, billiards, pool, etc. 2 per lane or gaming table
	Miniature golf establishment-1 per hole
	Skating rinks-1 per 200 sf GFA
	Theater (movie and performance)-1 per 4 seats
Entertainment Establishment - Outdoor	Miniature golf -1 per hole
	Driving Range - 2 per tee
	1 per 4 seats or 1 per 50 sf of activity area if no permanent seats
Fairground/Stadium	TBD by Parking Study with Site Plan
Funeral Home, Mortuary	1 per 4 seats
Galleries, Museums (including display & production space)	1 per 1,000 sf GFA
Golf Course (public or private)	2 per hole plus ancillary uses
Hotels, Motels, Resort	0.8 per room plus 1 per 800 sf GFA of public meeting area and restaurant space
Medical Hospital, Overnight Surgical Facility	1 per 400 sf GFA
Medical Marijuana Off-site Cultivation Facility	1 per 1000 sf GFA of activity area
Medical marijuana dispensary	1 per 400 sf GFA
Medical marijuana infusion facility	1 per 1000 sf GFA of activity area
Medical Office (Health Care Facility)	1 per 200 sf GFA
Microbrewery, Distillery, Winery	1 per 100 sf GFA
Nursing care facility	0.5 per room

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces
Office	1 per 250 sf GFA
Park, Recreation, and Open Lands	1 per 1000 sf GFA of activity area
Park and Ride	TBD by Parking Study with Site Plan
Parking Lot, Parking structure	TBD by Parking Study with Site Plan
Personal service Establishment	1 per 400 sf GFA
Places of Assembly	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats
Places of Worship	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats
Plant Nursery	1 per 400 sf GFA of sales areas and service building
Private Club	1 per 300 sf GFA
Post Office	TBD by Parking Study with Site Plan
Public Facility	TBD by Parking Study with Site Plan
Racetrack	1 per 4 seats or 1 per 50 sf GFA of if no permanent seats
Recreational vehicle (RV) Park	1 per 4 camp sites, plus 2 per laundry and shower facility (camping related establishments) and 1 space adjacent to each lot
Recreational vehicles (RV) Storage	1 per 20 RV parking space
Repair Service Establishment	1 per 400 sf GFA
Restaurant	1 per 100 sf GFA
Restaurant, Convenience/Take Out	1 per 150 sf GFA
Retail Shopping Establishment	1 per 400 sf GFA
Schools: Pre-K through 12 (Private)	2 per classroom, 1 per 6 students for grades 10-12
Schools: Universities or Colleges (Public or Private)	1 per 4 students
Schools: Vocational (Technical or Trade)	1 per 200 sf GFA
Self-storage facility	Drive-up Storage-1 per 300 sf GFA of office/retail space Multi-story/climate controlled-1 per 50 storage unit
Service Call Establishment	1 per 400 sf GFA
Sexually Oriented Business	1 per 400 sf GFA

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces
Shooting Range-Indoor Only	2 per stall
Showroom/Sales Office	1 per 400 sf GFA
State Vehicle License & Inspection Station	TBD by Parking Study with Site Plan
Tattoo and Body Piercing	1 per 400 sf GFA
Technology/Business Incubator Space	1 per 300 sf GFA
Utility Equipment Infrastructure	1 spaces when on-street parking is prohibited
Utility Service Yard	TBD by Parking Study with Site Plan
Vehicle fueling station	1 per 300 sf GFA retail areas
Vehicle Rental Facilities	1 per 500 sf GFA retail areas
Vehicle Sales & Leasing: New or Used (Commercial, including Equipment)	1 per 300 sf GFA of office and covered sales areas
Vehicle Sales & Leasing: New or Used (OHV, motorcycles, boats, or similar)	1 per 300 sf GFA of office and covered sales areas
Vehicle sales & Leasing: New or Used (Personal)	1 per 300 sf GFA of office and covered sales areas
Vehicle Service: Major Repair	1 per 500 sf GFA, including service bays, wash tunnels, and retail areas
Vehicle Service: Minor Repair	1 per 500 sf GFA , including service bays, wash tunnels, and retail areas
Vehicle Washing Facilities	1 per 300 sf GFA office and retail areas OR Self-serve car washes-3 per property
Zoo & Exotic Animal Keeping	TBD by Parking Study with Site Plan
Employment/Industrial	
Agricultural operations	1 per 1,500 sf GFA
Auction–Vehicle (passenger, commercial) & heavy equipment	TBD by Parking Study with Site Plan
Batch Plant, Paving Material Mixing Plant	TBD by Parking Study with Site Plan
Brick, Clay, Concrete, or Similar Product	TBD by Parking Study with Site Plan
Contractors Yard	1 per 1,000 sf GFA plus 1 per 400 sf GFA of sales and service building
Correctional Institutions/Facilities	TBD by Parking Study with Site Plan
Data Center	TBD by Parking Study with Site Plan
Equestrian center, Commercial Stables	1 per 3 stalls
Farm and Heavy Equipment Sales, Service or Storage	1 per 300 sf GFA of office and covered sales areas

Table 107-4c – Parking Standards

Uses	Min Off-street Parking spaces
Feed and Tack Sales	1 per 400 sf GFA
Fleet-Based Services	TBD by Parking Study with Site Plan
Food Manufacturing & Processing	1 per 1,500 sf GFA
Freight Depot/Distribution Center	1 per 1,500 sf GFA
Grain Processing; including Milling, Drying, Storage	1 per 1,500 sf GFA
Laundry, Dry Cleaning: Bulk Operation (Pick-Up & Delivery)	1 per 1,500 sf GFA
Machine Shop, Welding Shop	1 per 1,000 sf GFA
Manufacturing and Fabrication	1 per 1,500 sf GFA
Manufactured Home Portable Buildings, Oversized and Recreational (RV) Vehicles Sales and Service	1 per 375 sf GFA of sales and service building
Mining and Mineral Extraction	1 per 300 sf GFA of office and covered sales areas plus ancillary uses
Plant Nursery (Growing Facility & Wholesale)	1 per 1,000 sf growing area plus 1 per 400 sf GFA of sales and service building
Printing Plant (commercial scale)	TBD by Parking Study with Site Plan
Recycling, Collection Facility	TBD by Parking Study with Site Plan
Recycling, Processing Facility	TBD by Parking Study with Site Plan
Research Facility – Laboratory and Testing Facility	1 per 1,500 sf GFA
Sand and Gravel Operation	1 per 300 sf GFA of office and covered sales areas plus ancillary uses
Sanitary Landfill, Solid Waste Facility	TBD by Parking Study with Site Plan
Stone Product Curing, Fabrication	1 per 1,500 sf GFA
Taxidermist	TBD by Parking Study with Site Plan
Tile, Roofing & Waterproofing Production	1 per 1,500 sf GFA
Truck Stop (full service & repair permitted)	1 per 500 sf GFA , including service bays and retail areas
Vehicle Towing & Impound Lot	1 per 300 sf GFA of sales and service building
Warehouse/Distribution	1 per 600 sf GFA
Water Aquifer Recharge/Storage Facility	TBD by Parking Study with Site Plan
Water Reclamation or Wastewater Facility	TBD by Parking Study with Site Plan
Wholesale Shopping	1 per 400 sf GFA

Table 107-4c – Parking Standards	
Uses	Min Off-street Parking spaces
Accessory uses	
Accessory dwelling unit (ADU)	1 per ADU plus spaces for primary residence
Cottage Industries	2 plus spaces for primary residence

DRAFT

ARTICLE 5 – WIRELESS FACILITIES REGULATIONS

107-5.1 Wireless Facilities Definitions.

- A.** The following definitions will apply in the interpretation and enforcement of this section, unless the context clearly requires otherwise. Any term or phrase not defined herein will be defined by the City Manager or designee. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words "will" and "shall" are mandatory and not merely directory, and the word "may" is discretionary. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation or rule referred to herein are renumbered or amended, then the reference will be read to refer to the renumbered or amended provision.

A

Alternative tower structure. An innovative wireless tower design, such as a clock tower, grain silo, bell tower, false chimney, steeple, light pole, flag pole, windmill, and similar design mounting structures, that camouflage or conceal the presence of wireless antennae or towers. Alternative tower structures may also include utilization of a traffic signal streetlight pole or similar structure, or freestanding structure within a public right-of-way as approved by the city manager or designee on a case-by-case basis.

Amateur radio antenna. A freestanding or building-mounted structure, including any base, tower, pole, antenna, and appurtenances, intended for airway telecommunications purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Telecommunications Commission (FCC).

Antenna. Communications equipment that transmits or receives electromagnetic radio frequency signals and that is used in providing wireless services.

Authorized person. The person(s), employee(s), agent(s), consultant(s), and contractor(s), authorized in writing by the applicant to complete and submit a wireless facility application on behalf of the applicant and who is authorized to receive any notices on behalf of the applicant of any action taken by the city regarding the wireless facility application.

B

Backhaul. The connection from a wireless facility base station to the core network of the internet.

Base station. The structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower or monopole as defined in this chapter or any equipment associated with a tower or monopole:

- (1) The term includes, but is not limited to, equipment associated with wireless communications services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services.
- (2) The term includes, but is not limited to, radio transceivers, antennae, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).
- (3) The term includes any structure other than a tower or monopole that, at the time the relevant wireless facility application is filed with the city under this chapter, supports or houses equipment, and that has been reviewed and approved under the applicable zoning or siting process, or under another state, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (4) The term does not include any structure that, at the time the relevant wireless facility application is filed with the city under this chapter, does not support or house equipment described in subsections (1) and/or (2) above.
- (5)

C

Cell on wheels (COW). A mobile cell site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or a trailer designed to be part of a cellular network and temporary in nature.

City. The City Of Surprise, Arizona

Collocate or collocation. To install, mount, maintain, modify, operate, or replace wireless facilities on, within, or adjacent to a wireless support structure or utility pole.

Collocation, major. A collocation of a wireless facility where the proposed wireless facility equipment exceeds ten feet above the supporting structure and/or exceeds 50 feet above ground level.

Collocation, minor. A collocation of a wireless facility where the proposed wireless facility equipment does not exceed ten feet above the supporting structure and does not exceed 50 feet above ground level.

Conceal or concealment. Wireless facilities designed or disguised to look like something other than a wireless facility or base station.

D

Deemed approved. A wireless facility modification or building permit application that has been deemed approved upon the city's failure to act, and has become effective, as provided pursuant to the FCC, the state, and this chapter.

E

Existing. For purposes of this chapter, wireless facilities that were reviewed and approved under the applicable zoning or siting process in effect before the effective date of this section, provided that a tower that was not reviewed and approved prior to the effective date of this section, because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

F

FCC. The Federal Communications Commission or its successor.

G - L

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M

Microcell. A device that is connected to aerial facilities and used solely for transmitting, processing, and receiving voice and data wireless telecommunications services, without any associated ground mounted equipment. The device is often referred to as an "ASME" (aerial strand mounted equipment).

Monopole. A wireless support structure composed of a single spire used to support communications equipment and having no guy wires or ground anchors. A monopole, excluding municipal towers, shall not be greater than 40 inches in diameter at ground level and shall have all of the wireless facilities mounted on the pole and wiring contained inside of the pole. Includes monopalms, monocactus, monopines, and monobroadleaf wireless towers.

Municipal Tower. A monopole or tower erected by the city and located on city property for the purpose of providing wireless and radio services to support any city activities.

N - O

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P

Public right-of-way ("ROW"). The area on, below, or above a public roadway, highway, street, sidewalk, alley, or utility easement. Right-of-way does not include a federal interstate highway, a state highway, or state route under the jurisdiction of the department of transportation, a private easement, property that is owned by a special taxing district, or a utility easement that does not authorize the deployment sought by the wireless provider.

Q

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R

Rooftop-mounted wireless facility. A wireless facility with the antennae located on the roof of a building or on top of a structure and consisting of antennae, support structures, and accessory equipment which are adequately screened so as not to appear as stand-alone devices above the top of the roof line.

S

Site. For wireless facilities other than wireless facilities in the ROW, will mean, and refer to, the current boundaries of the property surrounding the wireless facility and any access or utility easements currently related to the site, and, for other wireless support structures, will mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Site plan. A required plan, to scale, of a project area showing uses and structures both existing and proposed.

Small cell network. A collection of interrelated small cell facilities designed to deliver personal wireless services.

Small wireless facility ("SWF"). A wireless facility that meets both of the following qualifications:

- (1) All antennae are located inside an antenna enclosure of no more than six cubic feet in volume or, in the case of antennae that have exposed elements, the antennae and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and

(2) All other wireless equipment associated with the facility is cumulatively not more than 28 cubic feet in volume or 50 cubic feet in volume if the equipment was ground mounted before the effective date of this section. The following types of associated ancillary equipment are not included in the calculation of equipment volume pursuant to this subdivision:

- a. An electric meter
- b. Concealment elements
- c. A telecommunications demarcation box
- d. Grounding equipment
- e. A power transfer switch
- f. A cutoff switch
- g. Vertical cable runs for the connection of power and other services

Structure-mounted wireless facility. A wireless facility with the antennae located on the wall or roof of a building or on the side or top of a structure, including collocating on an existing freestanding wireless facility and consisting of antennae, support structures, and accessory equipment.

T

Transmission equipment. Equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennae, coaxial or fiber-optic cable, and regular and back-up power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Tower. Any structure built for the sole or primary purpose of supporting any antennae and their associated facilities, licensed or authorized by the FCC, such as structures that are constructed for wireless communications services, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and the associated site.

U - V

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W

Wireless facility.

- (1) Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including both of the following:
 - a. Equipment associated with wireless communications.
 - b. Radio transceivers, antennae, coaxial or fiber-optic cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration.
- (2) Includes SWFs.
- (3) Does not include the structure or improvements on, under, or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.
- (4) Does not include Wi-Fi radio equipment described in A.R.S. § 9-506(I) or microcell equipment described in A.R.S. § 9-584(E).

Wireless facility monopole modification, major. A modification of an existing wireless facility monopole where the proposed monopole and base station exceeds the greater of either:

- (1) An increase in height of the tower greater than ten feet; or
- (2) An increase of base station area greater than ten percent of the existing facility.

Wireless facility monopole modification, minor. A modification of an existing wireless facility monopole where the proposed monopole and base station does not exceed the greater of either:

- (1) An increase in height of the monopole less than ten feet; or
- (2) An increase of base station area less than ten percent of the existing facility.

Wireless support structure.

- (1) Means:
 - a. A freestanding structure, such as a monopole.
 - b. A tower, either guyed or self-supporting.
 - c. A sign or billboard.
 - d. Any other existing or proposed structure designed to support, or capable of supporting, wireless facilities.
- (2) Does not include a utility pole.

X - Z

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107-5.2 Wireless Facilities Process Matrix.

- A.** The purpose of the wireless facility regulations is to encourage and promote wireless communications coverage for all areas of the city while minimizing the visual, environmental, and neighborhood impacts. Wireless facilities are allowed in all zoning districts, but the preferred wireless facility locations include settings having the least amount of visual and neighborhood impact. The wireless communications service providers will adhere to all applicable federal, state, and local regulations.
- B.** The cumulative classifications and application process matrix is shown below in **Table 107-5a.**

Table 107-5a - Classifications And Application Process Matrix			
Section	Request	Process Type	Maximum Review Time (days)
107-5.4	New monopole	2	150 – wireless facilities, not including SWFs
	Monopole collocation	1	90 – wireless facilities, not including SWFs
	Minor monopole modification	Building Permit	60 – wireless facilities, not including SWFs
	Major monopole modification	1	90 – wireless facilities, not including SWFs
107-5.5	Municipal Towers	1	subject to city review
107-5.6	Alternative wireless facility location	1	150 – wireless facilities, not including SWFs
	Alternative facility location collocation	1	90 – wireless facilities, not including SWFs
	Minor alternative facility location modification	Building permit	60 – wireless facilities, not including SWFs
	Major alternative facility location modification	1	90 – wireless facilities, not including SWFs
107-5.7	SWF in ROW	ROW encroachment permit and master license agreement	90 – new structures; 60 – existing structures
	SWF outside of ROW	1	90 – new structures 60 – existing structures
107-5.8	Wireless facilities other than defined herein	3	150
107-5.8	Cell on wheels ("COW")	Building Permit	90
107-5.9	Amateur radio antennae	Building Permit	75
	Amateur radio antennae greater than 35 feet	3	150

- C.** All changes will be measured cumulatively to preserve the limits established by federal, state, and local law.

107-5.3 Wireless Facilities General Provisions

- A.** All wireless facilities, whether a site for a cell tower, macro cell site, small wireless facilities (SWF), or any other type of wireless facility shall require review and approval by the city. Such review and approval shall be required for all new facilities as well as for any modification, and collocation applications.
- B.** With the exception of SWFs, all wireless facilities will identify a single parking space for the facility. If the location is on a separate parcel, owner authorization will be required.
- C.** *ALL Base stations shall adhere to the following criteria:*
 - 1. When located outside of the row but not on City property:
 - (a) Will comply with the height and yard development standards of the underlying zoning district, except as provided herein.
 - (b) Will be located underground, inside buildings, or behind solid decorative concrete masonry unit ("CMU") walls with a height equal to or exceeding the height of the base station, but no higher than eight feet above grade.
 - (c) An enclosed base station will occupy no more than 600 square feet.
 - 2. When located within the ROW:
 - (d) Are exempt from yard development standards, but will be located as far away from the street as possible.
 - (e) Unless allowed by federal, state, or local law, no advertisements or identifying logos will be placed on any structure within the ROW.
 - (f) Enclosures are limited to six cubic feet.
 - (g) Will be located outside the sight visibility triangle.
- D.** *Maximum Heights.*
 - 1. Except for municipal towers, the maximum height of any wireless support structure or base station, excluding antennae, in any zoning district shall not exceed sixty-five feet (65') above the finished grade of the site. Except for municipal towers, the maximum height of the antennae attached to any such wireless support structure or base station shall not exceed eighty feet (80') above the finished grade of the site, in any zoning district.
 - 2. The maximum height of any utility pole designed to support or capable of supporting wireless facilities, excluding antennae, shall not exceed sixty-five feet (65') above the finished grade of the site, in any zoning district. Except for municipal towers, the maximum height of the antennae

attached to any such utility pole designed to support or capable of supporting wireless facilities shall not exceed eighty feet (80') above the finished grade of the site, in any zoning district.

- E. When installing the wireless facility, installation will minimize the removal of existing mature vegetation at the site or such vegetation will be replaced. Any change in site landscape must be consistent with a city approved landscape plan as required by this chapter.

F. *Appeals.*

1. The decision of the community development director or designee may be appealed to the planning and zoning commission. The planning and zoning commission shall use the same criteria used to review the original application. Appeals to the planning and zoning commission must be taken within 30 calendar days of the date of the determination by the community development director or designee. The appeal will be heard at the next available regularly scheduled meeting, but not later than 60 calendar days from the notice of appeal.
2. The decision of the planning and zoning commission may be appealed to the mayor and City Council, whose decision will be final. The mayor and City Council shall use the same criteria used to review the original application. Appeals to the mayor and City Council must be taken within 15 calendar days of the date of the determination by the planning and zoning commission. The appeal will be heard at the next available regularly scheduled meeting, but no later than 30 calendar days from the notice of appeal.

G. *Discontinuation of use.*

1. In the event the use of any wireless facility has been discontinued for a period of 90 consecutive days, the wireless facility will be deemed to be *abandoned*. Upon such *abandonment*, the owner and/or operator of the wireless facility and/or the property owner on whose land the monopole is located will have an additional 90 days to:
 - (a) Reactivate the use of the wireless facility or transfer the wireless facility to another owner/operator who makes active use of the wireless facility; or
 - (b) Dismantle and remove the wireless facility. Upon removal of the wireless service facility, the site will be returned to its built or natural state and topography and vegetated consistent with the natural surroundings.

107-5.4 Monopoles.

- A.** Timing. An application for a new monopole installation, modification, or collocation will be processed within the following amount of days of the filing of the application, unless tolled by mutual agreement:
1. New monopole - maximum of 150 days for wireless facilities, not including SWFs.
 2. Collocations - maximum of 90 days for wireless facilities, not including SWFs.
 3. Minor monopole modification - maximum of 60 days for wireless facilities, not including SWFs.
 4. Major monopole modification - maximum of 90 days for wireless facilities, not including SWFs.
- B.** Submittal requirements.
1. Narrative describing the proposed wireless facility site;
 2. A site plan showing the subject property and adjacent properties; all existing and proposed buildings on the subject property and their purpose; the specific placement of the base station and cell tower, including type and extent and point of entry on the site; all proposed changes to the existing site, including grading, vegetation, roads, sidewalks, and driveways signed and sealed by a professional registrant from the state including expiration date;
 3. A landscape plan showing specific placement of existing and proposed vegetation, trees, and shrubs, identified by species and size of specimen at installation in accordance with city landscape regulations;
 4. A grading and drainage plan of the project site as determined necessary by the city manager or designee;
 5. Existing (before condition) photographs and proposed (after condition) photosimulations of the proposed wireless facility from ROW adjacent to the site. Such photosimulations shall include, but not be limited to, superimposed representations of the proposed base station and tower to show what will be seen from ROW and residential structures and properties adjacent to the site;
 6. Elevations will show the following:
 - (a) Dimensions of all equipment and poles specified for all three dimensions: height, width and depth; and

- (b) Materials of the base station and security barrier, if any, specified by generic type and specific treatment, such as brick, masonry with stucco finish, anodized aluminum, stained wood, etc.
- 7. Collocation submittals, including signed statements indicating:
 - (a) The applicant agrees to allow for the potential collocation of additional wireless facilities by other wireless service providers and carriers on the applicant's structure or facility or within the same site; and
 - (b) The applicant has made a good faith effort to achieve collocation with other carriers and facilities as required in this section, and if collocation is not feasible for this application for a substantial technical or other reason(s), a written statement of the reasons for the infeasibility.
- 8. An executed lease agreement with the owner or landholder that:
 - (a) Allows the landholder to enter into leases with other providers;
 - (b) Specifies that if the carrier fails to remove the base station and tower when required by this chapter, the responsibility for removal falls upon the landholder; and
 - (c) Allows entry by the city and its agent for the purpose of inspection and compliance with city codes.
- C. Review.**
 - 1. New monopole applications will be processed as a Type 2 site plan design review, found in article XII of this chapter.
 - 2. Collocations, major modifications, and monopoles on city property will be processed as an administrative Type 1 site plan design review, found in article XII of this chapter.
 - 3. Minor modifications will be processed as a building permit.
- D. Specific Design Standards for Monopoles.**
 - 1. A monopole shall not be greater than 40 inches in diameter at ground level, except for the monopalm, monocactus, monopine, and monobroadleaf as delineated below, or a municipal tower, and have all of the wireless facilities mounted on the monopole or interior to the pole in the case of the monocactus.
 - 2. All wireless facilities will be designed to blend into the architecture and landscape of the surrounding area in which they are placed;

3. All wireless facility antennae, mounting hardware, and cabling shall be covered or painted to match the color of the monopole on which it is mounted;
4. Setbacks. With the exception of municipal towers, the setback for all monopoles shall meet the yard development standards and setback requirements of the underlying zoning district, except as otherwise permitted herein. The setback shall be measured from the lot line to the monopole. Additionally, all monopoles shall be set back from any residential lot line a distance equal to twice the height of the monopole and from any nonresidential lot line a distance equal to the designed fall distance of the monopoles; and
5. Wireless facility identification. Each wireless facility shall be identified by a permanently installed plaque or marker on the door of the base station, no larger than four inches by six inches, clearly identifying the wireless service provider's name, address, e-mail contact, and emergency phone number. The plaque or marker required by this section shall be revised within 30 days of any change in the required information/content.
6. Monopalms.
 - (a) A monopalm will contain a minimum of 55 palm fronds that disguise the length of the antenna;
 - (b) The stand-off mounting arm apparatus of the antenna array will not extend more than 30 inches from the structure to which it is attached;
 - (c) The pole structure will be clad with faux bark that begins at the base of the pole structure and continues to the height of the first palm frond attachment. The balance of the pole structure and the attachments will be painted to blend with the palm fronds;
 - (d) The diameter of the pole structure will not exceed 26 inches at its widest point;
 - (e) The maximum height of the pole structure, excluding antennae, will be limited to 65 feet above the finished grade of the site. The maximum height of the antennae attached to a monopalm will not exceed 80 feet above the finished grade of the site;
 - (f) No more than two microwave dishes will be permitted on each monopalm. Microwave dishes will be limited to one square foot in size and will be concealed within the monopalm, trimmed leaf cluster, or palm fronds;
 - (g) The trimmed leaf cluster will be mounted directly below the palm fronds and will be painted to blend with the pole structure; and

7. Monocactus.
- (a) The monocactus structure will be clad with a faux finish that resembles a saguaro cactus from the base of the structure and continue to the top of the structure;
 - (b) The diameter of the monocactus structure will not exceed 34 inches at its widest point and will have a natural appearing taper from the bottom to the top;
 - (c) The total height of the monocactus structure will not exceed 30 feet height;
 - (d) All antennae and cables will be concealed within the monocactus structure; and
 - (e) External microwave dishes are prohibited on the monocactus structure.
8. Monopine or monobroadleaf.
- (a) The monopole structure will be clad with faux bark. The faux bark will start at the base of the monopole structure and continue to the height of the first branch attachment. The balance of the pole structure and the attachments will be painted to blend with the branches;
 - (b) The diameter of the pole structure will not exceed 36 inches at the base and will taper to no greater than 28 inches at the top of the pole structure;
 - (c) The maximum height of the pole structure will be limited to 65 feet above the finished grade of the site. The maximum height of the antennae attached to the pole structure will not exceed 80 feet above the finished grade of the site;
 - (d) Branches.
 - i. Will be constructed to a density of no less than two and one-half branches for each one vertical foot of pole;
 - ii. Will start no less than 15 feet above finished grade and continue to the top of the pole structure; and
 - iii. Will be a minimum of eight feet long around the circumference of the lower level and will taper as the branches progress upward, consistent with the species of tree imitated by the structure. The branches will approximate the appearance of a particular deciduous tree species grown in the vicinity of the site and that grows to

approximately the same height of the monopine or monobroadleaf.

- (e) The entire length of all antennae and their attaching apparatus will be disguised by the branches, and the stand-off mounting arm apparatus of the antenna array will not extend more than 30 inches from the pole structure to which it is attached;
- (f) Microwave dishes will be limited to one square foot in size. Dishes and attaching apparatus will be painted to blend with the branches;
- (g) No more than four microwave dishes are permitted per monopine or monobroadleaf tree; and
- (h) Climbing pegs are prohibited on the pole structure.

9. *Alternative support structure.*

- (a) The maximum allowable width of an antennae array is four feet. There is no width limit for antennae arrays installed inside an alternative tower structure.
- (b) The antennae will not extend more than 18 inches from the structure to which it is attached. This restriction does not apply to antennae arrays installed inside an alternative tower structure.
- (c) The maximum allowable length of each antennae array is ten feet.
- (d) No more than two microwave dishes, limited to two square feet in size each, will be permitted on each alternative tower structure.
- (e) All microwave dishes, antennae, cable shrouds, and attaching apparatus will be painted to match the alternative tower structure.

E. Industrial zoning districts.

- 1. The stand-off mounting arm apparatus of the antennae array will not extend, in any direction, more than 30 inches from the structure to which it is attached.
 - (a) The diameter of the monopole structure will not exceed 26 inches at its widest point;
 - (b) The maximum height of the monopole structure, excluding antennae, will be limited to 65 feet above the finished grade of the site. The maximum height of the antennae attached to a monopole will not exceed 80 feet above the finished grade of the site;

- (c) No more than two microwave dishes will be permitted on each monopole. Microwave dishes will be limited to two square feet in size; and
- F. All other wireless facilities that do not fall under any of the subsections regarding wireless facilities will follow the Type 3 Conditional Use Permit process found in Chapter 3. In addition to complying with the CUP criteria, any application under this subsection will comply with the following:
 - 1. Aesthetics standards;
 - 2. Setback and height restrictions;
 - 3. Safety concerns including, but not limited to, fall zones, and buffering;
 - 4. Environmental;
 - 5. Protections of property values; and
 - 6. *Timing.* Applications processed pursuant to this subsection will be acted upon within 150 days of submittal of a complete application.

107-5.5 Municipal Towers.

- A. Types of municipal towers.
 - 1. Type A municipal towers will be set back or located a distance equal to, or greater than, twice the height of the municipal tower from residentially zoned properties.
 - 2. Type B municipal towers will be set back or located a distance equal to, or greater than, twice the height of the municipal tower from residentially zoned properties.
- B. Review. All municipal towers are subject to a type 1 administrative review.
- C. Timing. All new municipal towers, all collocations to municipal towers, and any modifications to municipal towers are subject to city review.
- D. Height. All types of municipal towers are unrestricted in their maximum height, subject to the setback requirements set forth herein.
- E. Collocations. All municipal towers are intended only for city use. Any collocations onto a municipal tower must be performed by the city or on behalf of the city by a city contractor at the city's instruction.
- F. Design requirements.
 - 1. Type a municipal towers may have no design requirements.

2. Type b municipal towers shall have a stealth design. By way of example only: use of monopalm, monocactus, monopine, or monobroadleaf designs if the type b municipal tower is a monopole structure.

107-5.6 Alternative wireless facility locations.

A. Alternative wireless facilities include locations such as building/structure mounted, roof mounted, recreational light poles, and water tower/tank facilities. Design of the mounting structures will camouflage or conceal the presence of a wireless facility.

B. *Timing.* An application for a new alternative wireless facility installation, modification, or collocation will be processed within the following amount of days of the filing of the application, unless tolled by mutual agreement:

1. New alternative wireless facility - maximum of 150 days for wireless facilities, not including SWFS.
2. Minor alternative wireless facility modification - maximum of 60 days for wireless facilities, not including SWFS.
3. Collocations or major modification of alternative wireless facility - maximum of 90 days for wireless facilities, not including SWFs.

C. *Submittal requirements.*

1. Narrative describing the proposed wireless facility site;
2. A site plan showing the subject property and adjacent properties; all existing and proposed buildings on the subject property and their purpose; the specific placement of the base station and cell tower, including type and extent and point of entry on the site; all proposed changes to the existing site, including grading, vegetation, roads, sidewalks, and driveways signed and sealed by a professional registrant from the state including expiration date;
3. A landscape plan showing specific placement of existing and proposed vegetation, trees, and shrubs, identified by species and size of specimen at installation in accordance with city landscape guidelines;
4. A grading and drainage plan of the project site as determined necessary by the city manager or designee;
5. Existing (before condition) photographs and proposed (after condition) photosimulations of the proposed wireless facility from ROW adjacent to the site. Such photosimulations shall include, but not be limited to, superimposed representations of the proposed base station and tower to show what will be seen from ROW and residential structures and properties adjacent to the site;

6. Elevations will show the following:
 - (a) Dimensions of all equipment and poles specified for all three dimensions: height, width and depth; and
 - (b) Materials of the base station and security barrier, if any, specified by generic type and specific treatment, such as brick, masonry with stucco finish, anodized aluminum, stained wood, etc.
7. Collocation submittals, including signed statements indicating:
 - (a) The applicant agrees to allow for the potential collocation of additional wireless facilities by other wireless service providers and carriers on the applicant's structure or facility or within the same site; and
 - (b) That the applicant has made a good faith effort to achieve collocation with other carriers and facilities as required in this section, and if collocation is not feasible for this application for a substantial technical or other reason(s), a written statement of the reasons for the infeasibility.
8. An executed lease agreement with the owner or landholder that:
 - (a) Allows the landholder to enter into leases with other providers;
 - (b) Specifies that if the carrier fails to remove the base station and tower when required by this chapter, the responsibility for removal falls upon the landholder; and
 - (c) Allows entry by the city and its agent for the purpose of inspection and compliance with city codes.

D. *Review.*

1. New alternative wireless facilities, collocations, major modifications, and alternative wireless facilities on city property will be processed as an administrative Type 1 site plan design review, found in article XII of this chapter.
2. Minor modifications of an alternative wireless facility will be processed as a building permit.

E. *Design standards.*

1. Building- or structure-mounted facilities.
 - (a) Antennae will be mounted on a building wall or side of a structure to the maximum extent practicable. If the applicant demonstrates that it is not feasible to mount the antennae on a building wall or

side of a structure, the antennae may be mounted on the roof or top of the structure, provided the facility complies with all other applicable standards;

- (b) A building- or structure-mounted wireless facility shall not be located on a building with primarily residential uses;
- (c) Antennae may encroach into a side or rear setback a maximum of two feet, but will not extend over a property line; and
- (d) Antennae mounted on a building wall or side of a structure shall comply with the following standards:
 - i. Antennae will be mounted flush to the building wall or side of a structure to the maximum extent practicable, unless technical reasons dictate another type of installation, and will not extend above the roof line or parapet of the building or top of the structure;
 - ii. Support structures, accessory equipment including equipment cabinets, and all other appurtenances shall be fully screened from view and not visible from the ground; and
 - iii. Antennae shall be painted a color to match the building or structure to which they are mounted or will be camouflaged as part of the building architecture in a city-approved building elevation.

2. Rooftop-mounted facilities.

- (a) Rooftop-mounted wireless facilities are not permitted on portions of buildings with pitched roofs.
- (b) A rooftop-mounted wireless facility shall not be located on a building with primarily residential uses.
- (c) A wireless facility located on a building rooftop or top of structure shall comply with the following standards:
 - i. Antennae, support structures, accessory equipment, and all other appurtenances shall be fully screened from view through the use of architecturally compatible features, screening materials, and colors that match the building or structure to which the facility is mounted.
 - ii. Antennae shall not extend above the parapet of the roof of the structure to which they are mounted.

3. Recreation field light poles.

- (a) The maximum allowable width of an antennae array is four feet.
- (b) The stand-off mounting arm apparatus of the antennae array will not extend more than 30 inches from the structure to which it is attached.
- (c) The maximum allowable length of each antenna is ten feet.
- (d) The diameter of the pole structure will not exceed 36 inches.
- (e) The addition of a wireless facility to a recreation field light will not increase the height of the light structure by more than ten feet.
- (f) All cables will be concealed within the pole structure.
- (g) No more than two external microwave dishes, limited to two square feet each, are permitted on each recreation field light pole.
- (h) All microwave dishes, antennae, and attaching apparatus will be painted to match the recreation field light pole.

4. *Water towers/tanks.*

- (a) The maximum allowable width of an antennae array is four feet. There is no width limit for antennae arrays installed inside a faux water tower/tank.
- (b) The antenna will not extend more than 18 inches from the structure to which it is attached. This restriction does not apply to antennae installed inside a faux water tower/tank.
- (c) The maximum allowable length of each antennae array is ten feet.
- (d) The addition of a wireless facility will not increase the height of the water tower/tank structure greater than ten feet.
- (e) All cables will be concealed within the support structure or fully enclosed within a cable shroud.
- (f) No more than two microwave dishes, limited to two square feet in size will be permitted on each water tower or water tank.
- (g) All microwave dishes, antennae, cable shrouds, and attaching apparatus will be painted to match the water tower or water tank.

107-5.7 Small wireless facility ("SWF").

- A.** SWFs in ROW require a master license agreement approved by the city.

- B.** *Timing.* An application for a new SWF installation or modification to an existing SWF will be processed within the following amount of days of the filing of the application, unless tolled by mutual agreement:
1. SWFs in ROW - maximum of 90 days for new structures and 60 days for existing structures.
 2. SWFs outside ROW - maximum of 90 days.
- C.** *Submittal requirements.*
1. SWFs in ROW:
 - (a) Completed SWF ROW encroachment form;
 - (b) Completed building permit;
 - (c) Site plan;
 - (d) Before and after elevations of the facility; and
 - (e) Additional information may be required by the city manager or designee to determine compliance with federal, state, and city laws.
 2. SWFs outside of ROW:
 - (a) Completed SWF application;
 - (b) Site plan;
 - (c) Before and after elevations of the facility; and
 - (d) Additional information may be required by the city manager or designee to determine compliance with federal, state, and city laws.
- D.** *Review.*
1. Review of SWF installations and modifications within the ROW will be processed as a building permit.
 2. New SWFs located on property other than ROW will be processed as an administrative Type 1 site plan design review, found in article XII of this chapter.
- E.** *Design standards.*
1. The components of a SWF will be mounted a minimum of 12 feet above the existing grade of the wireless support structure to which it is attached.

2. A replacement or new pole is allowed a ten percent height increase, not to exceed 50 feet total.
3. All cables will be concealed within the public utility pole or a cable shroud.
4. All antennae mounting hardware, cable shrouds, and other equipment will be painted to match the structure on which it is mounted.

107-5.8 Cellular on wheels ("COW").

A. COWs are allowed during:

1. *Construction of a permanent wireless facility.*
 - (a) Not to exceed duration of one year; and
 - (b) Utilization of a COW will be included with the building permit associated with the wireless facility maintenance or replacement of equipment.
2. *Special events.* Utilization of the COW for a special event will require a temporary use permit as per article VII of this chapter. COW placement for a special event pursuant to a temporary use permit will be limited for a duration not to exceed 30 days unless approved by the city manager or designee.
3. *Emergency.* An emergency or disaster as determined by the city manager or designee and then for only so long as determined to be necessary by the city manager or designee.

B. COWs will be set back from all residential lot lines a minimum distance equal to the fully extended height of the COW.

C. Permitted power sources:

- (a) A generator or other utility source will be used that emits an average noise level not to exceed 60 db, measured at any property line for property that is zoned or used for residential purposes; and
- (b) Use of on-site utility services will require a building permit.

107-5.9 Amateur radio antennae.

A. *Antennae permitted.* Amateur radio antennae are permitted in all residential zoning districts subject to the following standards:

1. Antenna structures are allowed up to 35 feet in height;

2. Antenna structures shall comply with setback standards for the zoning district in which it is located;
 3. Antenna structures shall be located in the rear half of the lot;
 4. Antennae, including support structures, shall not extend beyond the property line; and
 5. When a federally licensed radio amateur no longer occupies the subject property, the antenna structure shall be removed.
- B.** *Amateur radio antennae with a conditional use permit.* All amateur radio antennae that exceed 35 feet in height shall require approval of a conditional use permit. Such antennae shall be of telescoping design and lowered to a height of no more than 35 feet when not in use. In no event shall an amateur radio antenna exceed a height of 75 feet.
- C.** *Commercial use.* Amateur radio antennae will not be used for any commercial use or purpose.

CHAPTER 108 - LAND DIVISION AND SUBDIVISION REGULATIONS

ARTICLE 1 – GENERAL PROCESS AND OVERVIEW

108-1.1 Purpose and Intent.

- A. The purpose of the Land Division and Subdivision Regulations is to ensure that all development conforms to the goals, objectives, and requirements adopted and contained in the Surprise *General Plan*. Specific land division considerations include the location and shape of the site, proposed *lot* and/or tract size, *lot* orientation, circulation and *street* layout, area drainage, and legal as well as physical *access*. Further that all subdivision projects provide legally established *lot(s)* that comply with the specific *zoning district* requirements; all *lots* provide legal as well as physical *access*; that each development provides the required public infrastructure; to ensure that adequate provisions for utility services, utility easements, *roadways* that meet PM10 nonattainment area requirements, and other health and safety concerns are addressed.
- B. Additionally, all land division and subdivision projects are reviewed to ensure that they address any environmental concerns that may arise including but not limited to, water quality and *floodplain* concerns, native vegetation and *habitat* conservation and maintenance, the proposed site grading, and the protection of *environmentally sensitive features*.

108-1.2 General Provisions.

- A. Recording any assemblage, split, or subdivision of land with the Maricopa County Recorder's Office, without prior review and approval by the City in accordance with the provisions of this Ordinance will not create a legal *lot* and *building permits* will not be issued.
- B. All land divisions and subdivisions must result in the creation of *lots* that are developable and capable of being built upon. No land division or subdivision shall create *lots* that are impractical of improvement due to location of water courses, problems of *sewerage* or driveway *grades*, steepness of terrain, or natural physical conditions.
- C. Where, in the opinion of the Council, and after review by the Community Development Director and/or Planning and Zoning Commission, there may exist extraordinary conditions of topography, land *ownership* or *adjacent* development, or other circumstances not provided for in the LDO or this Chapter, the Council may modify these provisions in such a manner and to such an extent as it may deem appropriate to the public interest. In modifying the standards or requirements the Council may make such additional requirements as appear necessary to secure substantially the objectives of the standards or requirements so modified.

- D.** The regulations herein apply to subdivisions and any other division of land within the City of Surprise creating a legally developable *lot*. For a legally enforceable division or assemblage of property to occur in the City of Surprise, any properties assembled, split, or *subdivided* must be approved by the city through one (1) of the following means:

1. *Map of dedication*;
2. *Minor land division, lot line adjustment, or parcel assemblage*;
3. Subdivisions;
4. Condominium *plat*.

108-1.3 Map of dedication.

- A.** A *map of dedication* may be *used* to dedicate land to the city or other public agency or to grant an easement to the city for *roadway*, drainage, flood control, utilities, emergency or service vehicle *access*, or other public *uses*.
- B.** A *Map of dedication* shall be *used* for the purpose of dedicating property to the city or public agency such as but not limited to *street rights-of-way*
- C.** A *map of dedication* will be prepared and processed in accordance with procedures and requirements for a subdivision *final plat*.

108-1.4 Minor land division, Lot line Adjustment, or Parcel assemblage

- A.** The provisions of a *minor land division* will only apply to *original lots*.
- B.** The Community Development Director or designee will determine the specific *final plat* submittal requirements necessary for appropriate review of the *minor land division, lot line adjustment or parcel assemblage* at the time of the concept review meeting.
- C.** If the Community Development Director or designee in concurrence with the City Engineer finds that the proposed *minor land division, lot line adjustment, or parcel assemblage* meets all of the requirements of the LDO and the PEDS, the *final plat* will be approved and the Director and City Engineer will date and sign the approval block on the *final plat*.
- D.** After approval, City will record the *final plat* and the *applicant* will pay to the city the fee charged by the Maricopa County Recorder.
- E.** An *applicant* aggrieved by the decision of the Community Development Director may file for an appeal of the decision to the Board of Adjustment.

108-1.5 Subdivisions.

- A.** The standard *subdivision* process involves both a *preliminary plat* and a *final plat* process
1. A proposed division of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future, into four (4) or more lots, tracts or parcels of land, or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than four (4) parts.
 2. If a new *street* is involved, a proposed division of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future, which is divided into two (2) or more lots, tracts or parcels of land.
 3. If the boundaries of which have been fixed by a recorded plat, a proposed division into more than two (2) parts of improved or unimproved land or lands divided for the purpose of financing, sale or lease, whether immediately or in the future.
 4. A standard land division also includes any condominium, cooperative, community apartment, townhouse or similar project containing two (2) or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the buildings or airspace above the property shown on the plat are to be divided.
- B.** The Community Development Director or designee may at their discretion allow a concurrent submittal of both the preliminary and *final plats* when, in their judgement, the project scope is minor and the concurrent submittal will not cause problematic coordination between the preliminary and *final plat*. In the event that a change of *zoning* is necessary, the *zoning* application and subdivision may be processed concurrently, but in no event will the *preliminary plat* be approved until the change of *zoning* is adopted by the Council.
- C.** Preliminary Plat Overview.
1. The *preliminary plat* stage of land division involves detailed land division planning, including the submittal, review (by staff and Commission), and approval of the *preliminary plat* by the City Council. The *applicant* shall provide the City with all information, outlined at the *preliminary plat* concept review meeting and the information listed in Article 2 herein, essential to determine the character and general acceptability of the proposed development.
 2. *Preliminary plat* approval constitutes authorization for the *subdivider* to proceed with preparation of the *final plat* and the engineering plans and

specifications for *public improvements*. *Preliminary plat* approval **does not** authorize the *developer* to begin site preparation and grading, or any similar such work **unless authorized in writing** by the City Engineer or designee. Preliminary approval is based upon the following:

- a. The *preliminary plat* shall be valid for twelve (12) months from the date of approval. The *applicant* may apply in writing for a single, twelve (12) month extension to be granted by the Community Development Director or designee if in the opinion of the Director there is no change in conditions within or adjoining the *preliminary plat* that would warrant a revision in the design of the original *preliminary plat* and that substantial progress has been made towards the *final plat*.
- b. The approval of the *preliminary plat* that was granted shall not be substantially changed prior to the expiration date and subsequent *final plat*. If the *preliminary plat* has expired and/or substantial changes have been made the land area shall not be allowed to proceed with *final platting* until a new *preliminary plat* is submitted and approved.
- c. Preliminary approval, in and of itself, does not assure final acceptance of *streets* for dedication nor constitute authorization to record the *plat*.

D. Final Plat Overview.

1. The *final plat* stage of land division involves submittal, review and approval of the *final plat*, the improvement plans for all improvements required by ordinance and Council, and recording of the *plat* with the County Recorder.
2. The *applicant* shall provide the City with all information, outlined by the Community Development Director or designee in conjunction with the *final plat* concept review meeting and consistent with information outlined in Article 3 herein, essential for review of the improvement plans and *final plat*.
3. The *final plat* shall conform to the approved *preliminary plat* and/or *site plan/Conditional use Permit*.
4. Prior to the *final plat* being placed on the Council's agenda for action the following must have occurred:
 - a. The City Engineer or designee has approved the associated improvement plans and related final reports; and,
 - b. Letters from all involved utility companies approving the utility installation improvement plans and confirming both the availability

of services and the intent to serve the subdivision with said services have been received by the City; and

- c. All required certifications from State and County agencies have been procured; and
- d. The City Engineer has received the project cost estimate; and
- e. The City Engineer has received the *financial assurance* document or the *Alternative Improvements Contract*, per the development option chosen, in the form and amount to the City's satisfaction; and
- e. Documents, easements, and the necessary recording fees have been submitted; and
- f. In the event the *Final plat* or *Map of dedication* includes the dedication of *rights-of-way* to the City, a completed Phase I Environmental Assessment that has been prepared within the previous 90 days and which indicates no contaminations occurring within the *right-of-way* to be dedicated.

- 5. Once the City Council approves the *final plat*, the Mayor shall sign the *plat* and the City Clerk shall attest the Mayor's signature.
- 6. The *final plat* will be transmitted by City staff to the County Recorder's Office for recording; at the appropriate time and depending upon the development option being utilized as outlined below.
- 7. The simple approval by the City Council of a *final plat* shall not constitute acceptance of dedication by the city of any *street*, easement, or other public area, shown on said *plat*. Recordation of a *final plat* shall constitute such acceptance and a statement of dedication along with signatures shall be included on the *plat*.

E. Amended or Corrected Final Plat Overview.

- 1. If, after the approval and recording of a *final plat*, errors are found in the language or numbers on the *recorded plat*, the *subdivider/applicant* shall file a properly signed, corrected or revised original Mylar with the Community Development Director. The *plat* shall be noted "Corrected Plat" under the name of the subdivision. Notations shall be made on the face of the *plat* listing all corrections made and the book and page numbers where the original *plat* was recorded. The Community Development Director shall review the *plat* for corrections, secure the signatures of the proper public officials on the corrected *plat* and present the *plat* to the City Council for the reaffirmation of their approval and to the Maricopa County Recorder for recording. The recording of the corrected *plat* shall void the

incorrect original *plat*, and the Maricopa County Recorder shall note "Void" across the face of the incorrect *plat*.

2. If, after the approval and recording of a *final plat*, a *subdivider/applicant* wishes to modify the location of *lot lines* on part or all of the *recorded plat*, the *subdivider/applicant* shall submit a new *final plat* drawing with the revised *lot* arrangement. The *plat* shall be marked the "Replat of _____" under the name of the land division and shall be processed as a *final plat*. If the change is found to be substantial by the Community Development Director, a new *preliminary plat* and *final plat* will be required as described herein.
 3. If, after the approval and recording of a *final plat*, the *subdivider/applicant* wishes to substantially change the *street* and *lot* arrangement of a part or all of the *platted* area, the resulting subdivision shall be treated as a new submittal with both a *preliminary plat* and a *final plat* required. The subdivision shall be identified as the "Replat of _____."
- F. Exception. For any subdivision that consists of four to ten lots, tracts or parcels, each of which complies with the size requirements of this LDO, it may proceed without the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plat. Requirements for dust-controlled access and drainage improvements shall not be waived.

108-1.6 Condominium Plats

- A. The application and processing requirements outlined for both *preliminary plat* and *final plat* shall apply to all condominium developments.
- B. The *developer* shall submit any plans, specifications and analysis needed to show that the proposed condominium subdivision is in compliance with the LDO and the design standards in the PEDS. The submittal material shall clearly indicate the location of the *buildings*, the manner in which the airspace is to be divided when conveying the condominium clearly defined, and may include grading plans, *site plans*, floor plan, *elevations*, and improvement plans.

108-1.7 Abandonment of Recorded Subdivision.

- A. Pursuant to provisions of Title 28, Chapter 14, Article 1, Subsections 28 - 1901 through 28 - 1908, ARS, the abandonment of all or part of a recorded subdivision may be initiated by written petition to the Council, said petition to be signed by all *owners* of real property in said subdivision requesting abandonment of all *streets*, *alleys* and easements within said subdivision and giving the legal description and recording information thereof.

- B.** Applications for abandonment of a recorded subdivision are filed with the Community Development Director and referred for recommendation to the appropriate city departments and utility companies concerned. After approval of the abandonment of the *streets, alleys* and easements by the Council and upon recordation of the abandonment Resolution the subdivision is removed from official maps.

DRAFT

ARTICLE 2 – REPORTS, PLANS, AND DESIGN STANDARDS

108-2.1 General Requirements.

- A. The development standards of the *zoning district* as well as the City's Parks and Trails Master Plan, the Integrated Water Master Plan, both Volume 1 and Volume 2 of the Planning and Engineering Design Standards (PEDS), and any supplemental design criteria that may be adopted by the city from time to time shall be followed when designing any subdivision.
- B. Except where modified by the City Council, upon recommendation by the Planning and Zoning Commission, each subdivision and map thereof shall also be in conformity with the standards set forth in this Article. Unless otherwise noted herein, this article shall apply to all new residential and non-residential subdivision development within the City of Surprise.
- C. In addition to ordinances and standards adopted by the City of Surprise, subdivision improvements shall be in conformance with the following rules and regulations:
 - 1. Rules of the Arizona Department of Transportation (ADOT) relating to provisions for the safety of *ingress and egress* with the *abutting* state highway.
 - 2. Rules of the Flood Control District of Maricopa County (FCDMC) and where applicable, rules of the Maricopa County Department of Transportation, the Arizona Department of Water Resources, Federal Emergency Management Agency, and the National Flood Insurance Program.
 - 3. Rules of the Arizona Department of Health, Arizona Department of Environmental Quality, the Maricopa County Department of Health and Maricopa County Environmental Services Department as they relate to water supply, sanitary sewage disposal, and dust control.
 - 4. Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines
 - 5. Maricopa Association of Governments (MAG) standards and guidelines unless modified within the Surprise PEDS.
- D. Where a tract of land to be *subdivided* contains all or any part of a *park, school, flood control facility, or other public improvement or facility* as shown in the *General Plan*, or as recommended by the Planning and Zoning Commission, such site shall be either dedicated to the public or reserved for acquisition by the city, appropriate public agency, or land trust within a specified time period. A development agreement shall be prepared between the *subdivider* and the city, appropriate agency, or land trust regarding the time, method and cost of land acquisition. Said acquisition shall be completed within one (1) year from the date of recording the *final plat*, or within such extensions of time as may be mutually

agreed upon. In the event a development agreement cannot be reached between the *subdivider* and the city, agency, or land trust relative to the acquisition of the land, the City Council shall make a determination relative to the reserved area's compliance with the requirements of this chapter for subdivision.

- E. Land that is subject to periodic flooding, cannot be properly drained, has unstable soils or slopes, rock formations, adverse earth formations or topography, major utility easements or land which is otherwise unsuitable for subdivision *use* due to safety, health and welfare concerns, shall not be *subdivided* but shall be set aside for *uses* that shall not involve such a danger. The City Council may approve subdivision of such land upon receipt of evidence provided by the *applicant* and approved by the City Engineer or designee that the construction of specific improvements can be expected to render the land suitable; thereafter, construction upon such land shall be prohibited until the specified improvements have been planned and construction guaranteed.
- F. All land proposed for subdivision and development within the city shall be served by services and infrastructure. No *building permit* shall be issued for development of a subdivision not served by existing infrastructure, or proposed extensions thereof. In no case shall temporary package water and/or *sewer* treatment plants be permitted as a means of providing water and *sewer* service to the development, unless designated in the Integrated Water Master Plan and approved by the Water Resource Director.
- G. A proposed subdivision name shall not duplicate, or approximate phonetically, the name of any other subdivision located within the city, unless a clear distinction between the two (2) subdivisions is evident. The City Council shall have final authority to designate the name of the subdivision which shall be determined at the *preliminary plat* approval.
- H. Any contiguous property owned by the *subdivider/applicant* shall not be excluded from the boundaries of a subdivision when needed or required for traffic, drainage, or flood control facility for the subdivision, or dedication of *rights-of-way*, unless said property is dedicated through a *Map of dedication* or other instrument acceptable to the City.
- I. If the subdivision is traversed by or is *adjacent* to any *water features* the *subdivider/applicant* shall provide tracts or easements for storm drainage substantially in line with the natural alignment of the *water features* and in designed in accordance with the PEDS.
- K. The *developer* shall be responsible for all costs, including improvement plan review fees, for installation of the improvements as a condition of *zoning* and/or *plat* approval which shall at least include, but not limited to, the improvements outlined in the following sections.

108-2.2 Specific Report(s) Required.

- A. During evaluation of development proposal, the following reports may be required during the preliminary or *final plat* process
1. Drainage Report in accordance with the PEDS
 2. A geotechnical/soils report, when required, shall be submitted in a separate bound folder
 3. The Traffic Impact Analysis (TIA), when required, shall be prepared by an Arizona Registered Professional Engineer with experience in transportation and traffic engineering and submitted in a separate bound document; with the category of study listed on the cover.

108-2.3 Specific Plan(s) Required.

- A. The *developer* will be responsible for the installation of all improvements. The improvement plans for these improvements shall be submitted as part of the *Final plat/Improvement Plan* application and shall include at a minimum improvement plans for the following:
- a. Water and Sewer Improvements (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - b. Paving, Grading, and Drainage Improvements (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - c. Dry Utility Improvements; including electric, telecommunications, gas, and *street* lights (refer to **Volume 2, Chapter 9** of the PEDS for required plan information).
 - d. All final reports listed in **Section 108-2.2** above.
- B. A Preliminary Landscape and *Open space* Plan shall be submitted as part of the *Preliminary plat* application, as required in **Article 2** herein, and a Final Landscape and *Open space* Plan shall be submitted as part of the *Final plat/Improvement Plan* submittal package. The format and information required for both submittals can be found in **Volume 1, Appendix D** of the PEDS.

108-2.4 Circulation Design Standards.

- A. Access Requirements:
1. No land division shall be approved unless the area to be divided has direct *access* to an existing *street*. Further, all subdivision developments must have dedicated *access* to the city's *arterial street* network or to a dedicated

street that connects to the *arterial street* network. The *developer* of any property which does not have such *access* or connection to the improved *arterial street* network shall be required to improve the impacted intervening *streets* in accordance with the Planning and Engineering Design Standards (PEDS).

2. All *streets* that connect to the improved *arterial street* network shall include the width and improvements necessary to maintain a level of service “C” as defined in the *General Plan* and **Volume 2, Chapter 4** of the PEDS.
3. Parkway, arterial and collector streets as mapped in the City’s Long Range Master Street Plan that are within or adjacent to the land division shall be improved to the standards contained in Volume 2, Chapter 3 of the PEDS.
4. *Off-site* public *access* improvements shall be required for all primary *access* routes that will, in the judgment of the City Engineer or designee, carry the most trips (per travel mode) generated by the development as defined by the Traffic Impact Analysis (TIA) required herein. The City Engineer or designee shall utilize the transportation/circulation plan set forth in the Surprise *General Plan* as the basis for identifying the improvements to be made as a condition of approval of the development.
5. Where a subdivision borders on or contains an existing or proposed arterial or *parkway street*, the City shall require that *access* to such *street(s)* be limited and direct *access* to arterials or *parkways* shall be prohibited from residential *lots*; unless otherwise provided herein or as prescribed in Volume 1 of the PEDS.

B. General Design.

1. The *street* design will include multimodal travel as further outlined in this Ordinance and Volume One of the PEDS.
2. The location and arrangement of *streets*, *cul-de-sacs*, and *alleys*, and multiuse pathways in new subdivisions shall be in a manner that ensures maximum connectivity to permit the safe, efficient, and orderly movement of traffic, cyclists and pedestrians while presenting an attractive *streetscape* and respecting the natural features and topography of the site.
3. Whenever a tract of land to be *subdivided* encompasses any part of an arterial, *parkway*, or major *collector street* designated in the *General Plan Roadway* Functional Classification Plan, such *street* shall be *platted* in conformance therewith. *Street* layout shall provide for the continuation of such arterial, *parkway*, and *collector streets* as the *General Plan* or City Engineer may designate.

4. Unless prevented by topography or other physical conditions, all proposed *streets* and *multimodal* pathways shall be extended to the boundary of the subdivision being developed in order to provide future connection with adjoining lands.
5. *Streets* shall be so arranged in relation to existing topography as to produce desirable *lots* of maximum utility and to facilitate adequate drainage.
6. *Grades* of *streets* shall conform as closely as possible to the original topography, unless otherwise approved by the City Engineer.
7. Sidewalks shall be included within the dedicated non-pavement *right-of-way* of all *streets*. If public sidewalks are located outside of the *rights-of-way*, a public easement shall be recorded on the *final plat* for said path and/or sidewalk.
8. Installation of *streetlights* shall be in accordance with design and specification standards detailed in **Chapter 107, Article 3** of the LDO.
9. Curb location markers for refuse containers may be required in conjunction with certain development situations.

C. Types of *Streets*.

1. All chapters of Volume 1 of the PEDS contains circulation design standards varying by the type of *roadways* and land *uses*, and shall be adhered to for all types of subdivisions.
2. Cul-de-sac. The *use* of *cul-de-sacs* will generally be denied, exceptions may be allowed in those site-specific areas where topography or *environmentally sensitive lands* would prevent extension and connection to adjoining and surrounding *streets*.
 - a. Where a *cul-de-sac* is permitted, they must comply with the design standard provided in both Volume 1 and 2 of the PEDS.
 - b. When approved, the maximum length of any *cul-de-sac* shall be seven hundred fifty (750) feet or twenty (20) homes, whichever is more restrictive, as measured from the curb line of the intersecting *street* to the curb line at the end of the *cul-de-sac*, along the centerline.
3. Alley. *Alleys* in traditionally designed residential subdivisions are encouraged and shall be designed and arranged to provide a means of easement placement and *access* to *lots*. The *alley* shall contain the following characteristics
 - a. Minimum *right-of-way* or easement width of twenty feet (20');

- b. A twelve-foot (12') wide paved surface centered in the *right-of-way*, with pavement material, texture, pattern and strength selected to accommodate automobiles, garbage disposal *trucks* (when garbage pick-up is planned at the rear of the property), pedestrians, and bicycles;
 - c. A four-foot (4') wide strip located on either side of the paved area of the *alley*. Landscaped strips will contain a combination of groundcover and architectural lighting consistent with the character of the neighborhood. The placement, type, height and spacing of landscape and lighting shall comply with the landscape and lighting standards set forth in this Ordinance;
 - d. Opaque fencing along the rear property line *abutting* the *alley* line shall not exceed four feet (4') in height, except *view fences* may be permitted up to six feet (6') in height;
 - e. Ribbon curbs (no gutters) to permit natural recharge of groundwater shall be required; except or unless, because of drainage conditions, additional engineered measures are required by the city manager or designee to facilitate stormwater runoff and drainage;
 - f. No parking shall be permitted on an *alley* unless *parking bays* or pull outs *adjacent* to *garages* have been included and approved as part of the rear lane design; and
 - g. When the *alley* is also *used* to collect garbage, storage bins containing trash for pick-up shall be placed on a designated surface integrated into the design of the *landscape strip*, and that are easily accessible by waste removal vehicles.
4. Private streets. *Private streets* shall not be permitted, except within gated communities.
- a. Where *private streets* are approved, such *streets* shall be constructed to City specifications and the PEDS and shall be placed into specific "*street tracts*" of land. Statements shall be contained on the *plat* and in the deed restrictions declaring those *streets* as private and subject to an easement authorizing *use* by emergency and public service vehicles and public utilities.
 - b. Maintenance agreement. The city shall not maintain *streets*, *signs* or drainage improvements on *private streets*. A private maintenance agreement between the *developer* and the city that is recorded by Maricopa County shall be required for any *private street* allowed. Said agreement shall clearly set forth the terms and conditions of responsibility for maintenance methods and

standards, distribution of expenses, remedies for noncompliance with the terms and agreement, right-of-use agreements and other considerations. The agreement shall also create a *private street* maintenance fund and the annual assessment for property owners served by the *private street*. Said agreement may contain provisions for the establishment of an assessment district to maintain *private streets* in the event of a default by the property owners.

- c. Limits of liability. A statement shall be required on the face of any *plat* having an approved *private street(s)* that the *private street(s)* shall be maintained to city standards by the *developer* or an authorized homeowners' association at said *developer* or association's expense.
- d. Acceptance of *private streets* as *public streets*. No existing *private street* shall be accepted for designation as a *public street* unless it shall satisfy the following procedures and conditions:
 - (1) The subject area must be *platted* or *replatted* in order to dedicate *street rights-of-way*, sidewalk, drainage and utility easements, and other easements as necessary for the *platted* area;
 - (2) Where easement rights to any person, utility or corporation have been previously dedicated within the proposed *rights-of-way*, a release must be obtained from each person, utility or corporation agreeing to retain only those rights they would have in a *public street right-of-way*;
 - (3) The existing *street* construction details must be certified by a licensed professional engineer as being in compliance with city standards; with said certification accompanied by surveys, sketches and test borings giving the paving material and thickness, cross-section, *grades*, vertical curves and drainage data, including storm drainage analysis of current conditions based upon the city's stormwater management regulations and requirements;
 - (4) The date of the *street* construction and a history of maintenance, including type of maintenance treatment and dates, must be provided to the city;
 - (5) *Street* lighting that complies with city standards set forth herein shall be installed, unless the city determines that existing lighting or *alternatives* thereto, are sufficient and necessary to protect the character of the neighborhood and are APS compliant for maintenance. SLID (*street light*

improvement district) application will be required at the time of *platting* or *replatting*.

5. Rural Roadways. A “Rural Roadway” cross section may be utilized in areas with Rural Residential (RR) *zoning*, where there are *environmentally sensitive features*, or in low density residential developments with two (2) or less *dwelling units* per acre (2 du/ac).
 - a. The rural *roadway* cross section utilizes a reduced *right-of-way* per MCDOT Roadway Design Manual;
 - b. The construction requires a minimum of twenty-six feet (26’) paved *access road* and a drainage report may determine the need for an edge treatment.
6. Half-streets. Half-streets shall be discouraged and *street* systems in new subdivisions shall be laid out so as to avoid any new perimeter half-streets.
 - a. Where an existing half-street is *adjacent* to a new subdivision, the other half of the *street* shall be improved and dedicated by the *subdivider*.
 - b. The City may authorize a new perimeter *street* where the *subdivider* improves and dedicates the entire required *street right-of-way* width within the subdivision boundaries. In the event that the entire required *street right-of-way* width is improved and dedicated, arrangements for reimbursement at the time the adjoining land is *subdivided* will be in accordance with Chapter 42 of the City Code.
 - c. Half-streets are allowed when granted as part of an approved Map of Dedication, preliminary and final plat, or a development agreement. Said half-streets shall only be permitted when:
 - (1) A traffic impact assessment has been approved by the transportation director for the property in question and the assessment concludes that the property in question does not generate the traffic warrants that justify the full *street* improvements; or,
 - (2) Traffic safety can be assured with less than full *street* improvements; or,
 - (3) The full improvement cannot be constructed due to insufficient *right-of-way*; or,
 - (4) All evidence is provided to the city manager or designee that illustrates all possible efforts have been exhausted to obtain full-*street rights-of-way*.

- d. Adjacent parkways, arterials and collector streets may be improved to half-street standards that shall include, at a minimum, one-half of the required right-of-way; one or more travel lanes in each direction to provide travel capacity (including additional auxiliary, turn lanes, and/or sidewalk improvements) as determined by the City Engineer.
- e. Perimeter local streets are discouraged, but when approved shall be improved to minimum standards established by the City Engineer.
- 7. Dead-end streets. *Dead-end streets* will not be approved except in locations recommended by the City Engineer as necessary to future development of *adjacent* lands; with an acceptable all-weather *access* emergency turnaround.
- 8. Phased Construction. When the *developer/property owner* is allowed to phase construction of the *roadway* improvements to an ultimate full *street* improvement said phasing shall be a component of the approved phasing plan and development agreement and shall be based on project absorption such as housing units constructed and/or the amount of leased commercial space, such that the property build-out generates the traffic volume that warrants the full *street* improvement. When full *street* improvements are required, the City shall institute the City's repayment policy in accordance with the provisions of Chapter 42, such that the *property owner/developer* that paid for the full *street* improvements is reimbursed for half-street improvements that are the responsibility of another *property owner*.

D. Block Planning

- 1. A *block* shall have a length ranging from four hundred (400) feet to no more than one thousand three hundred twenty (1,320) feet in length; unless otherwise restricted by the PEDS or deviated by the Council when considered necessary for safety reasons or in order to secure efficient *use* of the land.
 - a. A residential neighborhood *block* within a subdivision shall have a length ranging from 400 to 800 feet as measured along the centerline of the *street* and between intersecting *street* centerlines; and
 - b. Be designed to accommodate no more than ten *single-family* residential *lots* on either side of a *local street* to equal a not-to-exceed combined total of 20 *single-family*, detached residential *lots* per *block*.

- c. A longer perimeter *block* may be approved by the City Engineer and Council when *adjacent* to a major *street* in order to reduce the number of intersections
 2. *Blocks* which are over six hundred feet (600') in length shall provide a landscaped pedestrian easement, not less than thirty feet (30') wide, mid-*block* to allow easier *access* to the subdivision *open space*, the community pedestrian circulation system, or direct pedestrian *access* to the exterior *arterial streets*.
 3. *Block* endcap landscape tracts shall be required; unless an acceptable *alternative design* is proposed. Endcap landscape tracts shall be a minimum of ten feet (10') wide when *adjacent* to *local streets* and fifteen feet (15') wide *adjacent* to collector and arterial roads. These tracts shall be landscaped in accordance with the **Chapter 107** and shall be maintained by the *adjacent property owner* and/or Homeowners Association.
- E. Street Names and Signage
1. The name of a new *street*, unless an extension of Maricopa County *street* grid alignment, shall not duplicate existing or *platted street* names in Maricopa County, or approximate such names in spelling, sound, or pronunciation in conformance with the MAG Address and *Street* Assignment Policy. A *street* shall bear the same name of an existing *street* when planned as a continuation of or when in alignment with an existing or *platted street*.
 2. The City's GIS department shall propose the *street* names at the *preliminary plat* submittal stage and the names shall be recommended by the Commission and approved by the Council.
 3. The *applicant* shall deposit with the City at the time of *final plat* approval an amount equal to the cost of each required *street* sign. *Street* name *signs* are to be placed at all intersections within or *abutting* the land division, and be in place by the time the *street* pavement is ready for *use*. Specifications for design, the type and location shall conform to "Manual on Uniform Traffic Control Devices" (M.U.T.C.D.) standards as approved by the City Engineer.

108-2.5 Lot Planning

- A. The *lot* arrangement and sizes shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing *building permits* to build on all *lots* in compliance with Chapter 106 of the LDO or in providing driveway *access* to *buildings* on such *lots* from an approved *street*. Prior to *final plat* approval the City may require additional documentation, including but

not limited to engineering concept plans, for *lots* with questionable development ability.

- B.** *Lots* shall be arranged in a contiguous pattern within a *block*; except where the *block* length or an *environmentally sensitive feature* warrants an easement either through the *block* to accommodate drainage or *access* for *multimodal* (pedestrian/bicycle/golf cart) traffic to adjoining *open space* or to preserve the *environmentally sensitive feature*.
- C.** Flag lots or panhandle lots and other unorthodox *lot* layouts shall not be *platted*; unless approved by Council, such as topographic constraints in environmentally sensitive areas or design methods that enhance *multimodal* (pedestrian/bicycle/golf cart) traffic.
- D.** Lot dimensions.

 - 1. The minimum *lot* size shall comply with the *lot* ranges within the *zoning districts* as described in Chapter 106 of this Ordinance; except that utility facilities using land or a *building used* only for equipment purposes (and not for human occupation) and requiring less than one thousand square feet (1,000 sf) of site are exempt from the minimum *lot* size standards of all *zoning districts*. Individual tracts within a subdivision are also exempt from this provision.
 - 2. The depth-to-width ratio of the usable area of a residential *lot* shall not be greater than 3:1, except in a *hillside* development area where flexibility may be allowed based on topographical considerations.
 - 3. Depth and width of properties reserved or laid out for *business*, commercial, or industrial purposes shall be adequate to provide for the *off-street parking* and loading facilities required for the type of *use* and development contemplated.
 - 4. Dimensions of *corner lots* shall be large enough to allow for erection of *buildings*, observing the minimum *setbacks* from both *streets*.
 - 5. All residential *lots* shall be designed such that the minimum *lot* width may be achieved at both the *front* and *rear setback* lines.
 - 6. Residential *lots* that are less than fifty feet (50') wide shall have vehicular access from an *alley*.
- E.** *Side lot lines* shall be at right angles to the *street* the *lot* faces, or radial to curved *street* lines, unless topographic conditions necessitate a different arrangement acceptable to the Community Development Director or designee.
- F.** Lot Frontage.

1. Every *lot* shall have a minimum *frontage* width of thirty feet (30') on a public or *private street* and every *lot* shall have direct *access* to the improved circulation system either by said *street* or by *alley*.
 2. No residential *lot* of record shall derive direct *access* to a *roadway* classified as an arterial or *parkway*, except *multi-family* developments designed with an on-site turnaround and comply with *roadway access* management policy standards.
 3. Residential *lots* that are zoned Rural Residential (RR) and have a minimum *lot* width of two hundred feet (200') may take direct *access* to collector *roadways*; egress from the *lot* shall be only in a forward motion.
 4. Commercial and industrial *lots* may take *access* to a *roadway* classified as an arterial or *parkway* when designed with an on-site turnaround and comply with *roadway access* management policy standards.
 5. Commercial and industrial *lots* may be required to be served by a combined shared *access* drive to limit the number of possible traffic hazards; driveways shall be designed and arranged so vehicles *ingress and egress* from the property in a forward motion.
 6. Double *frontage* and reversed *frontage* *lots* shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific constraints of topography and orientation.
- G. Narrow Lot Subdivisions. Subdivisions with a homogenous design of *lot widths* narrower than fifty feet (50') cause numerous long-term conflicts and constraints for city services, design standards, parking, and quality of pedestrian movement over the lifespan of the neighborhood. In order to mitigate these problems, the designs listed below may apply to residential subdivisions that permit a given percentage of lots to be narrower than fifty-feet (50') wide according to **Section 108-2a**. Mitigating designs for plat are outlined below and home product designs are identified in the PEDS.
1. Rear loaded alleys
 2. Evenly distribute narrow lots among lots that are fifty feet (50') wide or greater,
 3. Public off-street parking areas within one-eighth mile (1/8 mi) of every narrow *lot*.
 4. Dedicated solid waste pickup locations with curb markings, preferably between the smaller separation of matching/mirrored driveways
 5. Incorporate lot diversity within a plat with at least twenty-five percent (25%) of lots that exceed the minimum lot width by five feet (5')

6. Other designs may be proposed that vary from the strict provisions of this section in such a manner that intent is maintained with such modification.

Table 108-2a – Narrow Lots Subdivision	
Allowed lots less than 50' wide per Subdivision Plat	Mitigating designs
Up to 10%	No more two such <i>lots</i> shall <i>abut</i> one another
Up to 25%	Any 1 design
Up to 50%	3 mitigating designs
Up to 75%	4 mitigating designs or rear loaded alley on blocks with lots less than 50' wide
Up to 100% of lots 48'-50' wide	Matching/mirrored driveways with dedicated solid waste pickup locations

108-2.6 Stormwater Drainage and Environmental Water features

- A. All development within the City must comply with the Grading and Drainage Design standards outlined in the PEDS as well as the following minimum standards.
- B. The drainage system of a subdivision shall be governed by the Drainage Design Manual for Maricopa County, published by the Maricopa Flood Control District and the City of Surprise Engineering Development Standards (Volume 2 of the PEDS). The stormwater drainage system shall be separate and independent of any sanitary *sewer system*. Stormwater drainage shall be accommodated in the *streets, gutters, retention* basins or detention basins that drain to natural washes unless otherwise indicated by the City Engineer.
- C. The stormwater drainage shall in each case accommodate potential runoff from its entire upstream watershed, whether inside or outside the land division. The City Engineer shall determine the size of any necessary facilities, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development and the final subdivision drainage report.
- D. The required drainage report (per **Sec. 108-4.2A**) must address the effect of the proposed subdivision on existing upstream and downstream drainage facilities outside the area of the land division. No land division shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility. The City Engineer will determine the adequacy of the drainage facilities for purposes of Council review, but such determination will not relieve the property

owner from any responsibility related to stormwater or drainage; such responsibility shall remain that of the property *owner*.

- E. Unless the diversion of stormwater is required to conform to a comprehensive drainage plan for a drainage district or regional master plan, *off-site* stormwater runoff shall be received and discharged at the locations which existed prior to development and as nearly as possible in the same manner which existed prior to development. If a diversion is required, sufficient work shall be done upstream and/or downstream to provide all affected properties at least the same level of flood protection that existed prior to the diversion. Post development flows cannot exceed pre-development flows in peak runoff, volume, or velocity and may not concentrate sheet flows without downstream *off-site* control.
- F. Whenever a development site contains a *water feature* (stream, wash, *floodway*, or *wetlands* area) identified by the Maricopa County Flood Control or FEMA the *plat* shall adhere to the following:
1. If the ephemeral flow of the *water feature* is less than 250 cfs the *water feature* may be diverted within the development provided it enters and exits the *development parcel* in its general historic location.
 2. If the ephemeral flow of the *water feature* is over two hundred and fifty cubic feet per second (250 cfs) the *water feature* must be retained *unaltered* in its historic location within and throughout the *development parcel*, except when approved through drainage master plan.
 3. The subdivision shall provide for an overflow zone along the bank of said *water feature*. The width of the overflow zone shall be sufficient in times of high water to contain or move the water, and no *fill* shall be placed in the overflow zone nor shall any *structure* be erected or placed therein. The boundaries of the overflow zone shall be delineated in the drainage report and approved by the City Engineer and Community Development Director.
- G. The City Council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the land division of any portion of the property which lies within the 100-year *floodplain* of any *water feature* as determined by the City Engineer, the flood control district of Maricopa County, and/or the U.S. Army Corps of Engineers. These *floodplain* areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps, except for the limited development of trails with approval by the City Council.
- H. *Lots* shall be laid out so as to provide positive drainage away from all *buildings* and individual *lot* drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each *lot* onto *adjacent lots*.

108-2.7 Sanitary Sewage Disposal.

- A. The *applicant* shall install sanitary sewer collection facilities in a manner prescribed by the Uniform Standard Details and Specifications, the City of Surprise Engineering Development Standards, and the city engineer.
- B. Pubic sanitary sewers shall be installed in accordance with plans, profiles and specifications outlined in the PEDS and approved by the City Engineer and in certain cases Maricopa County Environmental Services Department. Sanitary sewer lines shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided land*.
- C. Every *lot* (residential and non-residential) shall be provided a *sewer* service and connect to the City's *sewer* collection system unless such connection will not be available (in the estimation of the City Engineer) for at least 20 years. Service stubs extended to the *platted lots* shall be placed to such lengths as not to necessitate disturbance of the paved (*street* or *alley*) improvements when service connections are made.
- D. Where public sanitary sewage collection systems are not reasonably accessible, but will become available within twenty (20) years, the City may allow one (1) of the following *alternatives*:
 - 1. Central sewerage system, where the maintenance cost to be assessed against each property benefited. If plans for future public sanitary sewerage systems exist, the *applicant* shall install the *sewer* lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public *sewer* mains; or
 - 2. Individual disposal systems, where the *applicant* may be required to install sanitary *sewer* lines, laterals and mains from the *street* curb to a point in the subdivision boundary where a future connection with the public *sewer* main shall be made. *Sewer* lines will be laid from the house to the *street* line, and a connection will be available in the home to connect from the individual disposal system to the *sewer system* when the public *sewers* become available. Such *sewer systems* shall be capped until ready for *use* and shall conform to all plans for installation of the public *sewer system*, where such exist, and will be ready for connection to such public *sewer* main.
- E. Where public sanitary *sewer* collection systems are not reasonably accessible and will not become available for a period in excess of 20 years, the City may allow the installation of *sewerage* systems as follows:
 - 1. For Residential Low Density (R-1) *zoning*, a central *sewerage* system only. No individual disposal system will be permitted. The *applicant* shall install all *sewer* lines, laterals, and mains to be permanent and ready for connection to the public *sewer system*, should it become available.

2. For Rural Residential (RR) *zoning*, individual disposal systems or central sewerage systems shall be *used*. If individual disposal systems are proposed, minimum *lot* areas shall be one acre (1 ac) or larger depending upon the results of the required percolation tests and test holes as directed by the City Engineer. The individual disposal system, including the size of septic tanks and size of the tile fields or other secondary treatment device, shall be approved by the City Engineer and Maricopa County.
- F. If a public sanitary *sewer* is accessible and a sanitary *sewer* is placed in either an easement or within a *street* or *alley* that *abuts* the property, the property *owner* shall be required to connect to the *sewer*; and it is unlawful for any such *owner* or occupant to maintain upon the property an individual sewage disposal system.

108-2.8 Water System.

- A. Each *lot*, *dwelling unit* or *building* shall be supplied with potable water in sufficient volume and pressure for domestic *use* and fire protection purposes.
- B. Where a public water main is accessible, the *subdivider* shall install adequate water facilities (including fire hydrants) subject to the specifications of the City engineer. Design and construction of any and all facilities relating to the supply, storage, transmission, treatment and distribution of potable water within or outside of any subdivision shall be the responsibility of the *subdivider* and shall be accomplished under generally accepted construction techniques in accordance with the PEDS (Volume 2, Chapter 6), those of ADEQ, and with the written approval of the City Engineer.
- C. Where it is necessary to extend a water main from an existing adequate main to the subdivision, the *subdivider* will be required to pay the full cost of the line extension; costs of the extension may be eligible for repayment agreements. Water main extensions shall be approved by the City Engineer. All water mains shall be a minimum eight inches in diameter.
- D. Water distribution lines shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.
- E. No vertical construction or *structure* shall be permitted within the subdivision until fire protection for the subdivision is operable.
- F. Service stubs shall be extended to all *platted lots* and landscaped tracts within the subdivision and to such a length as not to necessitate disturbance of *street* improvements when service connections are made.

108-2.9 Public Utilities.

- A. The city has determined the need to improve the visual character of the community through the undergrounding of all new and existing utility lines except as noted below. This subsection addresses the requirements for undergrounding utilities in conjunction with a development or redevelopment project that has been submitted for approval under provisions of this Ordinance. The undergrounding requirements herein shall apply to primary distribution lines as well as secondary and service lines, for both on-site and *off-site* locations; except said requirements shall not be applied in a manner inconsistent with any franchise or license agreement that may exist between the city and any utility company
- B. All public and private utilities to be installed within the City shall comply with the design and construction standards set forth in the Planning and Engineering Design Standards (PEDS).
- C. New and existing utility lines including, but not limited to primary distribution lines as well secondary and service lines for, gas, electric power, telephone, fiber optic cable, overhead transmission lines having a line voltage of less than sixty-nine thousand (69KV), and *off-site* locations that may need to be extended to serve the subdivision shall be located underground to and throughout the subdivision; placed within a public utility easement (PUE), non-exclusive easement granted by the abutting land owner, or in the ROW in coordination with the City.
- D. All utility easements existing and proposed throughout the subdivision shall be shown and labeled as such on the *preliminary plat*.
- E. When as a result of the subdivision development, it is necessary to relocate, renew, or expand existing facilities within or *adjacent* to the *platted* area, the *developer* shall make the necessary arrangements with the serving utility for these installations to be placed underground at the time of development of the property as part of the required *off-site* and on-site improvements. The *developer* shall be responsible for the costs of the underground construction, in accordance with the underground policy of the City and the serving utility. Check wording on the interpretation of burying distribution line vs transmission line. Check the underground policy
- F. Service stubs to *platted lots* within the subdivision for underground utilities shall be placed to the *right-of-way* line or the public utility easement (PUE) whichever is greater.
- G. As a condition of project approval, the development *applicant* of a project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including arrangements for the payment of any cost. The required undergrounding shall be completed prior to approval and occupancy of the project. In cases where utility undergrounding construction may not be completed at the time the rest of the project is completed, the *developer* shall produce written proof from the utility

company(ies) that undergrounding will be accomplished with all necessary moneys having been paid to the utility company(ies).

- H. In those instances where poles to be removed include *street* lights, the *street* lights will be replaced with freestanding poles and luminaries by the *developer/redeveloper* or the utility company when acting as a *developer/redeveloper*. Replacement of *street* lights shall comply with the PEDS and the regulations in Chapter 107 of the LDO.
- I. Underground utilities shall be extended to the boundaries of the *plat* to provide service connections to *abutting unsubdivided* land.
- J. No appurtenant or *ancillary* above ground equipment shall be placed without prior review and approval of siting and *screening* plans by the City of Surprise Public Works and Community Development Departments in coordination with utility companies.

108-2.10 Easement Planning.

- A. Uniform and continuous easements shall be provided to accommodate both municipal and private utilities and, where necessary, such other *uses* such as drainage, transit shelters, multi-use pathways, and emergency *access*. Said easements shall be delineated on the *preliminary plat* and dedicated on the *final plat*. The *subdivider* shall be responsible for coordinating with the appropriate utility company and when necessary with *adjacent* property owner(s) for the continuation of easements established in adjoining properties.
- B. Utility easements.
 - 1. City maintained easements for water, *sewer*, and storm *sewer* lines located outside of the *right-of-way* they shall be a minimum twenty feet (20') in width or as required by the City Engineer.
 - 2. Easements for gas, electric, telecommunications, *streetlights*, water meter, and water/*sewer* service lines shall be a minimum of eight (8) feet in width and provided outside of the public *right-of-way* along each side of the *street* and around a *cul-de-sac*.
 - 3. For those subdivisions where *alley* are provided, gas, telephone, fiber optic cable, cable television utilities may be located within a four (4) foot wide public utility easement (PUE) provided along the *rear lot lines adjacent* to, and outside of, the *alley*; in which case the width of the front PUE may be reduced from eight (8) feet to four (4) feet when accommodating only the water meter and water/*sewer* service lines.
- C. Drainage easements.

1. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, a stormwater easement or drainage *right-of-way* shall be provided, conforming substantially to the lines of such watercourse, and of such width and construction, or both, as required by the City Engineer based upon the subdivision drainage report. The drainage shall be maintained by an open channel designed in accordance with Volume 1 of the PEDS with landscaped banks and adequate width for maximum potential volume of flow; unless determined otherwise by the City Engineer.
 2. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road *rights-of-way*, perpetual, unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory *access* to the road. Easements shall be indicated on the *plat*. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 3. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the *plat*.
 4. All *retention* areas shall be in tracts with drainage easements.
- D. Land within a drainage way or within an easement for major power transmission (tower) lines or pipelines shall not be considered a part of the minimum *lot* area.
- E. Development *adjacent* to a designated transit stop, as identified in the City's Transit Feasibility Study or by Valley Metro, may be required to provide transit shelter easements. The size of a transit shelter easement shall be in accordance with Valley Metro's RPTA Bus Stop Program and Standards.
- F. *Lots abutting* existing or proposed multi-use trails or pathway corridors as designated in the *General Plan* may be required to provide a multiuse trail easement having a width and design in accordance with the PEDS.
- G. Emergency *access* and fire lane easements shall be provided in locations where designated by the City Fire Department. Said easements shall have a minimum width of twenty feet (20'), with a minimum vertical clearance of fifteen feet (15').

108-2.11 Open Space

- A. The hierarchy, types, and locations of *open space* required by the City are detailed in **Chapter 104** of this Ordinance. The design standards for the required *open space* are detailed throughout the different chapters of **Volume One** of the PEDS.

- B. For residential subdivisions and Traditional Neighborhood Development (TND) the specific percentage of required *open space* is prescribed within the development standards tables in **Chapter 106** of this Ordinance.
- C. For *mixed use*, commercial, *business park*, and industrial subdivisions the required amount of *open space* shall be those areas that are required for the specific *zoning* and *land use* as detailed in **Chapters 104, 106** and **107** of this Ordinance. The design standards for the required *open spaces* are detailed throughout the different chapters of **Volume One** of the PEDS.
- D. Where a proposed *park*, playground, *open space*, or other public *use* shown on the *General Plan* and/or Parks and Trails Master Plan, is located in whole or in part in a subdivision, the area be shown on both the preliminary and *final plats* and such area(s) shall be reserved to the City by the *subdivider* if the City Council approves such reservation. The City or other public agency shall enter into an agreement on the method of acquiring such reserved land area(s) prior to approval of the *final plat*.
- E. Unless a public entity has accepted primary maintenance responsibility for all *common areas* within a subdivision, the property *owner/developer* shall create a method, acceptable to the Community Development Director to provide for the long term maintenance of the *common areas* in perpetuity.

ARTICLE 3 – SUBDIVISION CONSTRUCTION, INSPECTION AND ACCEPTANCE

108-3.1 Construction of Improvements Financial Assurance.

- A. An *applicant* shall submit a *Financial Assurance* to the City thirty (30) days prior to a *Final plat* being placed on the City Council agenda for action. The amount of this *financial assurance* shall be no less than one hundred twenty-five (125%) percent of the total cost necessary to complete the required improvements, including but not limited to, the costs of labor, and materials, permits, management fees, insurance costs and any other capital costs.
- B. The *financial assurance* shall secure to the city the satisfactory construction, installation, and dedication of required *street*, utility, drainage, water and *sewer systems*, and other improvements, including any portions of such improvements which are located in the public *rights-of-way*, easements, and upon individual *lots*. Improvements may include, but are not limited to, *streetlights*, landscaping, drainage facilities, *street* improvements, perimeter *fences/walls*, water and *sewer* distribution lines, and *common area* and *open space* improvements.
- C. The *financial assurance* shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution, as set forth herein. The periods within which required improvements must be completed shall be incorporated in the *financial assurance* and shall not exceed twelve (12) months from the date of *final plat* approval by City Council.
- D. Nothing in this section may be interpreted to limit the application of A.R.S. §34-222 et seq., including but not limited to that statute's requirements with respect to *financial assurance* for public projects.
- E. In the event *temporary improvements* are required by City Council, the *applicant* shall provide a separate *financial assurance*, in addition to any *financial assurance* required for permanent improvements, that covers all costs of constructing, maintaining, and removal of the temporary facilities and improvements.

108-3.2 Financial Assurance Options

- A. There are two (2) *financial assurance* options related to the timing of the construction of the required subdivision *improvements* and the recordation of the *final plat* available to the *subdivider/applicant*. Following the review and approval of all subdivision *improvements plans* and final reports, and after securing all certifications and written proof of service from all applicable agencies, utilities, and/or districts the *subdivider/applicant* may choose to follow one (1) of the two (2) development options outlined below.
 - 1. *Financial assurance / Record Plat:* The *subdivider/applicant* provides a "Construction of Improvements *Financial assurance*" to the City and

recordation of the *final plat* occurs prior to, or in conjunction with, construction of the subdivision improvements.

- a. The *subdivider/applicant* provides the required form of financial guarantee, acceptable to the City Attorney, which assures construction of all of the required subdivision improvements (see **Sec. 108-3.1** herein for information on the amount and specific forms of *financial assurances* accepted by the City).
 - b. The City Council approves the *final plat* and the Community Development Director subsequently transmits the *final plat* for recordation. After a *final plat* has been recorded, the City Engineer may, in his/her discretion, allow a *subdivider/applicant* to substitute one (1) type of *financial assurance* for another.
 - c. In the event the *subdivider/applicant* fails to initiate construction within twelve (12) months of approval, and after reasonable notice to the *subdivider/applicant* of default, the City may choose to take formal action to either abandon the recorded *final plat* or to do/have done all work; in which case the *financial assurance* instrument will be charged with all costs and expenses incurred.
 - d. The Community Development Director may, upon proof of difficulty, recommend to the City Council, and the Council may approve a one-time extension of the completion date for a maximum of an additional twelve (12) months provided the “Construction of Improvements *Financial assurance*” form is amended by the *subdivider/applicant* to cover the extended time period.
2. **Alternative Assurance Agreement:** In lieu of providing a “Construction of Improvements *Financial assurance*” to the City, the recording of the approved *final plat* is withheld until after all required *public improvements* have been completed by the *developer* and approved for acceptance by the City.
- a. The *subdivider/applicant* submits an executed standard contract (Alternative Assurance Agreement), as approved by the City Attorney, regarding the installation of improvements. The contract shall require that all improvements be completed no later than twelve (12) months from the date the *final plat* was approved by the City Council and that no *lot* may be sold. The terms of this contract shall run with the land and shall be binding upon all subsequent *subdividers* and shall survive the expiration or other termination of this agreement.
 - b. The *subdivider/applicant* pays the construction permit fees and the City issues a construction permit for the subdivision improvements.

- c. All improvements and construction shall be in conformance with the approved subdivision improvement plans. When the completed improvements are inspected and approved by the City Engineer and a warranty of improvements *financial assurance* is submitted to cover the completed improvements the Community Development Director will transmit the *final plat* to the County for recordation and the sale of *lots* may commence.
- d. If the *subdivider/applicant* fails to initiate construction within twelve (12) months from the date of Council approval, the Council shall take formal action to rescind approval of the *final plat* which shall then become null and void and of no force or effect.
- e. A request for a one-time extension to the required completion of the improvements may be approved by the city for an additional twelve (12) month period. A revised Alternative Improvements Contract, as approved by the City Attorney, regarding the construction of the unfinished portions of the improvements shall be submitted along with the request for the time extension.
- f. Should the construction of improvements be found to be contrary to the improvement plans or contrary to good construction practices, the recordation of the *final plat* shall be withheld until appropriate construction remedies are made to the satisfaction of the City Engineer.

108-3.2 Deferral of Required Improvements.

- A. The City Council may defer or delay installation of development-required improvements to coincide with *adjacent* work, future planning, or because of incompatible *grades*, inadequacy or lack of connecting facilities, or for some other suitable reasons.
- B. Whenever the City Council defers the requirement to construct and install any improvement, the *subdivider/applicant* shall pay to the city at the time of *final plat* approval their proportionate share of the costs of constructing and installing such improvement in the future, as determined by the City Engineer. Alternatively, at the City Council's option, the *applicant* may post a financial or other guarantee, as provided in this section, ensuring completion of said improvements upon demand of the City Council. The Mayor shall not sign the *final plat* and the *final plat* shall not be recorded until the requirements of this subsection have been satisfied.

108-3.3 Construction, Inspection, and Completion of Improvements.

- A. The *subdivider/applicant* shall pay for all costs of constructing and removing temporary facilities and improvements required by City Council and shall maintain the same for the period of construction.
- B. All construction shall require a dust permit from the Maricopa County Air Quality Department and a permit for construction from the City of Surprise; permits must be secured before any construction work can begin. Once the City has issued a construction permit for improvements, work shall proceed without interruption until the City accepts the improvements.
- C. The City Engineer shall provide for inspection of required improvements during construction and ensure their satisfactory completion. Any city inspections or approvals performed throughout the course of the construction do not signify that the City has accepted any of the improvements for maintenance.
- D. If the city engineer finds upon inspection that any of the required improvements have not been constructed or installed in accordance with the city's construction standards and specifications, the *subdivider/applicant* shall correct the deficiency and shall complete construction and installation of the improvements according to the standards and specifications. Wherever the cost of constructing or installing required improvements is covered by a financial guarantor, the *subdivider/applicant* and the guarantor shall be jointly and severally liable for completing, constructing and installing the improvements according to the standards and specifications.
- E. If a *subdivider/applicant* has posted a *financial assurance* and either the work has been abandoned for a period of one hundred eighty (180) days, or the required improvements have not been satisfactorily constructed, installed and approved within the period specified, the city may utilize the following options regarding *public improvements*.
 - 1. The city shall not issue any *building permit* for any *structure* until all applicable *public improvements* have been constructed to the satisfaction of the city staff, inspected, and accepted.
 - 2. If the *owner* fails to timely and properly construct the *public improvements* as set forth in either a *financial assurance* of Construction or a Development Agreement, the city may take any one (1) or more of the following actions, at the *owner's* expense:
 - a. Decline to process or issue *building permits*, occupancy clearances, or other regulatory approvals or inspections;
 - b. Complete, remove and/or modify the *public improvements* in whole or in part;
 - c. Restore any disturbed land;

- d. Bring action to enforce the *owner's* responsibility under the Surprise Municipal Code or under the agreement to construct the *public improvements*;
 - e. Bring action to enforce the *financial assurance* to construct the *public improvements*; and/or
 - f. Otherwise mitigate the effects of the *owner's* failure to construct the *public improvements*, including but not limited to, action to *abandon* the *plat*.
- F. Placement of all boundary monuments for each *lot* and permanent reference monuments in all corners, angle points, points of curve, centerline of all *roadways*, and at all *street* intersections as approved by a registered land surveyor and the city's chief land surveyor shall be installed before *building permits*, such as but not limited to *Model home Complex*.
 - 1. Monuments will be permanently marked with the registration number of the registered land surveyor responsible for their placement.
 - 2. Exterior monuments for the subdivision boundaries are to be set prior to recordation of the *final plat*.
 - 3. The interior monuments are to be set after the *streets* are built and the grading has been completed.

108-3.4 Release or Reduction of Financial Assurance.

- A. Once the *public improvements* have passed the final inspection by the City Engineer, the *applicant's* engineer or surveyor shall submit a certified final *as-built* survey of both the *plat* and the constructed improvements, indicating location, dimensions, materials, and that the layout of the line and *grade* of all required improvements is in accordance with the approved construction plans for the improvements.
- B. The *subdivider/applicant* may submit a request for release of the original *financial assurance* only after they submit to the City Engineer the lien release documents along with the new financial warranty of improvements guarantee documents as outlined below in **section 108-3.5**.
- C. The City Engineer shall make a written recommendation to the City Council to release the original *financial assurance*, accept the *public improvements* for maintenance, and accept the new warranty of improvements *financial assurance*.

108-3.5 Warranty of Improvements Financial Assurance.

- A. The *subdivider/applicant* shall be required to file a Warranty of Improvements *Financial assurance* with the City Engineer prior to City Council action on maintenance responsibilities of the subdivision *public improvements*. The *financial assurance* shall be in a form as outlined in **Sec 108-3.1.A.** in the amount of ten (10%) percent of the actual cost of constructing and installing the improvements. The warranty assurance shall be for a period of two (2) years beginning from the date of “Conditional Acceptance” of maintenance responsibilities for said improvements by the City Council.
- B. The *applicant* shall be required to maintain all improvements for the two (2) year warranty period. If any certificates of occupancy have been issued for *buildings* served by improvements for which the city has not accepted maintenance responsibility, the city may affect emergency repairs and the *applicant* or other *owner* thereof shall pay the cost of such emergency repairs. Prior to effecting such emergency repairs, the city shall give to the person responsible for maintaining the improvements such notice as may be practicable under the circumstances.

108-3.6 Costs, Reimbursements, and City Participation in Public improvements.

- A. All *public improvements* shown on the *final plat* and the improvement plans, and any additional improvements that may be required by the City Council as a condition for approval of the *final plat*, shall be the responsibility of the *developer*; unless otherwise approved by the City Council.
- B. If a *street* within or *adjacent* to the development is improved as an arterial or *parkway street* and dedicated to the public the City, upon completion of the warranty guarantee, will accept maintenance responsibility for *street* lighting, median landscaping, and pavement.
- C. If a *street* within or *adjacent* to the development is improved as a collector or *local street* and dedicated to the public the City upon completion of the warranty guarantee will accept maintenance responsibility for the pavement and curbs. Maintenance responsibilities for landscaping and *street* lighting shall remain with the property *owner* and/or homeowners association.
- D. If a *developer* is required to oversize infrastructure to serve future development in *adjacent* areas that is other than their own property the City may assist the *developer* recoup proportionate costs from those *adjacent* properties through a repayment agreement as further described in Chapter 42 of the City Code.

CHAPTER 109 - SIGNS

ARTICLE 1 – IN GENERAL PROCESS AND OVERVIEW

109-1.1 Title; findings; purpose; intent; and limitations.

- A. Title. Chapter 109 of the Surprise Municipal Code may hereafter be referred to as the "City of Surprise sign code" or "sign code".
- B. Findings. The City of Surprise finds that while signs are essential to commerce and wayfinding, signs may also obstruct views, distract motorists, displace alternative uses for land, contribute to blight, and pose other problems that legitimately call for regulation. A sign placed on land or on a building for the purpose of identification, protection, or directing persons to a use conducted therein must be deemed to be an integral but accessory and subordinate part of the principal use of the land or building.
- C. Purpose. The purpose of this chapter is to safeguard the public interest from the negative impacts of signs thus ensuring the protection of property values, the character of neighborhoods, and the creation of a convenient, attractive and harmonious community, while encouraging economic prosperity.
- D. Intent. The city intends to allow adequate communication through signage while encouraging aesthetic quality in the design, location and size of all signs by:
 - 1. Allowing adequate signage for business identification while meeting public and private objectives by establishing limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing individual and community interests identified subsection (c) herein;
 - 2. Promoting the free flow of traffic, while protecting pedestrians and motorists from injury and property damage that may be caused by cluttered, distracting and illegible signage. These regulations distinguish between portions of the city designed for primarily vehicular access and portions of the city designed for primarily pedestrian access;
 - 3. Promoting the use of signs that are well designed, of appropriate scale, structurally sound, and integrated with surrounding buildings and landscape in order to meet the community's desire for quality development;
 - 4. Protecting property values, the local economy, and the quality of life through regulations that are intended to preserve and enhance the appearance of the streetscape that affects the image of the city;
 - 5. Maintaining acceptable outdoor lighting levels through regulations that are intended to enhance the livability of the community while respecting

the natural habitat for animals and the desire for dark skies in environmentally sensitive areas;

6. Providing for adequate wayfinding through and within the city through regulations that are intended to aid motorists and pedestrians in navigating to local businesses and other points of interest safely;
7. Promoting the health, safety, morals, and general welfare of the citizens of the city.

E. Limitations.

1. These regulations do not regulate every form and instance of visual communication that may be displayed within the jurisdictional limits of the city. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the stated purposes set forth.
2. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.
3. These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the federal government, the State of Arizona, the city, or any other political subdivision of the state. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities allowed for government speech. This paragraph shall not be construed as to exempt from regulation privately owned signs within the public right-of-way or on publicly owned land.

109-1.2 Applicability.

- A. The provisions of this chapter apply to all incorporated areas within the city and shall supersede all previous sign codes and references thereto adopted by the Surprise City Council as of the effective date of Ordinance #2018-04, except that where such land is located within an approved planned area development (PAD), or is subject to an approved comprehensive sign program (CSP) existing at the time of the adoption of this chapter, the time, place and manner provisions of said PAD or CSP shall apply. Whenever an approved PAD or CSP is silent on a matter relating to signage, the provisions of this chapter shall to the extent that such provisions are not in conflict with the provisions of the approved PAD or CSP.

109-1.3 First Amendment interpretation and severability.

- A. This chapter must be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this chapter is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this chapter which can be given effect without the invalid provision.

109-1.4 Substitution.

- A. With the property owner's consent, a protected non-commercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed non-commercial message, provided that the sign structure or mounting device is permitted without consideration of message content. Such substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over protected non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message.

109-1.5 Rules of interpretation.

- A. Words or phrases within this chapter which are expressed using italics shall assume the meaning as ascribed in section 109-1.6 of this chapter. Words or phrases not expressed in italics shall assume the common meaning of the word or phrase unless such word or phrase is otherwise included in **Section 101-2** of the Surprise Municipal Code. Whenever the definition of a word or phrase used in this chapter is in conflict with any word or phrase used elsewhere in the Surprise Municipal Code, the definitions of this section shall apply for purposes of interpreting this chapter.
- B. Graphical representations are often used throughout this chapter to further clarify the intent of the text; however, whenever there is a conflict between the text and the illustration, the language of the text shall prevail.
- C. Words in singular form shall include the plural form and words in plural form shall include the singular form.
- D. The word "shall" is mandatory and the word "may" is permissive.
- E. The city shall not evaluate any sign based on the message content of the sign provided the sign copy contains no vulgar or profane language, hate speech, or language intended to incite violence, in which case the sign copy shall not be permitted.

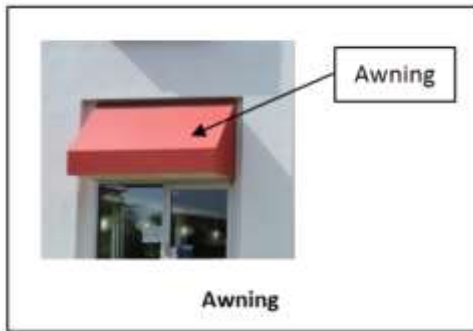
109-1.6 Glossary of Terms.

- A. For purposes of administering Chapter 109, the following definitions apply:

A

Active single-family residential subdivision. A subdivision consisting of single-family lots that are for sale to the public by a homebuilder.

Awning. An architectural projection, typically made of cloth or metal, which projects from and is supported by the walls of a building and is intended to provide shade or shelter above a window or door.



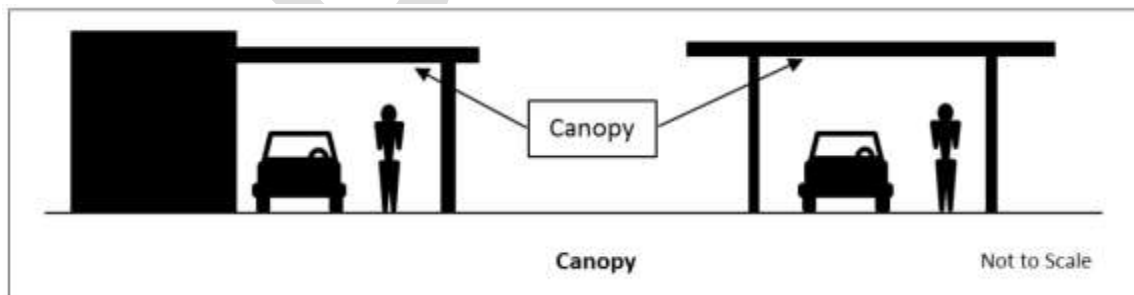
B

Blight. Unsightly conditions including but not limited to damage, tattered, faded, cracking, peeling, rusting or any other condition of disrepair, deterioration, or lack of maintenance.

Building. Any structure having a roof supported by walls or columns used for the shelter of persons, animals, or personal property.

C

Canopy. A building or portion thereof, which is open on not less than two sides and is entirely or partially supported by the ground.



Copy, changeable. Sign copy that is changed or capable of being changed at intervals of more than once per day.

Cottage industry. A cottage industry is a small business, owned and operated by the residential occupant, in a residential area, conducted within the dwelling or in an accessory building. The business may have employees and customers but must be clearly incidental and secondary to the use of the property for single-family residential purposes as well as adhere to the Use Specific Standards in **Section 106-10.14** of the Surprise Municipal Code.

D

Daylight hours. That portion of the day beginning when the sun breaks the morning horizon and ending when the sun falls below the evening horizon.

Drive-in business. A retail business establishment where on-site transactions may be conducted from the confines of a parked vehicle. See also "drive-through business".

Drive-through business. A retail business establishment where on-site transactions may be conducted from the confines of a vehicle which is staged in a drive-through lane. See also "drive-in business".

E

Electronic messaging center (EMC). A sign that utilizes computer-generated messages or some other electronic means of changeable copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix.

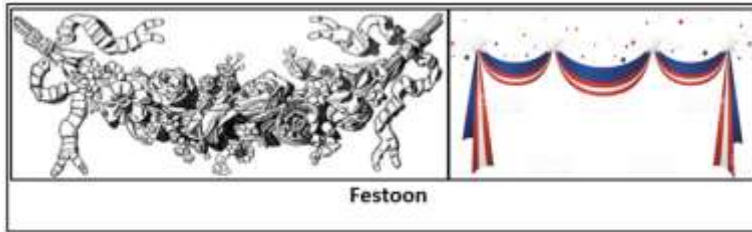
Electronic messaging centers, level 1. An EMC that contains monochromatic static messages which may only be changed manually and which do not employ "scroll", "fade" or "dissolve" transitions, animation or video, or similar subtle transitions or frame effects which create the appearance of moving text or images.

Electronic messaging centers, level 2. An EMC that contains monochromatic or full-color static messages which may be changed automatically at a rate not exceeding once every eight seconds, and which do not employ "scroll", "fade" or "dissolve" transitions, animation, or similar subtle transitions or frame effects which create the appearance of moving text or images.

F

Flag. Any fabric or flexible material attached to or designed to be flown from a flagpole or similar device, but not including banners.

Festoon. A swath of fabric, ribbon, garland, or flowers which is suspended, draped, and bound at intervals to form graceful loops or scalloped folds. Festoons do not include pennant strings or string lighting.



G; H

Home occupation. A use of land that is in accordance with **Section 106-10.23** of the Surprise Municipal Code.

I

Illuminance. The amount of light falling upon a real or imaginary surface, measured in either foot-candles or lux. See also "luminance".

Illumination, bare-bulb. A type of external illumination consisting of light bulbs or a string of light bulbs, or takes on the appearance of such including LEDs.

Illumination, bent-tube. A source of light for externally illuminated graphics supplied by a glass tube that is bent to form letters, symbols, or other shapes and filled with a gas that when electrically charged emits light, or any other method or technology, such as but not limited to LED rope lighting, utilized to achieve the same effect.

Illumination, external. A light source that is separate and apart from the sign.

Illumination, internal. A light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface.

J; K; L

Lawful temporary event. A use of land that is permitted by and in accordance with **Section 106-10.42** of the Surprise Municipal Code. For purposes of this chapter, the following uses are also considered lawful temporary events: real estate open houses occurring within lands zoned for residential uses; and, religious institutions where religious services or religious events are held on lands zoned for residential uses, but where the primary use established for said land is that of a public school, private school, or charter school, or other community facility, or public meeting hall.

Logo. A graphic symbol representing a business, activity or use.

Logo, Primary City of Surprise. The official logo of the city.

Luminance. The light that is emitted by a light source or reflected from a surface, measured in foot-lamberts or nits. See also "illuminance".

M

Maintenance. The replacing or repairing of a part or portion of a sign necessitated by ordinary wear, tear or damage beyond the control of the owner, or the reprinting of existing sign copy without changing the wording, composition, design, original color or size of the sign copy.

Marquee. A type of building projection typically attached to and projecting from the front entrance of a hotel or theater, and intended to provide an opportunity for signage.



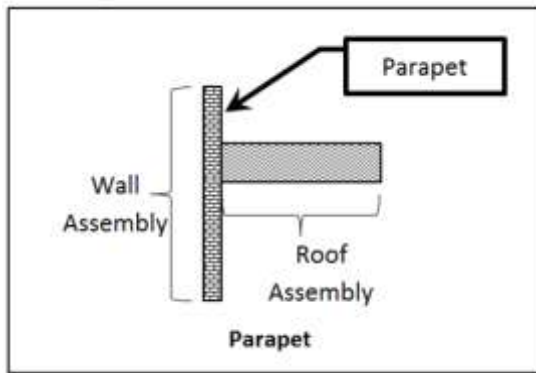
Message, commercial. Speech that identifies, advertises, or directs attention to a business or is intended to induce a purchase of a good, property, or service, including, without limitation, any speech naming a brand of good or service and any speech that is not a non-commercial message.

Message, non-commercial. Speech that in no way identifies, advertises, or directs attention to a business or is intended to induce a purchase of a good, property, or service, including, but not limited to, religious, political, and ideological speech.

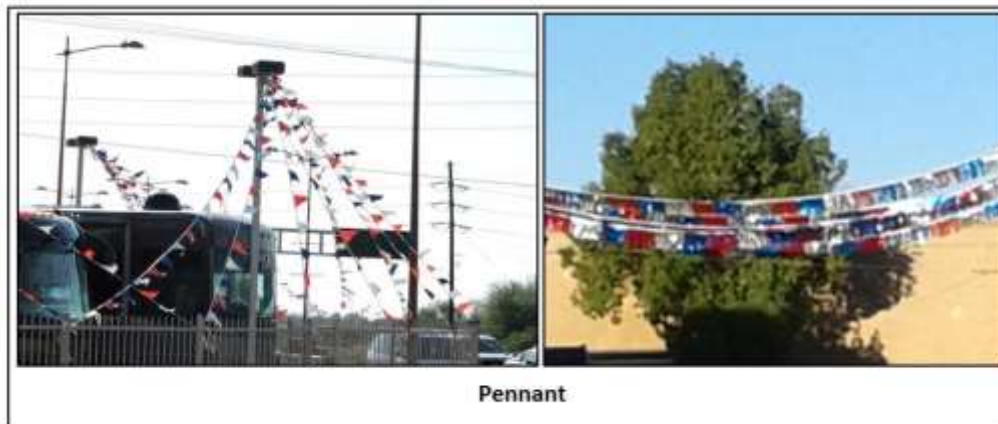
Model home complex. A use of land that is in accordance with **Section 106-10.29** of the Surprise Municipal Code.

N; O; P

Parapet. That portion of a building's exterior wall which projects above the roof of the building.

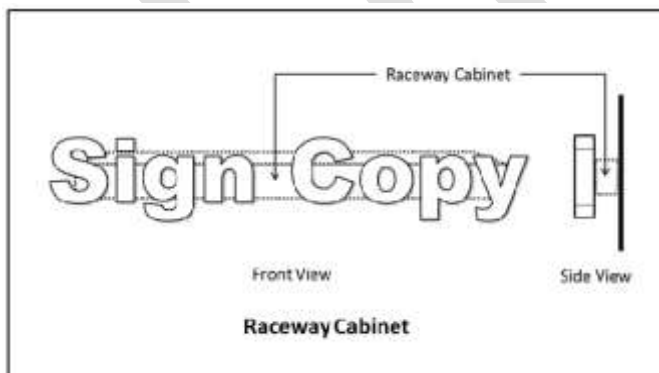


Pennant. A type of flag, generally in the shape of a triangle and typically flown from a string.



Q; R

Raceway cabinet. An aluminum channel box not more than eight inches in depth used to mount signage to a wall or other structure.



Roof. That portion of a building's exterior intended to provide overhead protection from the elements.

Roof, exposed pitch. Any roof where the pitch of the roof is visible from the ground.

Roofline. The highest point of the main roof or the highest point on a parapet, but not including cupolas, pylons, projections or minor raised portions of the roof.

S

Sign. Any device depicting written letters, words, numerals, figures, emblems, logos, trademarks, pictures, or any part or combination thereof used for visual communication that attracts the attention of the public and is visible from public or private rights-of-way or other properties, but not including athletic scoreboards when associated with a sanctioned athletic field.

Sign, abandoned. Any sign located on a vacant property or premises, which is vacant for a period of 90 calendar days, or a sign which is damaged, in disrepair, or vandalized and not repaired within 90 calendar days of the date of the damaging event.

Sign, address. A sign intended for the display of a property's address.

Sign, A-frame. A portable sign designed in the shape of the letter "A" consisting of two rigid surfaces joined along an adjacent edge.

Sign, animated. A sign which incorporates movement or the optical illusion of movement of any part of the sign or sign structure, including the flashing or varying of light intensity; or the automatic changing of all or any part of the sign; or any movement or rotation of the sign or any part of the sign structure.

Sign, area. The smallest rectangular area or areas of a two-dimensional sign which can enclose all of the sign copy, or in the case of a three-dimensional sign, 50 percent of the volume of the smallest cuboid which can enclose the sign.

Sign, awning. Any information or graphics painted on or integrated into an awning.



Sign, backlit. A sign typically utilizing opaque graphics, in which the light source is concealed or contained within the graphic thereby causing the graphic to become visible against the illuminated surface onto which the graphic is mounted.

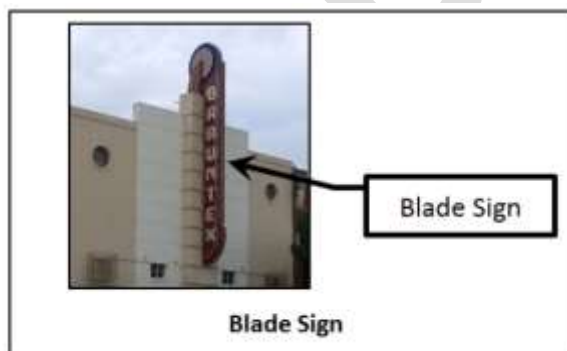
Sign, banner. A sign consisting of fabric, paper, or other lightweight pliable material, either enclosed or not enclosed in a rigid frame, and secured or mounted to minimize movement in the wind, but not including inflatable signs.



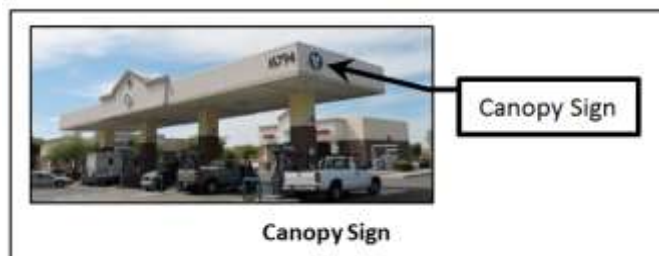
Sign, billboard. A sign that advertises a business, commodity, service, entertainment, product or attraction which is sold, offered or existing elsewhere than on the property where the sign is located or which takes on the physical characteristics historically associated with such signs.



Sign, blade. A sign which stands off from the facade of the building and is designed to be read in a vertical manner.



Sign, canopy. A type of building wall sign that is mounted to the face of a canopy.



Sign copy. The letters, words or graphics used to convey information on a sign.

Sign, freestanding ground. A sign that is erected on its own self-supporting structure, detached from any supporting elements of a building, but not a billboard sign or off-premises sign.

Sign, freeway monument. A pylon sign which is located along a freeway right-of-way and intended to display a commercial message relating to the commercial center on which the sign is located. Freeway monument signs are not considered billboard signs.

Sign, governmental. A sign erected by or on behalf of a governmental body, including but not limited to a sign to post legal notices, identify public property, convey public information, or direct or regulate pedestrian or vehicular traffic.

Sign, hanging. See "shingle sign".

Sign, illuminated. A sign of which the surface is artificially lighted either internally or externally. (See also "illumination" et seq.)

Sign, inflatable. Any on-premises flexible fabric device which is filled with a gas or pressurized air that is tethered or anchored to the ground or other stationary object, or any device taking on such an appearance.



Sign, legal non-conforming. A sign lawfully erected and maintained prior to the adoption of the ordinance from which this chapter or amendments thereto is derived that does not conform to the requirements of this chapter.

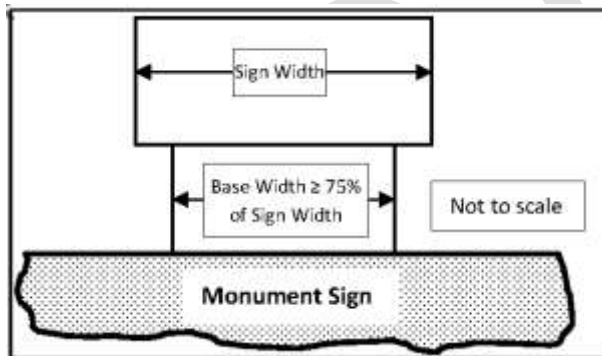
Sign, light pole banner. A fabric sign suspended between two horizontal supports, which are attached to a light pole for the purpose of supporting the sign.



Sign, median. Any sign other than a public sign that is located within the median of any street, regardless of whether the median is painted or raised.

Sign, model home complex. Any sign or flag that is approved for use in a model home complex.

Sign, monument. A freestanding ground sign with a base that is at least 75 percent of the width of the sign intended to display a message relating to the property on which the sign is located. Monument signs are not considered billboard signs.



Sign, monument, class I. Commonly referred to as a "menu sign", a class I monument sign is a monument sign associated with the drive-through lanes of a drive-through business, and which is equipped with a loudspeaker and microphone for the purpose of placing and confirming an order.



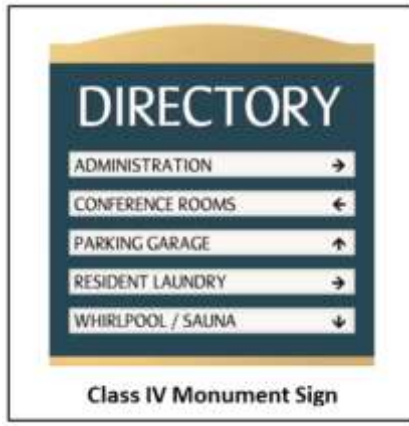
Sign, monument, class II. Commonly referred to as a "preview sign", a class II monument sign is a monument sign associated with the drive-through lanes of a drive-through business, and which is not equipped with a loudspeaker or microphone.



Sign, monument, class III. Commonly referred to as a "directional sign", a class III monument sign is a monument sign typically associated with a multi-family, commercial or industrial driveway or drive aisle.



Sign, monument, class IV. Commonly referred to as a "directory sign", a class IV monument sign is a monument sign typically associated with a pedestrian promenade or parking lot drive aisle.



Sign, monument, class V. A monument sign associated with a high volume collector street, residential collector street, or commercial collector street, as defined by the Surprise engineering design standards, and provides the primary source of signage for the property served by the sign.

Sign, monument, class VI. A monument sign associated with a parkway, major arterial, or minor arterial as defined by the Surprise engineering design standards, or Grand Avenue, and provides the primary source of signage for the property served by the sign.

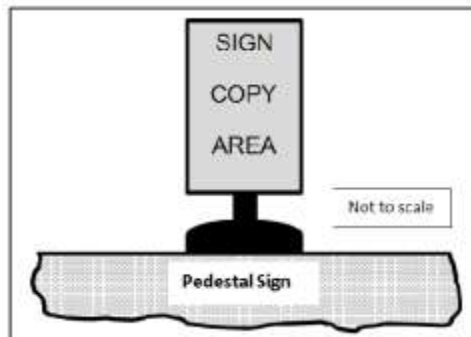
Sign, non-conforming. A sign that does not conform to the requirements of this chapter.

Sign, off-premises. A class I temporary sign or class II temporary sign that directs attention to an activity, business, commodity, service, entertainment, product, or attraction sold, offered, or existing elsewhere than upon the property where the sign is located.

Sign, on-premises. Any sign, other than a billboard sign, that directs attention to an activity, business, commodity, service, entertainment, product, or attraction sold, offered, or existing on the property where the sign is located.

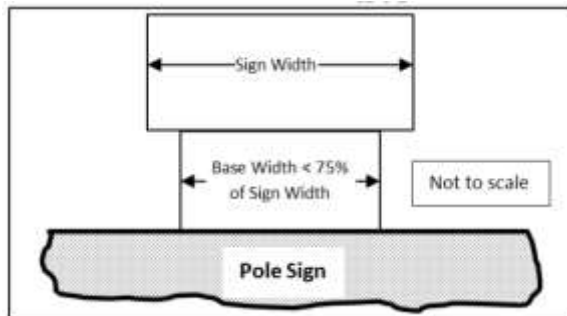
Sign panel. The surface on which sign copy is depicted.

Sign, pedestal. A portable sign in which the sign panel is affixed to and supported by a weighted base.



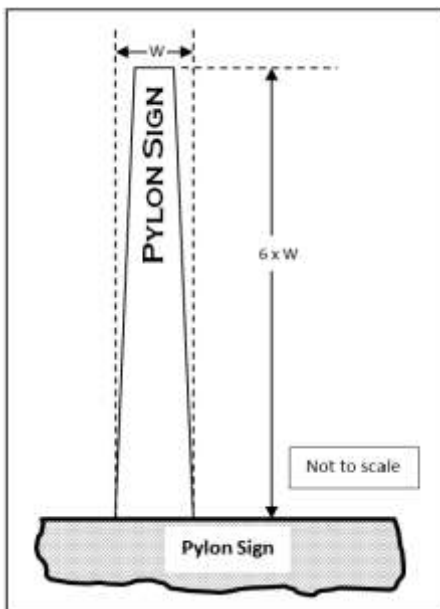
Sign, permanent. An on-premises sign that due to its physical characteristics and method of attachment is intended for permanent display.

Sign, pole. An on-premises freestanding ground sign where the width of the supporting poles, uprights or braces are collectively less than 75 percent of the width of the sign. For purposes of this chapter, a light pole banner is not considered a pole sign. (See also "sign, monument" and "sign, pylon".)



Sign, portable. A temporary sign that may be readily moved from location to location without the need of any specialized knowledge or equipment, and that is not affixed to the ground or any structure.

Sign, pylon. An on-premises monument sign in which the height of the sign structure is at least six times the width of the base of the sign structure.



Sign, reader panel. An on-premises sign in which the individual characters of the sign copy may be changed manually and immediately, but not including electronic messaging.



Sign, residential subdivision. Any sign that is approved for use in association with an active single-family residential subdivision.

Sign, roadway arch. A sign mounted to a structure that spans a roadway or commercial driveway in which the structure is intended for that sole purpose. A roadway arch sign is not considered a billboard sign.



Sign, roof. An on-premises building-mounted sign that is attached to or extends above the roof of a building.



Sign, sandwich. A type of A-frame sign designed to be worn by a person.

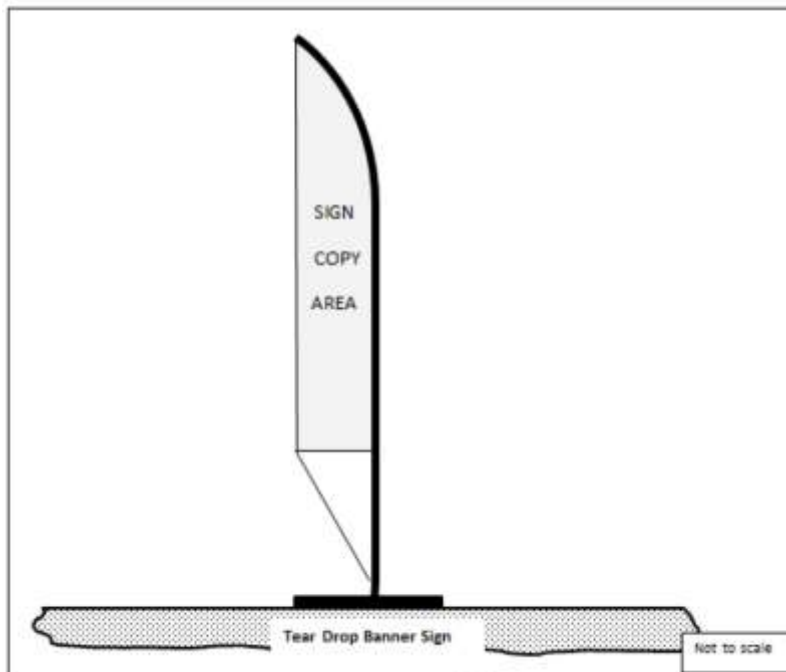
Sign, shingle. An on-premises sign suspended from, and located entirely under a covered porch, walkway, canopy or awning.



Sign, snipe. Any sign, other than a public sign, that is posted on a tree, landscaping, utility pole or structure, streetlight, fence, fire hydrant, bridge, curb, or park bench.

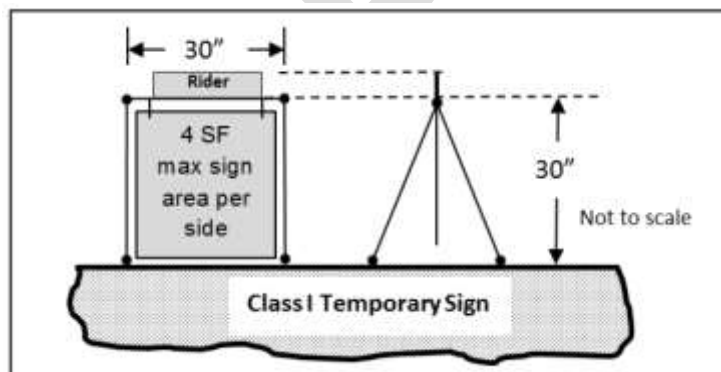
Sign structure. The supports and framework of a sign.

Sign, teardrop banner. An on-premises sign consisting of a narrow strip of fabric material which is attached to a flexible or partially flexible pole in a vertical manner.

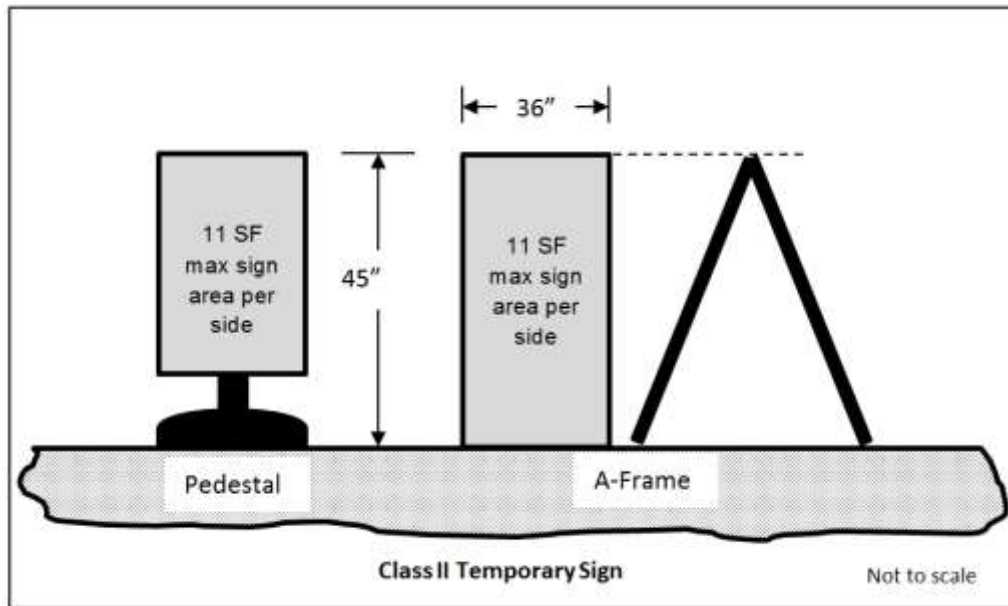


Sign, temporary. A sign that due to its physical characteristics and method of attachment is not intended for permanent display. See also "sign, permanent".

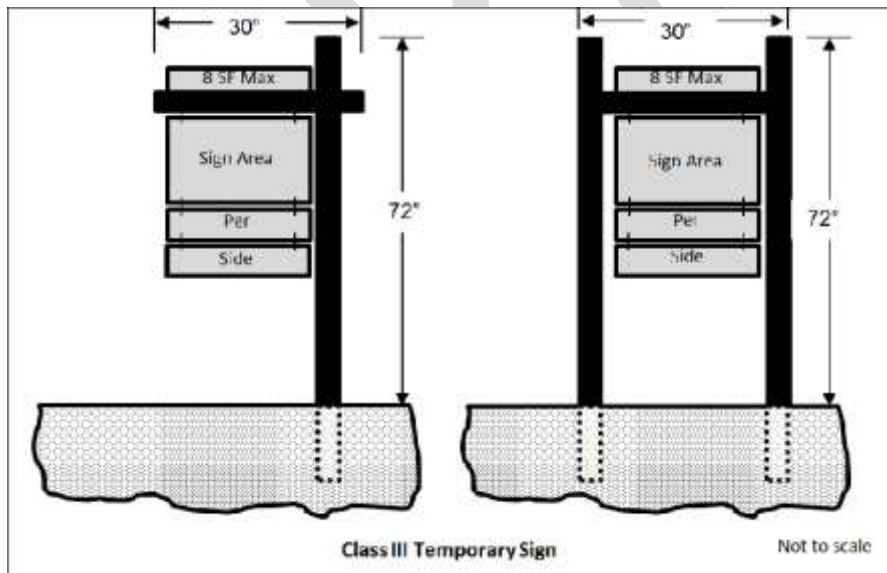
Sign, temporary, class I (small A-frame sign). A temporary, portable sign generally in the shape of the letter "A" in which the overall height of the sign structure does not exceed 30 inches, the overall width of the sign structure does not exceed 30 inches and which does not exceed eight square feet of aggregate sign area. Riders not exceeding six inches in height and 24 inches in length which are attached to the top of the A-frame shall not be included in the overall height measurement or sign area measurement.



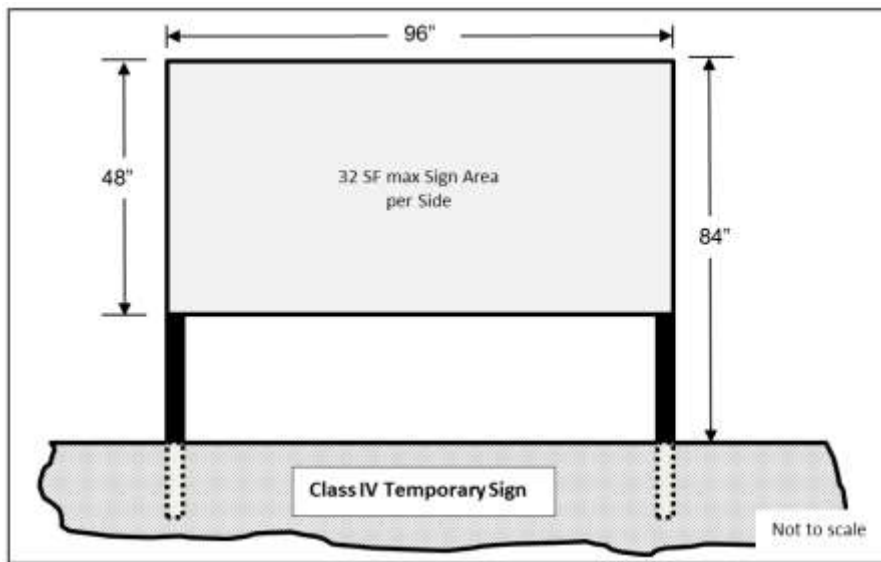
Sign, temporary, class II (A-frame sign and pedestal sign). A temporary, portable sign in which the overall height of the sign structure does not exceed 45 inches, the overall width of the sign structure does not exceed 36 inches and which does not exceed 22 square feet of aggregate sign area.



Sign, temporary, class III (small post sign). An on-premises temporary sign supported by one or more rigid posts in which the overall height of the sign structure does not exceed 72 inches, the overall width of the sign structure does not exceed 30 inches, and the aggregate sign area does not exceed 16 square feet.



Sign, temporary, class IV. An on-premises temporary sign supported by two rigid posts in which the overall height of the sign structure does not exceed 84 inches, the overall width of the sign structure does not exceed 96 inches, and the aggregate sign area does not exceed 64 square feet.



Sign, three-dimensional. A sign in which is meant to be viewed from all angles.



Sign, vehicle. Any sign mounted, painted, or otherwise erected on a vehicle.

Sign walker. A person carrying a portable sign intended to convey a message to motorists and passersby.



Sign Walker

Sign, wall, building. A sign mounted flat against a building wall with the exposed face of the sign in a plane generally parallel to the face of the wall, but not including window signs.



Sign, wall, subdivision perimeter. A sign mounted or painted onto a subdivision perimeter wall.



Sign, window. Any combination of decals, posters, murals or other media which are affixed to a window pane or otherwise intended to be viewed through the window pane from the exterior of the building, but not including merchandise normally displayed within a show window of a retail merchant shop.



Speech, commercial. (see "message, commercial").

Speech, non-commercial. (see "message, non-commercial").

Structure. Anything constructed or erected that requires attachment to the ground, or is structurally connected to something having attachment to the ground.

T; U; V

Vehicle. Any car, truck, motorcycle, all-terrain vehicle, recreational vehicle, boat, trailer, tractor, crane, mobile machinery, or similar.

W

Wall, building. A wall that is integral to a building.

Wall, subdivision perimeter. A freestanding wall that is located around a subdivision.

X; Y; Z

109-1.7 Permitted and prohibited signs.

- A** Permitted signs by zoning district. Only those sign types and classes that are specifically listed in table 109-1a for each zoning district may be allowed, subject to the provisions outlined elsewhere in this chapter.

TABLE 109-1a PERMITTED SIGNS (P = permitted, shaded cell = not permitted, C = conditional use permit)											
Code Reference	Sign Type	Location									
		Public Rights-of-Way	Private Rights-of-Way	Single-Family	Multi-Family	Mixed-Use	Commercial and Industrial	SHD-RO	SHD-CO	Open Space	PF
TEMPORARY SIGNS											
109-1.9(a)(2)	Class I Temporary Signs (Small A-Frame Signs)	 P	P	P				P			
109-1.9(a)(3)	Class II Temporary Signs (Large A-Frame Signs)					P	P	P	P		

TABLE 109-1a PERMITTED SIGNS (P = permitted, shaded cell = not permitted, C = conditional use permit)											
Code Reference	Sign Type	Location									
		Public Rights-of-Way	Private Rights-of-Way	Single-Family	Multi-Family	Mixed-Use	Commercial and Industrial	SHD-RO	SHD-CO	Open Space	PF
109-1.9(a)(4)	Class III Temporary Signs (Small Post Signs)			P	P	P	P	P	P		P
109-1.9(a)(5)	Class IV Temporary Signs (Large Post Signs)			P	P	P	P	P	P		P
109-1.9(a)(6)	Banner Signs and Festoons			P	P	P	P	P	P		P
109-1.9(a)(7)	Light Pole Banner Signs	P	P		P	P	P	P	P		P
109-1.9(a)(8)	Teardrop Banner Signs			P	P	P	P	P	P	P	P
109-1.9(a)(9)	Sign Walkers	P	P	P	P	P	P	P	P	P	P
109-1.9(a)(10)	Model Home Complex Signs			P				P			
109-1.9(a)(11)	Residential Subdivision Signs			P				P			
BUILDING MOUNTED SIGNS											
109-1.9(b)(1)	Building Wall Signs			P	P	P	P		P		P
109-1.9(b)(2)	Blade Signs			P	P	P	P		P		P
109-1.9(b)(3)	Canopy Signs				P	P	P		P		P

TABLE 109-1a PERMITTED SIGNS (P = permitted, shaded cell = not permitted, C = conditional use permit)											
Code Reference	Sign Type	Location									
		Public Rights-of-Way	Private Rights-of-Way	Single-Family	Multi-Family	Mixed-Use	Commercial and Industrial	SHD-RO	SHD-CO	Open Space	PF
109-1.9(b)(4)	Marquee Signs						P				P
109-1.9(b)(5)	Awning Signs						P		P		P
109-1.9(b)(6)	Hanging Signs					P	P	P	P		P
109-1.9(b)(7)	Window Signs and Sunscreens			P	P	P	P	P	P		P
FREESTANDING GROUND SIGNS											
109-1.9(c)(1)	Class I Monument Signs (Menu Signs)						P		P		
109-1.9(c)(1)	Class II Monument Signs (Preview Signs)						P		P		
109-1.9(c)(2)	Class III Monument Signs (Directional Signs)	P	P	P	P	P	P	P	P	P	P
109-1.9(c)(3)	Class IV Monument Signs (Directory Signs)				P	P	P		P		
109-1.9(c)(4)	Class V Monument Signs (Minor			P	P	P	P		P		P

TABLE 109-1a PERMITTED SIGNS (P = permitted, shaded cell = not permitted, C = conditional use permit)											
Code Reference	Sign Type	Location									
		Public Rights-of-Way	Private Rights-of-Way	Single-Family	Multi-Family	Mixed-Use	Commercial and Industrial	SHD-RO	SHD-CO	Open Space	PF
	Monument Signs)										
109-1.9(c)(5)	Class VI Monument Signs (Major Monument Signs)				P	P	P		P		P
109-1.9(c)(6)	Roadway Arch Signs	P	P				P		P		
109-1.9(c)(7)	Subdivision Perimeter Wall Signs			P	P	P	P				P
109-1.9(c)(8)	Freeway Monument Signs						C				
OTHER SIGNAGE											
109-1.11	Level 1 Electronic Messaging			P	P	P	P	P	P		P
109-1.11	Level 2 Electronic Messaging				P	P	P		P		P
109-1.12	Reader Panels			P	P	P	P	P	P		P
109-1.13	Address Identification			P	P	P	P	P	P	P	P
109-1.14	Flags and Flagpoles			P	P	P	P	P	P		P

- B** Signs in the public street right-of-way. Signs are not permitted within the public street right-of-way, except for those signs erected by, or on behalf of the city, or as otherwise expressly permitted in this chapter.
- C** Signs in the private street right-of-way. Signs are not permitted within private street rights-of-way, except when associated with an approved planned area development (PAD) or comprehensive sign program (CSP), as required by the city, or as otherwise permitted in this chapter.
- D** Encroachments. No portion of any sign erected on any property may encroach into the public right-of-way, except as otherwise permitted in this chapter or where expressed written permission is granted by the city to allow said encroachment.
- E** Signs as an accessory use. All signs must be an accessory use to a primary use. In no case shall a sign be established as a primary use of the property; except that temporary signs as otherwise allowed within a given zoning district are exempt from this provision.
- F** Prohibited signs. The following sign types are specifically prohibited:
1. *Abandoned signs*, pole signs of a permanent nature, snipe signs, and median signs;
 2. Animated signs, flashing, blinking, or rotating signs, festoons, inflatable signs including latex or mylar balloons, permanent banner signs, pennants, searchlights, streamers, signs other than class 1 monument signs that emit audible sound, and any clearly similar features;
 3. Vehicle signs when the vehicle is placed in a location not approved for vehicular parking or storage;
 4. Signs containing any words or symbols that would cause confusion because of their resemblance to highway traffic control or direction signals;
 5. Merchandise, equipment, products or other items which are not available for purchase, but are intended to attract attention, or for identification or advertising purposes;
 6. Signs located on trees, utility poles, public benches, or any other form of public property, or within any public right-of-way, unless explicitly permitted by these regulations;
 7. Signs containing vulgar or profane messages, hate speech, or language intended to incite violence;
 8. Signs greater than 30 inches in height and which are located within any sight visibility triangle of any street or driveway intersection as required by the Surprise engineering design standards;

9. Signs not expressly permitted as being allowed by right under this chapter, or by specific requirements in another portion of this chapter, or otherwise expressly allowed by the city board of adjustment;
10. Signs placed in locations that are deemed by the city to present a hazard to public safety, obstruct clear vision in the area, or interferes with the requirements of the Americans with Disabilities Act (42 United States Code sections 12101 through 12213 and 47 United States Code sections 225 and 611);
11. Billboard signs.

G Signs exempt from these regulations. The following signs are exempt from regulation under this chapter:

1. Governmental signs.
2. Any sign that is not visible from another property to the naked eye, provided said sign otherwise meets applicable Building Code requirements and the requirements of sections 109-1.10, 109-1.11 and 109-1.12 herein.

H Violation. Any sign that is not in compliance with this section is in violation of this chapter.

109-1.8 General provisions.

A Permitting requirements.

1. *Permits required.* With the exception of those sign types listed in subsection 8(a)(3) below, a construction permit is required for all signs regulated by this chapter and erected within the city.
2. *Property owner authorization required.* No sign regulated by this chapter shall be erected on a property not owned by the person or entity erecting the sign without the expressed written permission from the property owner of the property onto which the sign is erected. Said written permission shall be made available to the city upon request.
3. *Exceptions from the permitting requirement.* The following sign types are exempt from the permitting requirement:
 - a. Temporary signs;
 - b. Sign walkers;
 - c. Window signs, provided the sign is not electrically connected to the building;
 - d. Sun screens;

- e. Shingle signs, provided the sign is not electrically connected to the building;
- f. Address signs, provided the sign is not electrically connected to the building;
- g. Flags except that in the event the flagpole is greater than six feet in length, then a permit is required for the flagpole.

B Sign quality, construction, and aesthetics.

- 1. Signs shall be designed in compliance with the applicable construction codes adopted by the city and in effect at the time of construction.
- 2. Where raceway cabinets are utilized, said raceway cabinets shall be painted to match the color of the surface onto which it is mounted.
- 3. Whenever a permanent sign is removed, the surface onto which the sign was mounted shall be repaired as closely as practicable to a new-like condition.
- 4. Unless specifically approved by the City Council through a comprehensive sign program or conditional use permit for other than freeway monument sign, as applicable, supporting elements for all signs shall appear to be free of any angle iron, bracing, guy wires or similar features.
- 5. When electrical service is provided to any sign, all components of said service are to be entirely concealed or, when necessary, painted to match the surface of the structure upon which they are mounted.
- 6. All permanent signs permitted by this chapter shall be constructed of durable material capable of withstanding continuous exposure to the elements and conditions of the urban environment.

C Sign maintenance.

- 1. All signs shall be maintained in a state of good repair, operational, and free of blight and/or hazards. Weathered, sun damaged, tattered or faded signs or related components shall be repaired or replaced.
- 2. Whenever any sign, either legally conforming or legally nonconforming, is required to be removed for the purpose of repair, lettering or repainting, the same may be done provided:
 - a. There is no alteration or remodeling to the structure or to the mounting of the sign itself;
 - b. There is no enlargement or increase in any of the dimensions of the sign, sign copy, or sign structure;

- c. The sign is an accessory to a legally conforming use, conditional use, or legally nonconforming use.

D Methods of measurements.

1. *Sign area.*

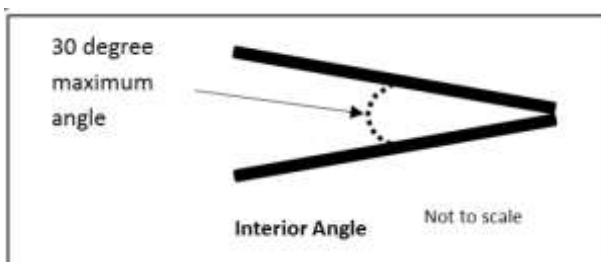
- a. *Unframed signs.* Where the individual letters, logos and graphics of a sign are mounted directly to a wall or sign structure, the sign area is determined by calculating the smallest rectangle or combination of rectangles containing sign copy.



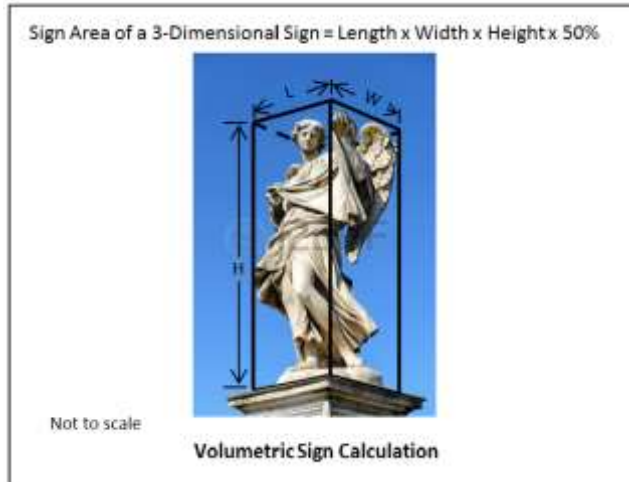
- b. *Framed signs.* Where the individual letters, logos and graphics are integral to a sign panel, or are framed in by an architectural element or contrasting color apart from the color of the wall or sign structure, the sign area shall be the area of the panel or frame.



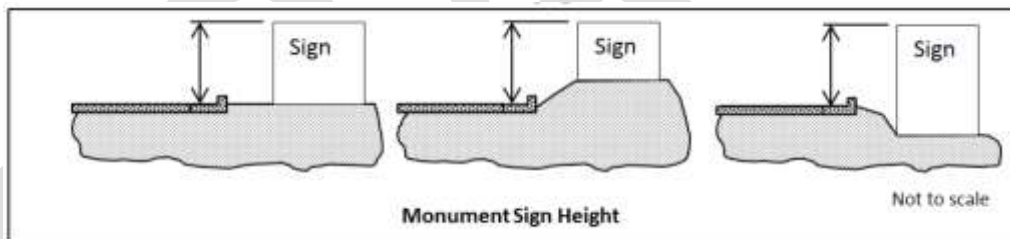
- c. *Double-sided signs.* Only one side of a double-sided freestanding ground sign shall be used to calculate the sign area, provided the interior angle between sign faces is not greater than 30 degrees. This provision does not apply to A-frame signs.



- d. *Three-dimensional signs.* Where a sign consists of a three-dimensional, free-form, sculptural or other non-planar design, the sign area shall be calculated as 50 percent of the total volume of space contained within the smallest cuboid, which will enclose the sign structure.



2. *Monument sign height.* Unless otherwise noted, notwithstanding adjacent topography, the height of any class of monument sign shall be measured from the closest adjacent curb, or if no curb is present, the closest adjacent pavement.



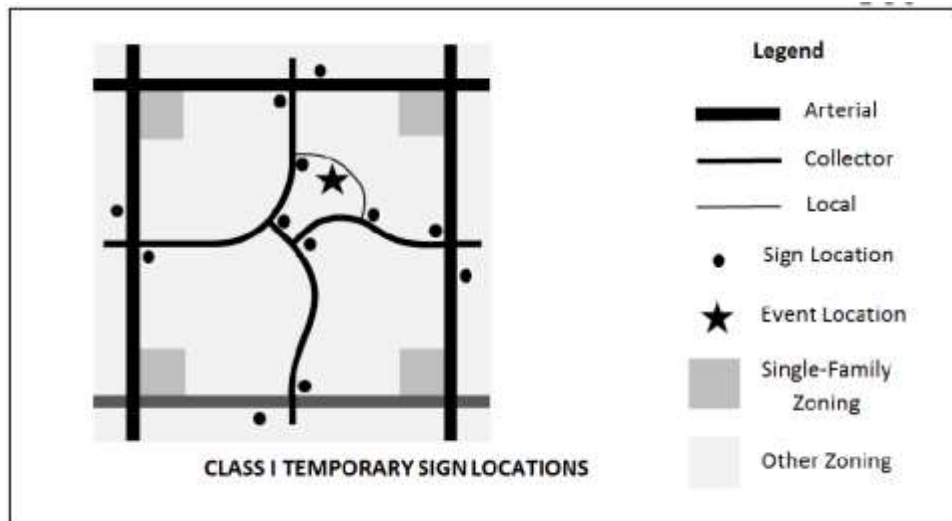
3. *Fractional calculations.* All linear measurements and calculations shall be accurate to the closest inch. All area measurements and calculations shall be accurate to the closest square inch. All volumetric measurements and calculations shall be accurate to the closest cubic inch.

109-1.9 Sign classifications and types. The following sign classifications and types as defined in **section 109-1.6** are permitted in the city as outlined in table 109-1a subject to the following "time, place and manner" restrictions.

- A. Temporary signs. When allowed, temporary signs shall conform to the following requirements:

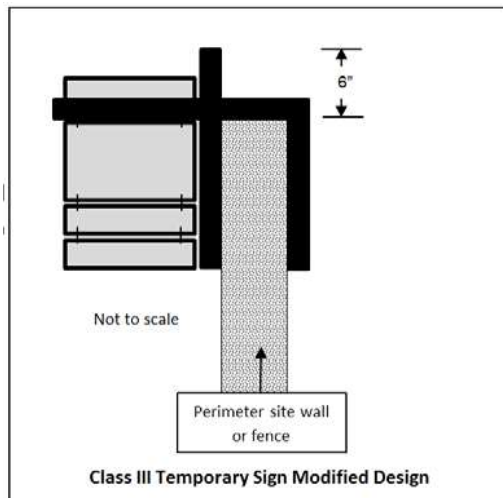
1. *General requirements.*

- a. Temporary signs shall not be illuminated in any manner except by ambient lighting present on the property.
 - b. Temporary signs shall include the name and phone number of the contact person responsible for placing the sign.
 - c. No temporary sign may interfere with the free movement of pedestrian or vehicular traffic.
 - d. The supporting elements for class III temporary signs and class IV temporary signs may be directly buried or inserted into the soil; however, in no case shall concrete, or other permanent attachments to the ground, or attachment to other permanent structure(s) be utilized.
2. *Class I temporary signs (small A-frame signs).* Class I temporary signs, as defined herein, are allowed subject to the general requirements as stated above plus the following:
- a. Class I temporary signs are only allowed in conjunction with a lawful temporary event being held on land zoned for single-family residential uses.
 - b. Class I temporary signs may be placed in the following locations when in association with a lawful temporary event occurring on land zoned for single-family residential uses:
 - (1) One class I temporary sign at the site of the lawful temporary event,
 - (2) One class I temporary sign at each local or collector street intersection leading from the site of the lawful temporary event to the adjacent arterial street grid,
 - (3) Two class I temporary signs at the point where the local or collector street intersects with the arterial street. One sign may be located at the corner of the intersection on the side of the arterial street closest to the lawful temporary event. A second sign may be located on the opposite side of the arterial street, provided said sign is no further than 500 feet from the intersection.



- c. When allowed, class I temporary signs may be located within the street right-of-way, but not within any median, vehicle or bicycle travel lane, or sidewalk, nor within any sight visibility triangle as outlined in standard details 4-01 and 4-02 of the Surprise engineering development standards.
 - d. There is no limit to the number of sign panels per sign structure provided the defined height, width and sign area limitations are not exceeded.
 - e. The sign may be weighted or ballasted; however, no such sign may be affixed to the ground or to any permanent structure.
 - f. Class I temporary signs may be placed one hour before the start of a lawful temporary event and shall be removed not more than one hour after the end of a lawful temporary event that occurs between the hours of 9:00 a.m. and 6:00 p.m. on Mondays, Tuesdays, Wednesdays, and Thursdays. In addition, class I temporary signs may be placed for any length of time between the hours of 4:00 p.m. Friday and 11:00 p.m. Sunday.
 - g. If the lawful temporary event being served by the class I temporary sign requires a temporary use permit, the locations of the class I temporary signs shall be included with the application materials.
3. *Class II temporary signs (large A-frame signs and pedestal signs).* Class II temporary signs, as defined herein, are allowed subject to the general requirements as stated above plus the following:
- a. Class II temporary signs are only allowed in conjunction with a lawful commercial use including cottage industries, but not home occupations.
 - b. When a class II temporary sign is being utilized in conjunction with a lawful commercial use, one such sign may be located within 15

- feet of the doorway of the customer entrance to the building in which the lawful commercial use is located.
- c. When allowed, class II temporary signs may be located within the street right-of-way, but not within any median, vehicle or bicycle travel lane, or sidewalk, nor within any sight visibility triangle as outlined in standard details 4-01 and 4-02 of the Surprise engineering development standards.
 - d. There is no limit to the number of sign panels per sign structure provided the defined height, width and sign area limitations are not exceeded.
 - e. The sign may be weighted or ballasted; however, no such sign may be affixed to the ground or to any permanent structure.
 - f. Class II temporary signs utilized in conjunction with a lawful commercial use may be displayed during the business hours of the business served by the class II temporary sign.
4. *Class III temporary signs (small post-signs).*
- a. Not more than one class III temporary sign meeting the specific requirements outlined in this section is permitted per lot of record except that if said lot abuts more than one street, one additional class III temporary sign meeting said requirements may be erected along each additional street frontage.
 - b. In the event a property is vacant, additional class III temporary signs may be erected on said property provided the spacing between such signs is not less than 600 feet.
 - c. Class II temporary signs shall not be located within the street right-of-way, median, vehicle or bicycle travel lane, or sidewalk, nor within any sight visibility triangle as outlined in standard details 4-01 and 4-02 of the Surprise engineering development standards.
 - d. There is no limit to the number of sign panels per sign structure provided the defined height, width and sign area limitations are not exceeded.
 - e. In the event that a lot's perimeter site wall or fence is adjacent to or within 20 feet of a street, the class III temporary sign may be modified to allow the sign to be hung from but not attached to the perimeter site wall or fence provided the sign does not exceed the height of the wall or fence by more than six inches and does not interfere with pedestrian movement.



5. *Class IV temporary signs (large post-signs).*
 - a. Not more than one class IV temporary sign meeting the specific requirements outlined in this section is permitted per lot of record except that if said lot abuts more than one street, one additional class IV temporary sign meeting said requirements may be erected along each additional street frontage, except that class IV temporary signs associated with a public hearing shall not be counted towards this total.
 - b. Class IV temporary signs shall not be located within the street right-of-way, median, vehicle or bicycle travel lane, or sidewalk, nor within any sight visibility triangle as outlined in standard details 4-01 and 4-02 of the Surprise engineering development standards.
 - c. The maximum number of sign panels per sign structure shall not exceed two.
6. *Banner signs and festoons.*
 - a. *General.* The following provisions apply to all banner signs and festoons:
 - (1) Banner signs shall be equipped with ventilation flaps.
 - (2) Banner signs and festoons shall be securely attached to the building or fence, but in no case shall be attached to freestanding poles or vegetation.
 - b. *Residential.* Any number of banner signs, festoons or combination thereof are permitted per dwelling unit, provided the aggregate length does not exceed 20 lineal feet and the aggregate area does not exceed 100 square feet.
 - c. *Non-residential.* Banner signs and festoons are permitted on properties zoned for non-residential use subject to the following:

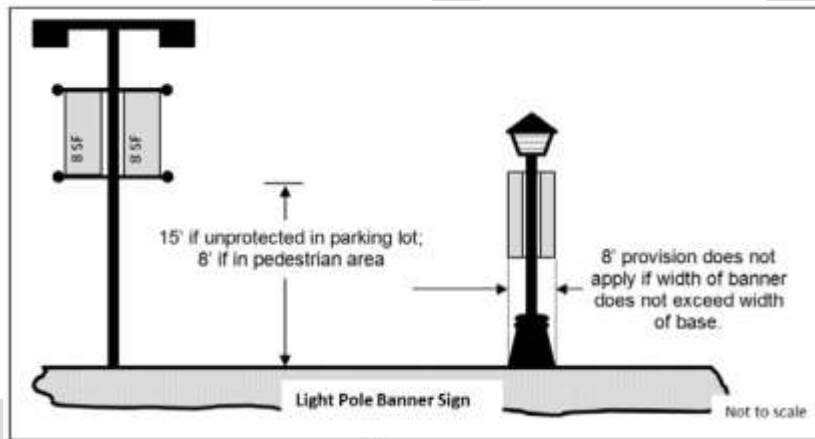
- (1) One banner sign may be placed on a building, provided the maximum area of the banner sign shall not exceed one square foot per linear foot of building elevation, not to exceed 500 square feet.
 - (2) For a single-tenant building, the width of the banner sign shall not exceed 80 percent of the width of the building elevation onto which the banner sign is attached. For multi-tenant building, the width of the banner sign shall not exceed 80 percent of the leased tenant frontage.
 - (3) Any number of festoons may be placed on a building provided the festoon contains no advertising copy, the aggregate length does not exceed 20 lineal feet, and the aggregate area does not exceed 100 square feet.
- d. *Construction sites and temporary construction yards.* Banner signs are allowed in conjunction with active construction sites and temporary construction yards regardless of zoning, subject to the following:
 - (1) One or more banner signs may be affixed to the perimeter fence surrounding a construction site or temporary construction yard, provided said banner signs do not extend above the height of the perimeter fence.
 - (2) Individual banner signs shall not exceed ten feet in length. Where multiple banner signs are utilized in lieu of screening material on a fence surrounding a construction site or temporary construction yard, said signs shall be spaced not less than one foot apart unless the banner sign is fabricated of material with not less than 50 percent visual transparency, in which case this provision shall not apply.

7. *Light pole banner signs.*

- a. Light pole banner signs may be attached to light poles when the pole is so equipped to receive such banner, except that in no case shall a light pole banner sign be affixed to a light pole in a public right-of-way without the expressed written permission from the city.
- b. The surface area of a single light pole banner sign shall not exceed eight square feet as measured on a single side.
- c. When two light pole banner signs are affixed to a single light pole, both light pole banner signs shall be consistent with each other with respect to size and shape so as to create uniformity.
- d. When the light pole onto which a light pole banner sign is placed is located within the paved portion of a parking lot, and the light pole base is unprotected from vehicular traffic, the bottom of the

light pole banner sign shall be a minimum of 15 feet above the parking surface over which the banner is placed. If the base of the light pole is protected from vehicular traffic, this provision shall not apply.

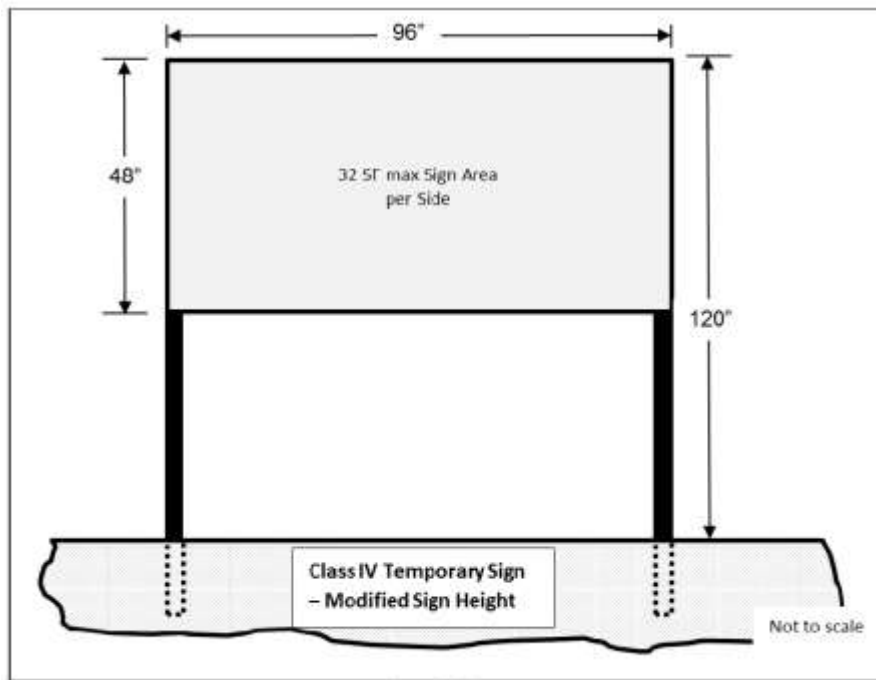
- e. When the light pole is located within a pedestrian area, the bottom of the light pole banner sign shall be a minimum of eight feet above the surface over which the light pole banner sign is placed, unless the light pole banner sign is sufficiently narrow so as to not extend beyond the base of the light pole.
- f. Any horizontal supporting members shall either be removed when not in use or shall be of a hinged design and folded into a vertical position when not in use.
- g. Light pole banner signs shall not be illuminated in any manner except as incidental to the lighting fixture supported by the light pole.
- h. Light pole banner signs shall be equipped with ventilation flaps.



8. *Teardrop banner signs.*

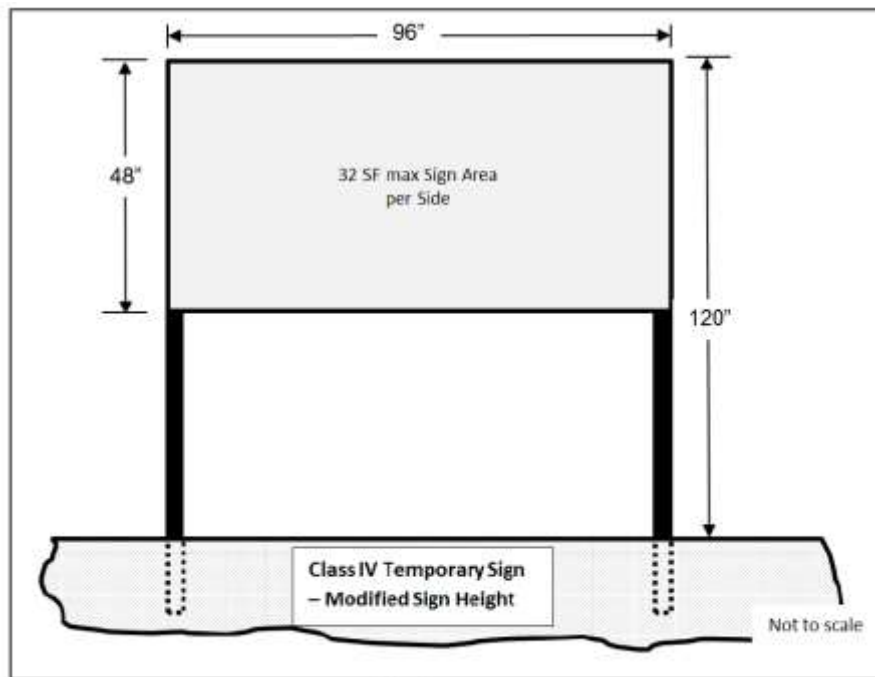
- a. Not more than two teardrop banner signs are permitted in conjunction with a lawful temporary event subject to the specific requirements as outlined herein except that in no case shall a teardrop banner sign be allowed on a vacant property.
- b. Teardrop banner signs may only be erected on the property on which the lawful temporary event is occurring. In no case shall a teardrop banner sign be located within a public or private right-of-way.
- c. No teardrop banner sign shall be located within 15 feet of a pedestrian path, sidewalk, or trail, whether public or private.
- d. No teardrop banner sign shall be located within 15 feet of any vehicular parking surface or driveway.
- e. No teardrop banner sign shall be located within 50 feet of any public or private right-of-way.

- f. The maximum height of the sign structure as measured from the nearest adjacent grade shall not exceed 12 feet with the flag portion of the sign not exceeding 16 square feet.
 - g. The teardrop banner sign shall be supported by a pedestal, which may be weighted or ballasted to prevent being overturned, but in no case shall the supporting sign structure be inserted into the ground.
- 9. *Sign walkers.* Sign walkers are permitted to operate within the city subject to the following restrictions:
 - a. Sign walkers may only operate during daylight hours.
 - b. Sign walkers may only operate on a sidewalk intended for pedestrian travel, but shall at no time block the free and unobstructed movement of pedestrians or vehicles.
 - c. Sign walkers may carry a maximum of two single-sided signs not exceeding three square feet of sign copy each or one double-sided sign not exceeding 12 square feet of aggregate sign copy; however, in no case shall a sign walker carry any form of electronic messaging.
 - d. Sign walkers shall not display a sign in any manner other than by personally holding or wearing said sign.
- 10. *Model home complex signs.* In addition to other signs that are permitted in association with a single-family residence, a model home complex may employ the following:
 - a. One class III temporary sign meeting the requirements of subsection 9(a)(4) herein for each lot located within the boundaries of an approved model home complex. Such signs shall not be illuminated except by ambient lighting.
 - b. One class IV temporary sign meeting the requirements of subsection 9(a)(5) herein may be located within the boundaries of the approved model home complex; however, if the model home complex is located adjacent to a collector or arterial street, the overall height of the class IV temporary sign allowed under this paragraph may be increased to 120 inches, provided the sign is designed to withstand windloads as required by the building codes in effect at the time the sign is erected. A class IV temporary sign permitted under this paragraph may be externally illuminated as outlined in section 10.

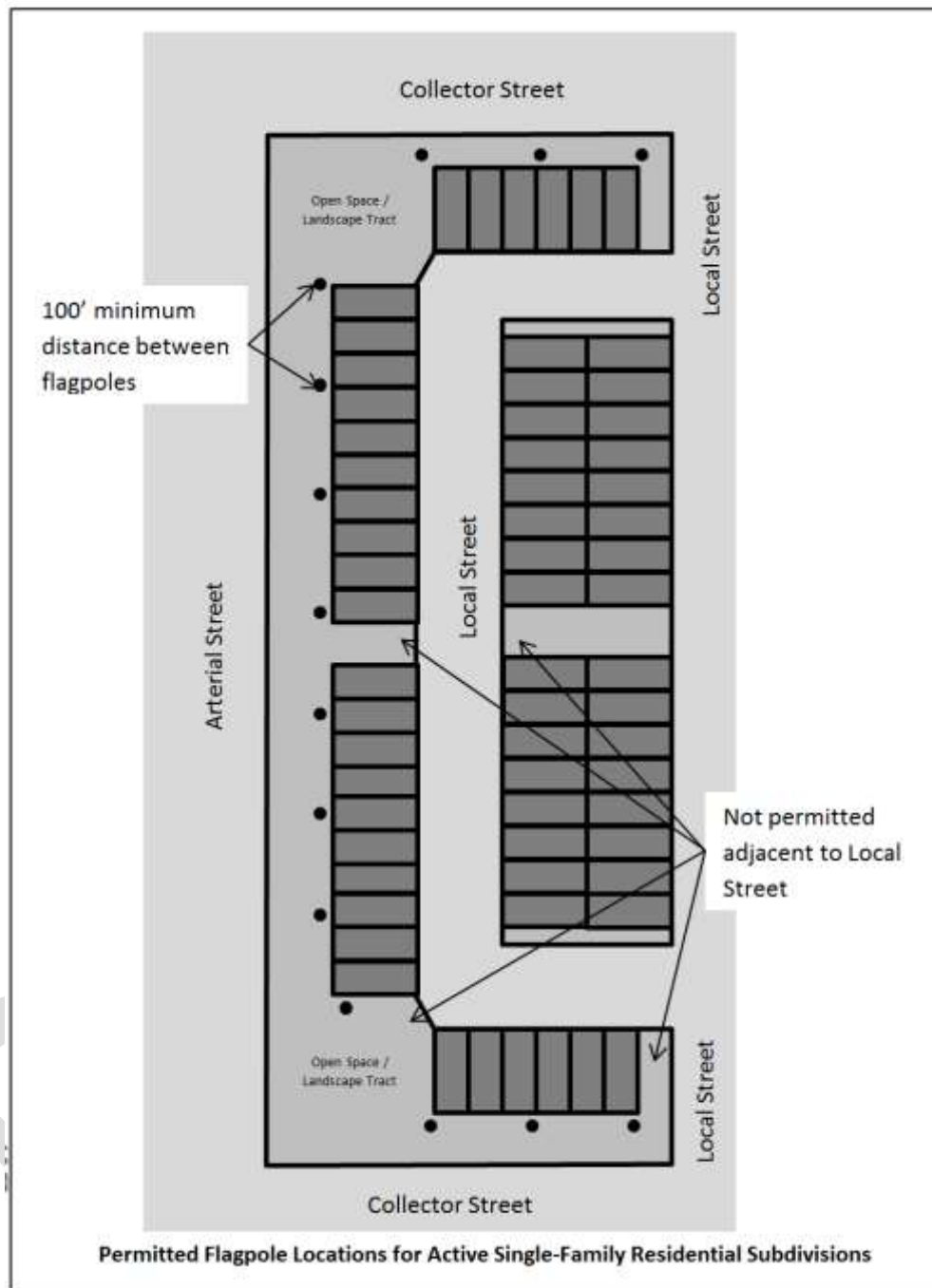


- c. One flagpole not exceeding a height of 45 feet may be erected within the boundaries of the model home complex provided said flagpole is located within the building envelope or within the required front yard of the lot in which it is placed, but not located within any required side or required rear yard. A maximum of two flags may be displayed from said flagpole. The flag and flagpole permitted under this paragraph may be externally illuminated in accordance with **Chapter 107-Article 3** of the Surprise Municipal Code.
- d. Two flagpoles not exceeding a height of 20 feet may be erected for each lot located within the boundaries of the approved model home complex. A maximum of one flag may be displayed from each flagpole. Flagpoles permitted under this section may be erected along the perimeter of the model home complex. Flagpoles permitted under this paragraph shall not be illuminated except by ambient lighting.
- e. Four additional teardrop banner signs meeting the requirements of subsection 9(a)(8) herein for each lot located within the boundaries of an approved model home complex. Except that subsections 9(a)(8)c., 9(a)(8)d. and 9(a)(8)e. shall not apply. Teardrop banner signs permitted under this section shall not be illuminated except by ambient lighting.
- f. One banner sign not exceeding three feet in height and five feet in length may be attached to the trap fence. Said banner sign shall be equipped with ventilation flaps. Banner signs permitted under this paragraph shall not be illuminated except by ambient lighting.

- g. One awning sign or canopy sign provided the awning or canopy is limited to the customer entrance to the sales office associated with the approved model home complex. Awning signs or canopy signs permitted under this paragraph shall not be illuminated except by ambient lighting.
 - h. One building wall sign not exceeding four square feet may be affixed to the front elevation of the model home sales office facing the street from which the model home complex takes access. Said sign may be externally illuminated or back-lit in accordance with section 10.
 - i. Information regarding model home signs shall be included with the model home complex application packet to be reviewed and approved with the model home complex. In circumstances where model home complexes in existence as of the effective date of this chapter are to be retrofitted for purposes of implementing signage permitted under this section, an amendment to the approved model home complex is required.
 - j. All model home signs permitted under this section shall be removed upon the conversion of the model homes to a residential use in accordance with subsection 106-10.29 of the Surprise Municipal Code.
- 11. *Active single-family residential subdivision signs.* In addition to other signs that may be permitted in association with a model home complex, the following signs are permitted within the boundaries of an active single-family residential subdivision:
 - a. One class IV temporary sign meeting the requirements of subsection 9(a)(5) herein may be located within the boundaries of an active single-family residential subdivision, provided such sign is located adjacent to a collector street or arterial street. The overall height of the class IV temporary sign allowed under this paragraph may be increased to 120 inches, provided the sign is designed to withstand windloads as required by the building codes in effect at the time the sign is erected. A class IV temporary sign permitted under this paragraph may be externally illuminated as outlined in section 10.



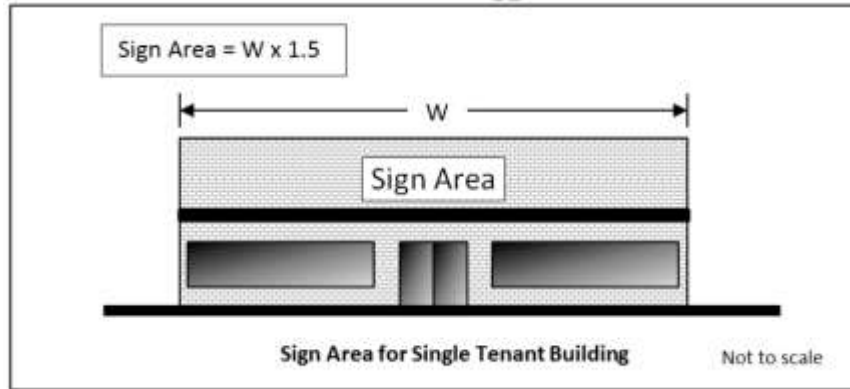
- b. Where an active single-family residential subdivision includes an open space tract or landscape tract located adjacent to a collector street or arterial street, a series of flagpoles not exceeding 20 feet in height may be erected within said tract provided said flagpoles are spaced no closer than 100 feet apart; however, flagpoles permitted under this paragraph may not be located adjacent to any local street regardless of the location of the tract relative to the local street. Further, flagpoles permitted under this paragraph may not be illuminated except by ambient lighting.



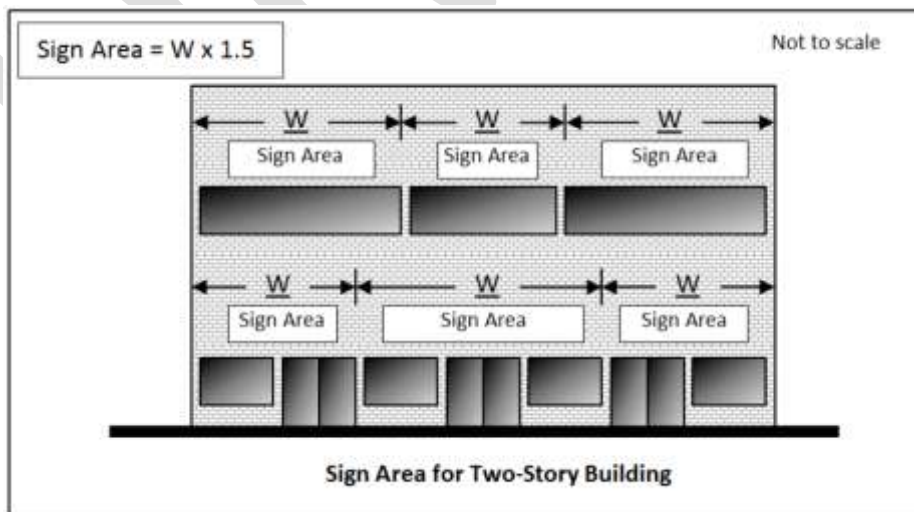
- c. All active single-family residential subdivision signs shall be removed upon the close of escrow of the last lot in the subdivision or upon cessation of use, whichever comes first.
- B. *Building-mounted signs.* Building-mounted signs may only be placed on building elevations which face a street or primary parking lot. For purposes of this section, parking areas adjacent to service bays, access drives located behind a building, or alley ways are not considered primary parking areas.

1. *Building wall signs.* In other than residential zoning, building wall signs are permitted on any building elevation of any primary use building, subject to the following:

- a. For single story, single-tenant buildings, any number of building wall signs may be affixed to any building elevation, provided the aggregate sign area does not exceed one and one-half square foot per one linear foot of building elevation on which the sign is mounted.

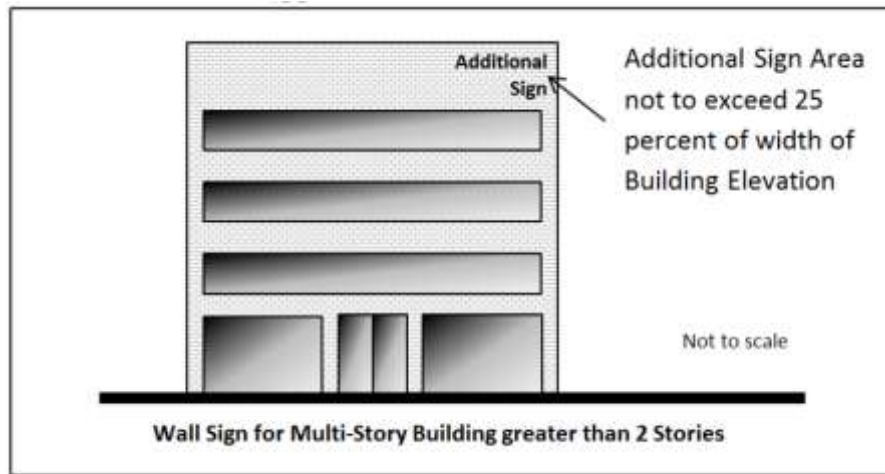


- b. For two-story office buildings or two-story mixed-use buildings, each tenant who possesses leased tenant frontage on the exterior wall of the building may affix any combination of building wall signs provided the aggregate sign area does not exceed one and one-half square foot per one linear foot of that tenant's leased frontage. In the event a tenant does not possess leased tenant frontage located along the exterior of the building, this provision does not apply.



- c. For multi-story buildings greater than two stories one building wall sign, the area of which not exceeding 25 percent of the width of the elevation may be affixed to each building elevation at a

location that is nearest the top of the building provided said sign does not extend above the parapet, or in the case of an exposed pitch roof, the drip line of the roof. In no case shall such signs be affixed to an elevator shaft or equipment screening.



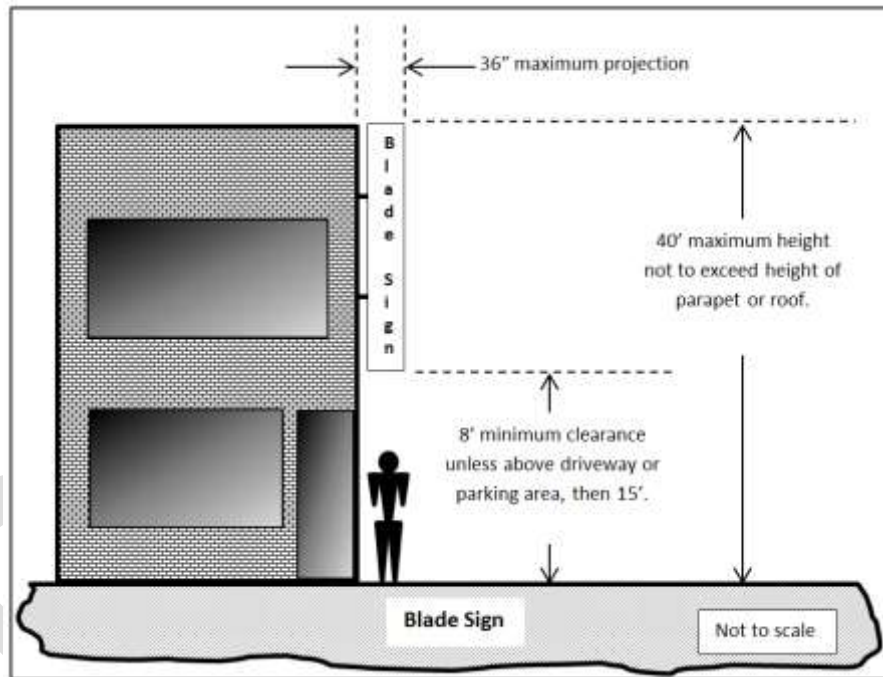
- d. The sign area of any building wall sign serving an arterial street may be increased by 25 percent when the building is setback at least 600 feet from the public right-of-way and may be further increased an additional 25 percent for each additional 200 feet of setback, up to a maximum of 100 percent, provided the increase in sign area does not cause the sign to be in violation with the other provisions of this section.
- e. The maximum width of a building wall sign shall not exceed 80 percent of the leased tenant frontage for a multi-tenant building, or building elevation for a single-tenant building.
- f. Building wall signs shall be installed in a manner that does not obscure architectural features such as, but not limited to, pilasters, arches, windows, cornices, pop-outs, decorative trims, moldings, and frieze.
- g. Building wall signs may be internally illuminated, externally illuminated, or back-lit, but may not include electronic messaging (EMCs). Further, illumination shall be in accordance with the requirements set forth in section 10.

2. *Blade signs.*

- a. One blade sign is permitted per primary use multi-story building located in multi-family, commercial, mixed-use or industrial zoning subject to the specific requirements outlined below.
- b. When a blade sign extends over a pedestrian area a distance of six inches or more, the bottom of the sign shall not be any closer than eight feet above the walking surface over which the sign is placed. When a blade sign extends any distance over a parking lot or vehicular area, the bottom of the sign shall not be any closer

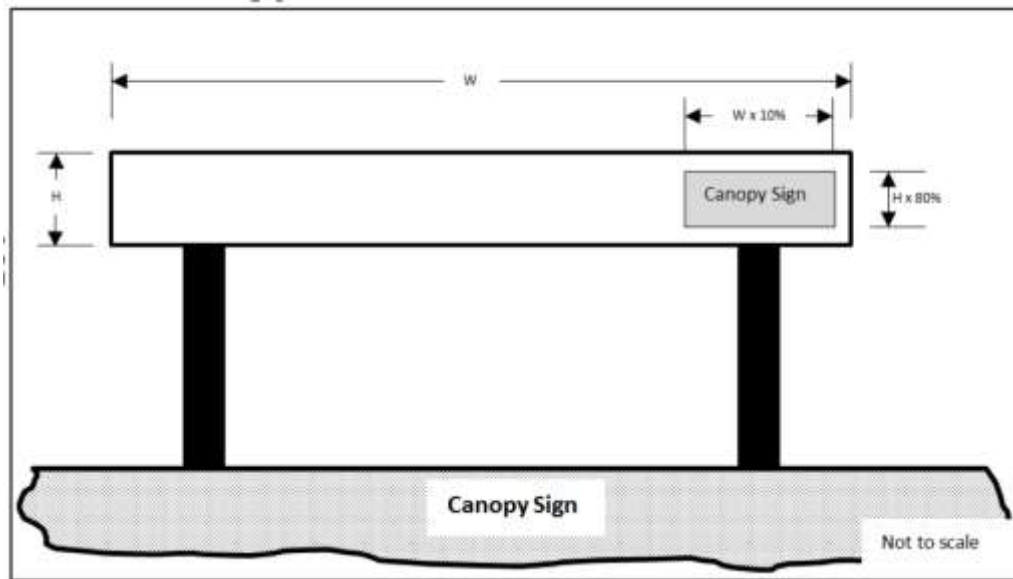
than 15 feet above the paving surface over which the sign is placed.

- c. The blade sign shall be mounted such that the top of the sign is not higher than 40 feet above the ground, sidewalk, or pavement surface above which the sign is mounted, except that in no case shall the blade sign extend above the roof of the building onto which the sign is mounted, or if mounted adjacent to a parapet, the sign shall not extend above the parapet.
- d. The blade sign shall not project more than 36 inches from the wall onto which the blade sign is mounted.
- e. The blade sign shall not be externally illuminated in any manner except by ambient lighting as may be present on the property; however, blade signs may be internally illuminated in accordance with the requirements set forth in section 10.



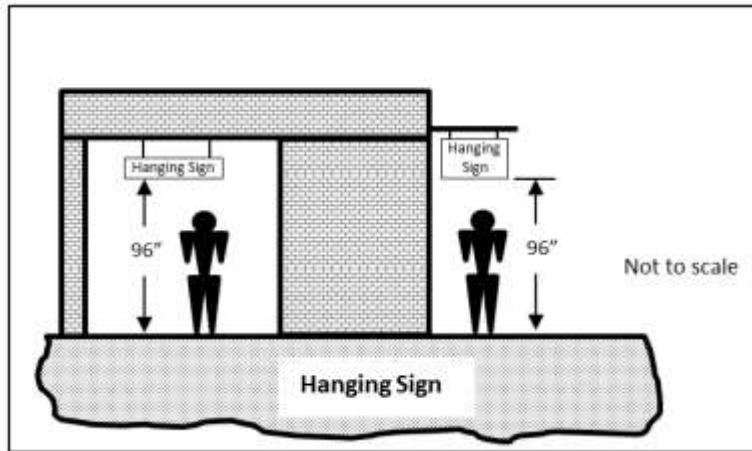
3. *Canopy signs.*

- a. Canopy signs shall not exceed 80 percent of the height of the face of the canopy onto which the canopy sign is mounted.
- b. Canopy signs shall not exceed ten percent of the width of the face of the canopy onto which the canopy sign is mounted.



- c. Canopy signs may be internally illuminated or back-lit in accordance with the requirements set forth in section 9. Level 1 electronic messaging is permitted on a canopy sign, subject to the provisions outlined in section 11.
- 4. *Marquee signs.*
 - a. The marquee sign shall be affixed to the face plane of the marquee and shall not extend above the uppermost or lowermost limits of the marquee.
 - b. The marquee sign shall not exceed 80 percent of the width of the face of the marquee onto which the sign is mounted.
 - c. Marquee signs may be internally illuminated or back-lit in accordance with the requirements set forth in section 9. Level 1 electronic messaging is permitted subject to the provisions outlined in section 11.
- 5. *Awning signs.* In mixed-use, commercial and industrial zoning districts, awnings may be integrated with sign copy, but shall not contribute towards the overall building wall sign area of a particular building.
- 6. *Hanging signs.* In mixed-use, commercial and industrial zoning districts, hanging signs are permitted subject to the following time, place, and manner restrictions:
 - a. Not more than one hanging sign is permitted per customer entrance and shall be mounted above the customer entrance or as close as reasonably practicable.
 - b. The maximum sign area of the hanging sign shall not exceed six square feet.

- c. Where a hanging sign is erected above a pedestrian pathway, the bottom of the sign shall be not less than 96 inches from the walkable surface above which the hanging sign is placed.
- d. The hanging sign shall not be externally illuminated in any manner except by ambient lighting present on the property; however, such signs may be internally illuminated in accordance with the requirements set forth in section 10.



7. *Window signs and sunscreens.*

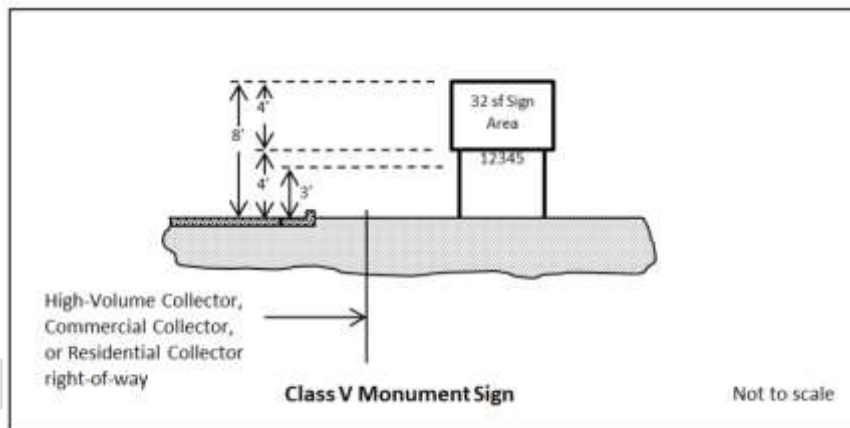
- a. Window signs are allowed provided the combined sign area for all window signs affixed to a particular window does not exceed 40 percent of the individual window pane. Etched or stained glass, when integral to the window, shall not be included in the sign area calculation.
- b. Sunscreen material may cover 100 percent of the window pane, provided not more than 40 percent of the window pane is covered by any mural or other graphics.
- c. Window signs shall not contribute towards the aggregate building wall sign area of a building.

C *Freestanding ground signs.*

- 1. *Class I monument signs (menu signs) and class II monument signs (preview signs) for drive-through businesses.* Drive-through businesses may utilize one class I monument sign and one class II monument sign per drive-through lane subject to the following:
 - a. The bottom of the sign copy of a class I monument sign or class II monument sign shall not be less than two feet above the adjacent drive-through lane's paved surface.
 - b. The overall height of the sign structure of a class I monument sign or class II monument sign shall not be more than eight feet above the adjacent drive-through lane's paved surface.

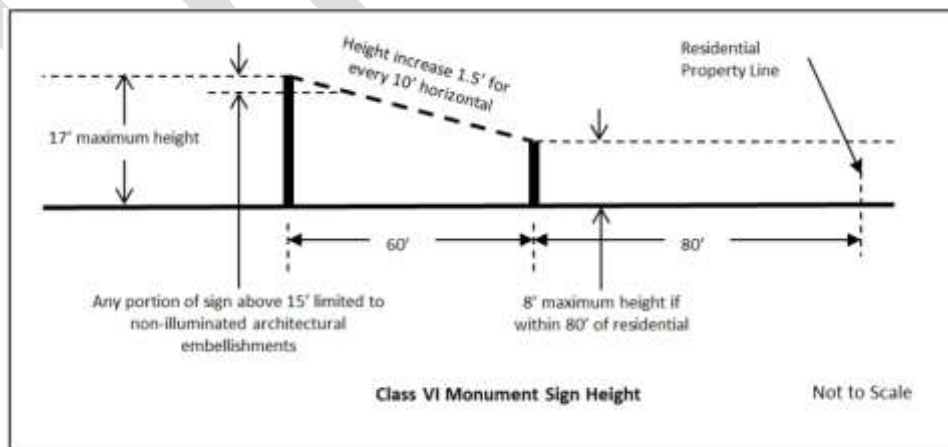
- c. The sign area for an individual class I monument sign or class II monument sign shall not exceed 50 square feet.
 - d. A class I monument sign shall not be audible from any residential zoning district or residential use, hotel or motel room, or patient room of an overnight medical facility.
 - e. No class I monument sign or class II monument sign may be located within 100 feet of a residential zoning district or use.
 - f. Class I monument signs and class II monument signs may be internally illuminated in accordance with the requirements set forth in section 10.
 - g. Level 2 electronic messaging is permitted, subject to the provisions outlined in section 11.
2. *Class III monument signs (directional signs).* Class III monument signs are permitted along the street frontage in conjunction with a driveway serving any multi-family residential, commercial or industrial development, subject to the following:
- a. The class III monument sign shall not exceed 30 inches in height as measured from the adjacent pavement surface of the roadway served by the sign;
 - b. The sign area of a class III monument sign shall not exceed six square feet;
 - c. The class III monument sign may be internally illuminated, back-lit, or externally illuminated as outlined in section 10 provided the source of external illumination is not visible.
3. *Class IV monument signs (directory signs).* Class IV monument signs are permitted within the interior of any multi-family residential, commercial or industrial development, subject to the following:
- a. The class IV monument sign shall not exceed six feet in height as measured from the adjacent pavement surface of the roadway or sidewalk served by the sign;
 - b. The sign area of a class IV monument sign shall not exceed 12 square feet;
 - c. The class IV monument sign may be internally illuminated, back-lit, or externally illuminated in accordance with the requirements set forth in section 10 provided the source of external illumination is not visible.
4. *Class V monument signs (minor monument signs).*
- a. Class V monument signs are permitted in conjunction with non-residential uses in a residential zone, not including cottage industries or home occupations; or in multi-family uses in multi-family zoning; or in non-residential uses in a non-residential zone.

- b. One class V monument sign meeting the requirements outlined below is permitted for every 150 feet of collector or arterial street frontage or portion thereof, regardless of the presence or location of driveway, provided sight distance requirements are met. The minimum spacing between individual class V monument signs, or between a class V monument sign and a class VI monument signs, located on the same property shall be not less than 150 feet measured radially.
- c. When allowed, the height of the class V monument sign shall not exceed eight feet as measured from the edge of pavement of the street being served by the sign, nor shall the maximum sign area exceed 32 square feet. The bottom edge of the sign copy shall be no lower than four feet above the adjacent edge of pavement of the street being served by the sign. The height of the sign structure may extend an additional two feet above the face if the sign provided said extension is limited to non-illuminated architectural embellishments and contains no sign copy.



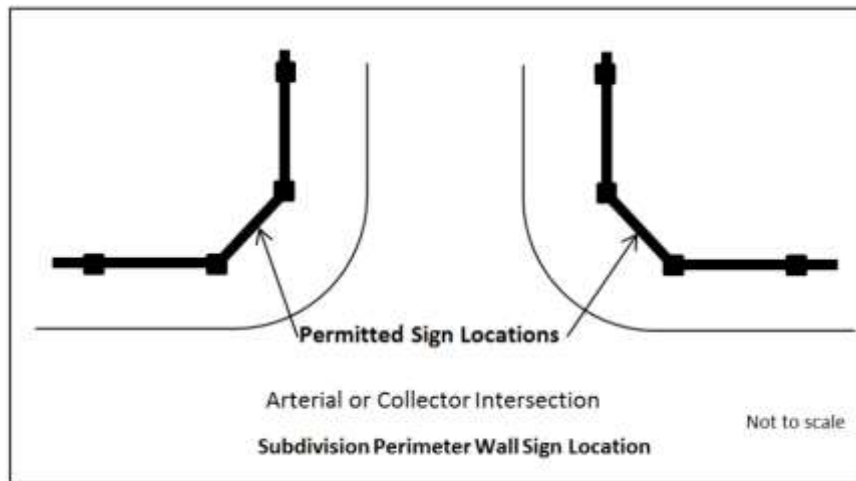
- d. The base of a class V monument sign shall be fitted with the address of the property or properties in a manner that is consistent with section 13.
- e. A class V monument sign shall be located within a landscape area not less than 80 square feet.
- f. Class V monument signs shall be setback not less than two feet from the right-of-way line except that in the event a public utility easement is present, in which case the sign shall be setback not less than two feet from the easement.
- g. Class V monument signs may be internally illuminated, back-lit or externally illuminated in accordance with the requirements set forth in section 10.
- h. Level 1 electronic messaging and level 2 electronic messaging are permitted on a monument sign, subject to the provisions outlined in section 11.

5. *Class VI monument signs (major monument signs).*
 - a. Class VI monument signs are permitted in conjunction with non-residential uses in a non-residential zone or that portion of a planned area development where the land use plan of the PAD specifically calls out non-residential uses.
 - b. Class VI monument signs shall only be located adjacent to a parkway, major arterial street, minor arterial street, or along grand avenue. When allowed, one class VI monument sign meeting the requirements outlined below is permitted for every 150 feet of said roadway or portion thereof, regardless of the presence or location of driveway, provided sight distance requirements are met. The minimum spacing between individual class VI monument signs located on the same property shall be not less than 150 feet measured radially. The minimum spacing between class V monument signs and class VI monument signs located on the same property shall not be less than 150 feet measured radially. Properties with less than 150 feet of parkway, major arterial street, minor arterial street, or grand avenue frontage shall not be permitted any class VI monument sign.
 - c. No class VI monument sign may be located within 80 feet of a property having single-family residential zoning. The height of a class VI monument sign located 80 feet or more from a property having single-family zoning shall not exceed eight feet at 80 feet distant; however, the height of a class VI monument sign may increase one and one-half foot for every additional ten feet of horizontal distance the sign is located away from a property having single-family residential zoning up to a maximum height of 17 feet, provided however that any height in excess of 15 feet shall be limited to architectural embellishments.

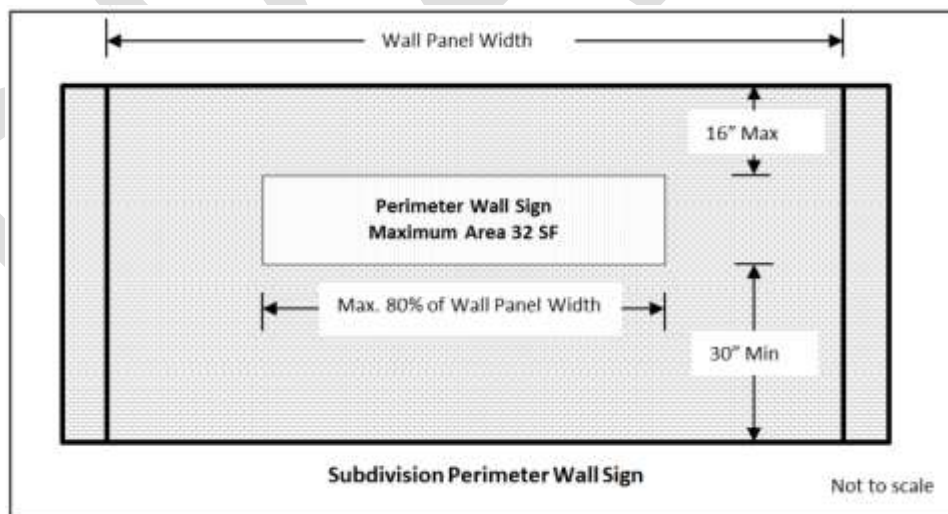


- d. The sign area of a class VI monument sign shall be limited to 36 square feet, but may increase 12 square feet for every one foot

- increase in the overall height of the sign up to a maximum sign area of 120 square feet.
 - e. The base of a class VI monument sign shall be fitted with the address of the property or properties in a manner that is consistent with section 13.
 - f. A class VI monument sign shall be located within a landscape area not less than the maximum sign area allowed for that sign.
 - g. Class VI monument signs shall be setback not less than two feet from the right-of-way line. Further, in the event a public utility easement is present, the sign shall be setback not less than two feet from the easement, unless the property owner signs a waiver acknowledging the prior rights of the utility companies to occupy said easement.
 - h. Class VI monument signs may be internally illuminated, back-lit or externally illuminated in accordance with the requirements set forth in section 10.
 - i. Level 1 electronic messaging and level 2 electronic messaging are permitted on a class VI monument sign, subject to the provisions outlined in section 11.
6. *Roadway arch signs.* Roadway arch signs may be erected within any commercial or industrial development subject to the following:
- a. Roadway arch signs shall maintain a vehicular clearance of not less than 18 feet;
 - b. Roadway arch signs shall not interfere with pedestrian or vehicular movement;
 - c. Roadway arch signs may be internally illuminated, or back-lit in accordance with the requirements set forth in section 10 except that if the roadway arch sign is located within 100 feet of any residential zoning district or use, the roadway arch sign shall not be illuminated.
7. *Subdivision perimeter wall signs.*
- a. Where a subdivision perimeter wall is located adjacent to a street corner that intersects a collector or arterial street, one subdivision perimeter wall sign may be affixed to the wall panel of the subdivision perimeter wall most closely oriented to the intersection, subject to the specific requirements outlined below.



- b. The maximum sign area shall not exceed 32 square feet.
- c. The width of the sign shall not exceed 80 percent of the width of the perimeter wall panel into which the sign is mounted.
- d. The bottom of the sign shall be no lower than 30 inches from the adjacent grade.
- e. The top of the sign shall be no higher than 16 inches from the top of the wall panel onto which the sign is mounted.
- f. The sign may be back-lit or externally illuminated provided the source of illumination is not visible from the street or from the adjacent residential property and is otherwise in accordance with the requirements set forth in section 10.



- 8. *Freeway monument signs.* Freeway monument signs may be permitted as outlined in this section:
 - a. *State Route 303 Corridor.* Freeway monument signs may be located within the following portions of the State Route 303 Corridor, subject to prior approval of a conditional use permit to

be processed as a Type 3 application in accordance with Chapter 102 of this Ordinance:

- (1) *State Route 303 and U.S. 60.* An area of land generally located at the intersection of State Route 303 and U.S. 60, being situated in the south half of Section 18 and the north half of Section 19, Township 4 North, Range 2 West and the south half of Section 36, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at a point located at longitude 112°24'13" west by latitude 33°40'49" north, thence southwesterly along a line bearing N43°00'58"E a distance of 1,320 feet to the beginning of a non-tangent curve the center of which is said longitude and latitude; thence clockwise along the arc of said curve a distance of approximately 2,070 feet, thence departing said arc southeasterly along a line bearing N46°13'20"W a distance of 1,320 feet to the POINT OF BEGINNING

- (2) *State Route 303 and Bell Road.* An area of land generally located at the intersection of State Route 303 and Bell Road, being situated in the north half of Section 1, Township 3 North, Range 2 West and the south half of Section 36, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the north quarter corner of said Section 1, thence easterly along the north line of the northeast quarter of said Section 01 a distance of 850 feet to the beginning of a non-tangent curve the center of which is said north quarter corner; thence clockwise along the arc of said curve a distance of approximately 4,000 feet to a point on the east line of the southwest quarter of said Section 36, thence departing said curve, southerly along said east line a distance of 850 feet to the POINT OF BEGINNING

- (3) *State Route 303 and Greenway Road.* An area of land generally located at the intersection of State Route 303 and Greenway Road, being situated in the southeast quarter of Section 1, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the south quarter corner of said Section 01, thence northerly along the west line of said southeast

quarter a distance of 450 feet to the beginning of a non-tangent curve the center of which is said south quarter corner; thence clockwise along the arc of said curve a distance of approximately 700 feet to a point on the south line of said southeast quarter; thence departing said curve, westerly along said south line a distance of 450 feet to the POINT OF BEGINNING

- (4) *State Route 303 and Cactus Road.* An area of land generally located at the intersection of State Route 303 and Cactus Road, being situated in the northeast quarter of Section 24, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona described as follows:

BEGINNING at the north quarter corner of said Section 24; thence easterly along the north line of said northeast quarter a distance of 850 feet to the beginning of a non-tangent curve the center of which is said north quarter corner; thence clockwise along the arc of said curve approximately 1,340 feet to a point on the west line of said northeast quarter; thence departing said curve, northerly along said west line a distance of 850 feet to the POINT OF BEGINNING

- (5) All freeway monument signs located within the aforementioned locations are subject to the provisions in subsections 9(c)(9)b.—e.

b. *Additional locational requirements.* The following additional locational requirements apply for all freeway monument signs regardless of where in the corridor it is located:

- (1) Freeway monument signs may only be approved on lands zoned for commercial or industrial uses.
- (2) No freeway monument sign shall be located within 300 feet of a property zoned for residential uses, or any open space tract that is associated with a residential development.
- (3) Freeway monument signs shall not be located closer than 20 feet from the adjacent right-of-way.
- (4) Spacing between freeway monument signs shall be not less than 750 feet, unless separated by a freeway or arterial right-of-way.
- (5) Freeway monument signs shall not be allowed within a natural or manmade watercourse.

- c. *Dimensional requirements.* The following dimensional requirements apply for all freeway monument signs regardless of the corridor in which it is located:
- (1) The overall height of a freeway monument sign shall not exceed 65 feet as measured from the finished grade of the site where the freeway monument sign is located to the highest point of the sign structure.
 - (2) Freeway monument signs shall be allowed an extra three feet in height for architectural embellishments.
 - (3) The sign area of a freeway monument sign shall not exceed 650 square feet.
- d. *Design requirements.* The following design requirements apply for all freeway monument signs regardless of the corridor in which it is located:
- (1) Freeway monument signs may incorporate level 2 electronic messaging centers as outlined section 11 herein, except that electronic messaging centers used in freeway monument sign applications may occupy up to 50 percent of the allowable sign area of the sign, exclusive of architectural embellishments as required herein, and provided such electronic messaging centers are turned off between 11:00 p.m. and dawn.
 - (2) Freeway monument signs shall incorporate architectural features of the commercial development on which the sign is located; however, such embellishments shall not include any sign copy.
 - (3) Freeway monument signs shall require a landscaped area equal to four square feet of landscaping for each square foot of sign area and shall be located around the base of the sign; freeway monument signs may be illuminated by externally-illuminated indirect or internal lighting.
- e. Any conditional use permit approval is hereby conditioned upon the applicant obtaining a valid construction permit for the freeway monument sign approved under said conditional use permit. The applicant shall obtain certificate of completion from the city within six months of approval of the conditional use permit by the City Council. Failure to obtain a certificate of completion within the designated time allotment shall render the conditional use permit null and void; however, the city manager or designee may grant a one-time extension for a period not to exceed six months when in the opinion of the city manager or designee the circumstances warrant such.

109-1.10 Sign illumination.

- A** Unless otherwise specified in this chapter, signs may be externally illuminated, internally illuminated or back-lit provided.
1. The brightness and intensity is no greater than necessary to meet reasonable needs of the business or use being served;
 2. The light sources are shielded from all adjacent buildings and streets;
 3. Lighting does not create excessive glare to pedestrians and/or motorists;
 4. Lighting does not obstruct traffic control or any other public sign; and,
 5. No "flashing", "blinking" or "chasing" lights are utilized.
- B** In those areas of the city that are located within the scenic lands development sub area as depicted in the Surprise General Plan 2035, sign lighting shall be limited to internal illumination only, with the negative space between and around the individual characters of the sign copy limited to opaque materials.
- C** Unless otherwise stated in this chapter, any sign that is within 100 feet of and visible from any single-family residential zoning district shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m. other than by ambient lighting present on the property.
- D** Any building wall sign associated with a multi-story building greater than five stories that is located within 1,320 feet of and visible from any residential zoning district may not be illuminated in any manner between the hours of 10:00 p.m. and 6:00 a.m. except for ambient lighting present on the property.

109-1.11 Electronic messaging centers (EMCs).

- A** *Levels of electronic messaging.* For purposes of this chapter, electronic messaging centers (EMCs) are divided into two categories: level 1 electronic messaging and level 2 electronic messaging, as defined in section 6.
- B** *EMC illumination.* The nighttime illumination of an electronic messaging center shall conform to the criteria set forth in this section.
1. *Illumination measurement criteria.* The illuminance of an electronic messaging center shall be measured with an illuminance meter set to measure foot-candles accurate to at least two decimals. Illuminance shall be measured with the EMC turned off, and again with the EMC displaying a white image for a full color-capable electronic messaging center, or a solid message for a single-color electronic messaging center. All measurements shall be taken perpendicular to the face of the electronic

messaging center at the distance determined by the total square footage of the electronic messaging center as set forth in table 109-1b below.

TABLE 109-1b MEASUREMENT DISTANCE AS A FUNCTION OF SIGN AREA			
Area of Sign (sq. ft.)	Measurement Distance (ft.)	Area of Sign (sq. ft.)	Measurement Distance (ft.)
5	22	55	74
10	32	60	77
15	39	65	81
20	45	70	84
25	50	75	87
30	55	80	89
35	59	85	92
40	63	90	95
45	67	95	97
50	71	100	100
For EMCs with an area in square feet other than those specifically listed in this table, the measurement distance may be calculated using the following formula: Measurement Distance = $\sqrt{\text{Area of sign sq. ft.} \times 100}$			

2. *EMC illumination limits.* The difference between the "off" and "solid-message" measurements using the illumination measurement criteria outlined in subsection 11(b)(1) above shall not exceed 0.3 foot-candles at night.
3. *Dimming capabilities.* All permitted electronic messaging centers shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 foot-candle measurement criteria.
4. *EMCs as a portion of sign area.* When allowed, electronic messaging centers may comprise not more than 50 percent of the allowable sign area of a particular sign.
5. *Certification.* Prior to the issuance of a permit relating to an electronic messaging center, the applicant shall provide a written certification from the owner of the sign attesting that said owner has read and understands the provisions of this section, agrees to abide by said section, and agrees to cooperate with City of Surprise staff with regards to any nighttime

testing that may be necessary should the 0.3 foot-candle limitation be at question.

109-1.12 Reader panels.

- A.** Wherever level 1 electronic messaging centers (EMCs) are allowed, reader panels may be substituted, provided:
1. The reader panel otherwise meets the provisions of section 10; and,
 2. The reader panel does not exceed the allowed sign area of the sign being replaced; and,
 3. The reader panel is fitted with a clear acrylic cover or other suitable material to prevent the individual characters from being dislodged.

109-1.13 Address identification.

- A** Building addresses shall be in accordance with Article 505.1 of the International Fire Code as amended by the Surprise City Council under Ordinance #2014-04, or as subsequently amended.
- B** Where class V monument signs or class VI monument signs are located next to a street, said signs shall be affixed with the address number of the property or properties served by the sign. Said address number shall be nine inches tall with a three inch stroke. The bottom edge of the address numbers shall not be less than three feet above the curb of the street from which the address is intended to be read.
- C** Address numbers meeting the provisions of this section shall not contribute to the aggregate sign area.

109-1.14 Flags and flagpoles.

- A** *All zoning districts.* The following provisions relating to all zoning districts within the city shall apply:
1. All flagpoles and the installation therein shall comply with all applicable building codes in effect at the time of permit application.

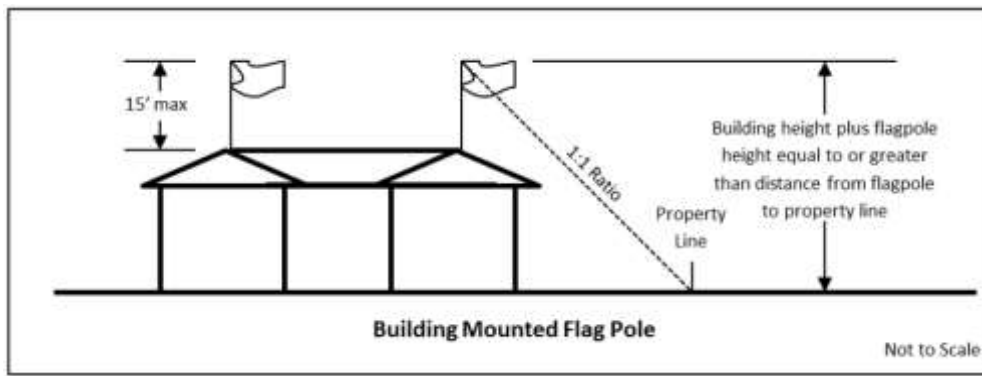
2. Flags and flagpoles may be illuminated in accordance with **Chapter 107-Article 3** of the Surprise Municipal Code.
3. All flags and flagpoles shall be maintained so as to avoid a blighted appearance or being in a state of disrepair.

B *Single-family zoning districts.*

1. Not more than one freestanding flagpole per single-family lot of record is allowed except that when associated with an HOA-maintained open space tract, then three such flagpoles are allowed.
2. A freestanding flagpole associated with a single-family residence may be located within any portion of the building envelope, or within the required front or required rear yard, but not within a required side yard.
3. No freestanding flagpole shall exceed a maximum height of 30 feet as measured at its base, unless associated with a model home complex in which case the flagpole height may be increased to 45 feet.
4. One flagpole not exceeding six feet in length may be affixed to the front of the primary residence provided the flagpole does not extend above the height of the residence onto which it is affixed or otherwise extend beyond the limits of the property.
5. Additional flags are permitted within model home complexes in accordance with subsection 9(a)(10) and active single-family residential subdivisions as outlined in subsection 9(a)(11).

C *Other zoning districts.*

1. Not more than three freestanding flagpoles per lot or parcel are allowed except that if any flagpoles are affixed to a building, the number of freestanding flagpoles shall be reduced by the number of building-mounted flagpoles.
2. No freestanding flagpole shall exceed a maximum height of 35 feet as measured at its base unless approved by the city council through a comprehensive sign program, zone change, or major amendment thereto.
3. A maximum of two flagpoles may be affixed to the primary building provided the top of the flagpole does not extend beyond 15 feet above the height of the building onto which it is affixed and the horizontal distance between the top of the flagpole and the closest property line does not exceed the combined height of the building and flagpole below.



109-1.15 Comprehensive sign programs.

- A** *Purpose.* The purpose of comprehensive sign programs is to provide a mechanism by which a specific set of sign criteria may be approved for a specific property or geographic area in a manner that is appropriate to the character of the community in which the comprehensive sign program will apply.
- B** A comprehensive sign program may be obtained for the following purposes:
1. To allow a deviation from the requirements applicable to a particular sign class or type, and/or;
 2. To introduce a unique or creative sign type that is not listed as a permitted sign type in subsection 7(a).
- C** A comprehensive sign program may not introduce a sign type that is specifically prohibited in subsection 7(f).
- D** The comprehensive sign program must demonstrate that:
1. The proposed signage represents a material improvement over what is otherwise permitted in chapter 109 of the Surprise Municipal Code,
 2. The proposed signage is appropriate to the character of the development covered by the comprehensive sign program,
 3. The proposed signage is appropriate to the neighborhood in which the property is located, and
 4. The comprehensive sign program creates a cohesive aesthetic that will apply to all signage covered by the comprehensive sign program within the specific geographic area covered by the comprehensive sign program.
- E** A comprehensive sign program may be included as part of a zone change request, or as an independent stand-alone document, in either case processed as a Type 3 application as outlined in **Chapter 102** of this Ordinance. The approval or denial of a proposed comprehensive sign program is discretionary with the final approval

authority lying with the Surprise City Council. A decision by the City Council to deny a proposed comprehensive sign program shall not in any way be construed as a diminution of property values or a restraint of development rights.

109-1.16 Nonconforming signs.

A *General provisions.*

1. Nonconforming signs shall be maintained in good condition pursuant to subsection 8(c).
2. A nonconforming sign shall not be altered, modified or reconstructed except:
 - a. When such alteration, modification or reconstruction would bring such sign into conformity with these regulations;
 - b. When the existing use has a new ownership which results in a change to the name or logo of the use or business on the property, and such language complies with subsection 16(a)(2)d. below;
 - c. When the space is re-occupied by a similar use and the new occupant requires no external building or site renovation, and such change complies with subsection 16(a)(2)d. below;
 - d. Any alteration, modification, or reconstruction permitted in this section shall be limited to the replacement of a sign panel, replacing individual letters and logos within the same area or repainting the sign face, and does not permit changes to the structure, framing, erection, or relocation of the sign unless such changes otherwise conform to this chapter.

B *Limitations for nonconforming signs.* A nonconforming sign shall be removed upon verification that any of the following conditions have been met:

1. The city determines and notifies the property owner that the use of the property or building upon which the nonconforming sign is located has ceased or been *abandoned* for more than 90 consecutive days, and the owner fails to provide the city with acceptable documentation or other information demonstrating that the use has not ceased or been *abandoned*; or,
2. These regulations, or amendment to these regulations, which made the sign nonconforming has been in effect for 20 years.

109-1.17 Enforcement.

A *General provisions.*

1. The city manager or designee is hereby authorized and directed to enforce all provisions of this chapter in conformance with the regulations and procedures specified herein.
2. Any violation of this chapter constitutes a public nuisance and may result in the issuance of either a civil citation or criminal citation by the city as set forth in article VI of the Surprise Municipal Code.
3. Each day a violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate violation or offense.
4. When two or more persons have liability to the city or are responsible for a violation of this chapter, their responsibility shall be joint and several.
5. The re-erection of any sign or substantially similar sign on the same premises after a notice of violation has been issued shall be deemed a continuance of the original violation.

B *Notice of violation.* Whenever the city manager or designee determines there has been a violation of this chapter, or has grounds to believe that a violation has occurred, notice shall be given in the following form and manner:

1. The notice of violation shall be given in writing;
2. The notice of violation shall include a description of the real property sufficient for identification;
3. The notice of violation shall include a statement of the violation or violations and why the notice of violation is being issued;
4. The notice of violation shall include a correction order stating a date-certain by which to remedy the violation;
5. The placement of any sign or substantially similar sign on the same premises after a notice of violation has been issued shall be deemed a continuation of the original violation;
6. A notice of violation is not required for any temporary sign that is in violation of this chapter;
7. The period of notice for permanent signs shall be 30 days.

C *Delivery of notice.* A notice of violation shall be deemed as being properly served if a copy thereof is delivered personally by an employee of the city having the authority to do so, or is sent by first class mail or certified mail (return receipt

requested) addressed to the last known address. If a notice of violation is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous location on the property of the alleged violation.

D *Penalties for violation.* Penalties for violations are as outlined in article VI of the Surprise Municipal Code. Imposition of a fine or penalty assessment shall not relieve the owner of the responsibility for abatement of the violation(s) or excuse him/her from liability for any and all costs incurred by the city for abatement. In no event shall the owner of premises where the violation has occurred be held criminally responsible for a temporary sign violation of this chapter committed by a tenant in possession of the premises or other third party.

E *Removal of signs.*

1. A notice of violation shall not be required to remove any sign that is identified in this chapter as being prohibited, or that creates or has the potential to create a hazard to the public.
2. Any temporary sign not specifically listed as an allowed use is specifically not permitted and the city may remove the sign or cause the sign to be removed.
3. If a temporary sign which would otherwise be permitted by this chapter does not include the contact information as required by subsection 9(a)(1)b. above, the city may remove the sign or cause the sign to be removed.
4. The city shall have the right to contact the individual whose name appears on a temporary sign and/or the property owner of the property onto which the temporary sign is erected for the purpose of verifying property owner consent. If property owner consent cannot be verified, the city may remove the sign.
5. Any temporary sign that is removed by the city for being in violation of this chapter may be discarded five business days following removal, provided a city employee who is authorized to do so has made an attempt to contact the individual whose name appears on the temporary sign at the address or phone number printed on said sign.
6. All actual costs incurred by the city in the removal or repair of said sign shall be paid by the owner of the sign or the owner of the premises where the sign is located. Action for recovery may be brought by the city attorney upon proper certification to him/her by the city manager or authorized agent.

109-1.18 Appeals.

A *Decisions by the zoning administrator.*

1. The denial of a sign permit or any written interpretation of a sign regulation made by the zoning administrator, pursuant to his/her legal authority, may be appealed to the board of adjustment pursuant to section 2-302 of the Surprise Municipal Code, except as modified by the provisions of this section 18. The appeal shall specify the grounds for appeal and shall be submitted in writing with the community development department within 15 calendar days of the date the decision was issued. If a timely appeal is not filed, the zoning administrator's decision shall become final.
2. Challenges to the constitutionality of any provision of this chapter regulating signs shall only be processed pursuant to subsection 18(b) below.
3. The board of adjustment may affirm, reverse, or modify the decision of the zoning administrator, which decision will be final, unless the board's decision is timely appealed by any person aggrieved to the City Council within 15 calendar days of the decision. Appeals shall be filed in writing with the office of the city clerk and shall specify the grounds for the appeal. The appeal shall be placed on the next available agenda for review and decision by the City Council. The appeal shall be decided based on the record of the board of adjustment proceedings and the issues limited to those presented to and decided by the board of adjustment.
4. Any person aggrieved by the decision of the City Council may appeal the decision of the City Council to superior court within 30 calendar days, as provided by state law.

B *Constitutional issues involving application of sign regulations.*

1. When an appeal raises an issue(s) involving the application of federal or Arizona constitutional law in the issuance or denial of a sign permit, the revocation of a sign permit, or an order to alter or remove a sign, the constitutional issue(s) shall be referred to a hearing officer appointed by the city for hearing and decision.
2. The appeal shall be in writing and shall include the following information:
 - a. The name and address of the applicant.
 - b. The ordinance, code provision, or other city document or policy statement that is alleged to be unconstitutional.
 - c. Any relevant facts and supporting documents.
 - d. The names and addresses of any witnesses.

3. The zoning administrator shall forward the appeal and all supporting documents to the hearing officer within ten working days of receipt with a copy to the applicant.
4. The zoning administrator may prepare and include with the transmittal to the hearing officer a written statement of the city's response to the appeal accompanied by any supporting documents, names of witnesses, and any other matters considered relevant.
5. Upon receipt of the appeal, the hearing officer shall contact the zoning administrator and the applicant acknowledging receipt and scheduling a time for the appeal to be heard not later than 30 days after receipt. The applicant shall be given at least ten day notice of the time when the appeal will be heard unless he/she agrees to a shorter time period.
6. The applicant shall bear the burden to establish that the subject ordinance, code provision, or other city document or policy statement is unconstitutional.
7. The hearing officer shall decide the appeal and issue a written decision setting forth findings of fact and conclusions of law within five working days after the appeal is heard.
8. The decision shall be transmitted to the zoning administrator and the applicant at the address provided by the applicant.
9. If the hearing officer finds that the subject ordinance, code provision, or other city document or policy is unconstitutional, in whole or in part, the city shall issue within 30 days of the hearing officer's decision a written notice to the applicant stating that it will either:
 - a. Repeal or otherwise amend the challenged ordinance, code provision, or other document or policy to cure the constitutional deficiency; or
 - b. Take no action.
10. Any person aggrieved by the city's response to the hearing officer's decision may file, at any time within 30 calendar days thereafter, a complaint in a court of competent jurisdiction to review the city's response based on the record of the appeal to the hearing officer.

CHAPTER 110 - DEVELOPMENT IMPACT FEES

ARTICLE 1 – IN GENERAL

110-1.1 Definitions.

- A. Unless otherwise defined in this chapter, terms used in this chapter have the same meaning as used in A.R.S. § 9-463.05.

A

Applicant: A person who applies to the city for a building permit.

B

Building permit: Any permit issued by the city that authorizes vertical construction, increases square footage, authorizes changes to land use, or provides for the addition of a residential or non-residential point of demand to a water or wastewater system.

C

Capital facility: An asset having a useful life of three or more years that is a component of one or more categories of necessary public service provided by the city. A capital facility may include any associated purchase of real property, architectural and engineering services leading to the design and construction of buildings and facilities, improvements to existing facilities, improvements to or expansions of existing facilities, and associated financing and professional services. Wherever used herein, "infrastructure" has the same meaning as "capital facilities."

Category of development: A specific category of residential, commercial, or industrial development against which a development impact fee is calculated and assessed. The city assesses development impact fees against the categories as set forth in the city's impact fee study.

Cost per service unit: The total future capital costs listed in the infrastructure improvement plan for a category of necessary public services divided by the total new service units projected in a particular service area for that category of necessary public services over the same time period.

Credit: A reduction in an assessed development impact fee resulting from developer contributions to, payments for, construction of, or dedications for capital facilities included in an infrastructure improvement plan permitted by this chapter.

Credit agreement: A written agreement between the city and a developer(s) subject development that allocates credits to the land that is the subject of the agreement. A credit agreement may be included as part of a development agreement.

Credit allocation: A term used to describe when credits are distributed to a particular development or parcel of land after execution of a credit agreement, but are not yet issued.

Credit issuance: A term used to describe when the amount of an assessed development impact fee attributable to a particular development or parcel of land is reduced by applying a credit allocation.

D

Developer: An individual, group of individuals, partnership, corporation, limited liability company, association, municipal corporation, state agency, or other person or entity undertaking land development activity, and their respective successors and assigns.

Development agreement: An agreement prepared in accordance with the requirements of A.R.S. § 9-500.05, and any applicable requirements of the City Code.

Direct benefit: A benefit to a service unit resulting from a capital facility that:

- A.** addresses the need for a necessary public service created in whole or in part by the service unit; and
- B.** meets either of the following criteria:
 - 1. the capital facility is located in the immediate area of the service unit and is needed in the immediate area of the service unit to maintain the level of service; or
 - 2. the capital facility substitutes for, or eliminates the need for a capital facility that would have otherwise have been needed in the immediate area of the service unit to maintain the city's level of service.

E

Equipment: Machinery, tools, materials, and other supplies, not including vehicles, needed by a capital facility to provide the level of service specified by the infrastructure improvement plan, but excluding replacement of the same after initial development of the capital facility.

F

Financing or debt: Any debt, bond, note, loan, interfund loan, fund transfer, or other debt service obligation used to pay for the development or expansion of a capital facility.

G

Grandfathered facilities: Capital facilities included in an infrastructure improvement plan or other city planning document, and impact fee study prepared pursuant to applicable law prior to June 1, 2011, and constructed through financing or debt for which development impact fee(s) were Pledged for repayment prior to June 1, 2011.

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I

Impact fee study: A written report that identifies the methodology for calculating the amount of each development impact fee, explains the relationship between the development impact fee to be assessed and the cost per service unit calculated in the infrastructure improvement plan, and which meets other requirements set forth in A.R.S. § 9-463.05.

Infrastructure improvement plan: A document or series of documents that meet the requirements set forth in A.R.S. § 9-463.05, including those adopted pursuant to this chapter, to cover any category or combination of categories of necessary public services.

J; K

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L

Land use assumptions: Projections of changes in land uses, densities, intensities and population for a service area over a period of at least ten years.

Level of service: A quantitative and/or qualitative measure of a necessary public service that is to be provided by the city to development in a particular service area, defined in terms of the relationship between service capacity and service demand, accessibility, response times, comfort

or convenience of use, or other similar measures or combinations of measures. Level of service may be measured differently for different categories of necessary public services, as identified in the applicable infrastructure improvement plan.

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N

Necessary public services: "Necessary public services" has the meaning prescribed in A.R.S. § 9-463.05, subsection T, paragraph 7.

O

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P

Pledged: Where used with reference to a development impact fee, a development impact fee will be considered "Pledged" where it was identified by the city as a source of payment or repayment for financing or debt that was identified as the source of financing for a necessary public service for which a development impact fee was assessed pursuant to the then-applicable provisions of A.R.S. § 9-463.05.

Q

Qualified professional: Any one of the following:

- A.** a professional engineer, surveyor, financial analyst or planner, or other licensed professional providing services within the scope of that person's education or experience related to city planning, zoning, or development impact fees and holding a license issued by an agency or political subdivision of the State of Arizona;
- B.** a financial analyst, planner, or other non-licensed professional that is providing services within the scope of the person's education or experience related to city planning, zoning, or development impact fees; or
- C.** any other person operating under the supervision of one or more of the above.

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S

Service area: Any specified area within the boundaries of the city within which:

- A.** the city will provide a category of necessary public services to development at a planned level of service; and
- B.** within which (i) a substantial nexus exists between the capital facilities to be provided and the development to be served, or (ii) a direct benefit exists between the capital facilities and the development to be served, each as prescribed in the infrastructure improvement plan. Some or all of the capital facilities providing service to a service area may be physically located outside of that service area provided that the required substantial nexus or direct benefit is demonstrated to exist.

Service unit: A unit of development within a particular category of development, defined in terms of a standardized measure of the demand that a unit of development in that category of development generates for necessary public services in relation to the demand generated by a detached single-family dwelling unit. For all categories of necessary public services, the service unit factor for a detached single-family dwelling unit is one, while the factor for a unit of development within another category of development is represented as a ratio of the demand for each category of necessary public services typically generated by that unit as compared to the demand for such services typically generated by a detached single-family dwelling unit.

Substantial nexus: A substantial nexus exists where the demand for necessary public services that will be generated by an service unit can be reasonably quantified in terms of the burden it will impose on the available capacity of existing capital facilities, the need it will create for new or expanded capital facilities, and/or the benefit to the development from those capital facilities.

T

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U

Useful life: The period of time in which an asset can reasonably be expected to be used under normal conditions, whether or not the asset will continue to be owned and operated by the city over the entirety of such period.

V; W; X; Y; Z

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110-1.2 Applicability.

- A.** Except as otherwise provided in this chapter, this chapter applies to all new development within any service area, except for the development of any city facility.
- B.** The provisions of this chapter apply to all of the territory within the corporate limits of the city and within the city's water and wastewater service areas.
- C.** The city manager is authorized to make determinations regarding the application, administration and enforcement of the provisions of this chapter.

110-1.3 Authority to assess.

- A.** The city may assess and collect a development impact fee for costs of necessary public services, including all professional services required for the preparation or revision of an infrastructure improvement plan, impact fee study, development impact fee, and required reports or audits conducted pursuant to this chapter.
- B.** Development impact fees are subject to the following requirements:
 - 1.** The city will develop and adopt an impact fee study that analyzes and defines the development impact fees to be charged for each capital facility category in each service area, based on the infrastructure improvement plan and the cost per service unit calculated pursuant to the chapter.
 - 2.** Development impact fees will be assessed against all new commercial, residential, and industrial developments, provided that the city may assess different amounts of development impact fees against specific categories of development based on the actual burdens and costs that are associated with providing necessary public services to that category of development. No development impact fee may exceed the cost per service unit for any necessary public service category of development.
 - 3.** No development impact fees will be charged, or credits issued, for any capital facility that does not fall within one of the categories of necessary public services for which development impact fees may be assessed under this chapter.

4. Costs for necessary public services made necessary by new development will be based on the same level of service provided to existing development service area. Development impact fees may not be used to provide a higher level of service to existing development or to meet stricter safety, efficiency, environmental, or other regulatory standards to the extent that these are applied to existing capital facilities that are serving existing development.
5. Development impact fees may not be used to pay the city's administrative, maintenance, or other operating costs.
6. Projected interest charges and financing costs can only be included in development impact fees to the extent they represent principal and/or interest on the portion of any financing or debt used to pay for the construction or expansion of a capital facility identified in the infrastructure improvement plan.
7. Except for any fees charged for grandfathered facilities, all development impact fees charged by the city must be included in a "fee schedule" prepared pursuant to this chapter and included in the impact fee study.
8. All development impact fees must meet the requirements of A.R.S. § 9-463.05.

110-1.4 Grandfathered facilities.

- A. Notwithstanding the requirements of this chapter, certain development impact fees adopted by the city and pledged to repay financing or debt for grandfathered facilities will continue in effect until the financing or debt to which the impact fee was pledged is repaid.

110-1.5 Appeal.

- A. A city development impact fee determination may be appealed in accordance with the following procedures:
 1. *Limited scope.* Only disputes regarding the calculation of the development impact fees for a specific development and/or permit and calculation of service unit's for the development may be appealed.
 2. *Form of appeal; filing.* An appeal must be initiated on such written form as the city may prescribe, and submitted to the city clerk within 15 days of assessment.

3. *Determination by the city manager.* The city manager will act upon the appeal and notify the party who submitted the appeal of the city manager's determination in writing within 30 calendar days of the filing of the appeal.
4. *Final decision.* The determination of the city manager regarding the appeal is final.
5. *Fees during pendency.* Building permits may be issued during the pendency of an appeal if the applicant pays the full impact fee calculated by the city at the time the appeal is filed. Upon final disposition of an appeal, the fee must be adjusted in accordance with the determination rendered and a refund paid if warranted.

110-1.6 Refunds of development impact fees.

- A. *Refunds.* Any refund (or partial refund) required under this chapter will be paid to any current owner of property within the city who submits a written request to the city and demonstrates that:
 1. The permit that triggered the collection of the development impact fee has expired or been voided prior to the commencement of the development for which the permit was issued and the development impact fees collected have not been expended, encumbered, or pledged for the repayment of financing or debt; or
 2. The owner of the subject real property or its predecessor in interest paid a development impact fee for the applicable capital facility on or after August 1, 2014, and one of the following conditions exists:
 - (a) The capital facility designed to serve the subject real property was constructed, has the capacity to serve the subject real property and any development for which there is reserved capacity, and the service which was to be provided by that capital facility has not been provided to the subject real property from that capital facility or from any other infrastructure.
 - (b) After collecting the development impact fee to construct a capital facility the city failed to complete construction of the capital facility within the time period identified in the infrastructure improvement plan, as it may be amended, and the corresponding service is otherwise unavailable to the subject real property from that capital facility or any other infrastructure.
 - (c) For a category of necessary public services other than water or wastewater facilities, any part of a development impact fee was not spent within ten years of the city's receipt of the development impact fee.

- (d) Any part of a development impact fee for water or wastewater facilities was not spent within 15 years of the city's receipt of the development impact fee.
 - (e) The development impact fee was calculated and collected for the construction cost to provide all or a portion of a specific capital facility serving the subject real property and the actual construction costs for the capital facility was less than the construction costs projected in the infrastructure improvement plan by a factor of ten percent or more. In such event, the current owner of the subject real property, upon request as set forth in this section, is entitled to a refund for the difference between the amounts of the development impact fee charged for and attributable to such construction cost and the amount the development impact fee would have been calculated to be if the actual construction cost had been included in the impact fee study. The refund contemplated by this subsection relates only to the costs specific to the construction of the applicable capital facility and does not include any related design, administrative, or other costs not directly incurred for construction of the capital facility included in the development impact fee as permitted by A.R.S. § 9-463.05.
- B.** *Earned interest.* A refund of a development impact fee must include any interest actually earned on the refunded portion of the development impact fee by the city from the date of collection to the date of refund. All refunds must be made to the record owner of the property at the time the refund is paid.
- C.** *Refund to government.* If a development impact fee was paid by a governmental entity, any refund must be paid to that governmental entity.

ARTICLE 2 – ADMINISTRATION OF DEVELOPMENT IMPACT FEES

110-2.1 Separate accounts.

- A. Each development impact fee collected pursuant to this chapter will be placed in a separate fund and accounted for separately with interest earned credited to each fund at least annually.

110-2.2 Limitations on use of fees.

- A. Development impact fees and any interest on them collected pursuant to this chapter must be spent to provide capital facilities associated with the same category of necessary public services in the same service area for which they were collected, including costs of financing or debt used by the city to finance those capital facilities and other costs authorized by this chapter that are included in the infrastructure improvement plan.

110-2.3 Time limit.

- A. Development impact fees collected after July 31, 2014 must be used within ten years of the date upon which they were collected for all categories of necessary public services except for water and wastewater facilities. For water facilities or wastewater facilities collected after July 31, 2014, development impact fees must be used within 15 years of the date upon which they were collected.

ARTICLE 3 – LAND USE ASSUMPTIONS AND INFRASTRUCTURE IMPROVEMENT PLANS

110-3.1 Consistency.

- A. The infrastructure improvement plan will be consistent with the city's current land use assumptions for each service area and each category of necessary public services as adopted by the city pursuant to A.R.S. § 9-463.05.

110-3.2 Land use assumptions; review.

- A. Prior to the adoption or amendment of an infrastructure improvement plan, the city will review and evaluate the land use assumptions on which the infrastructure improvement plan is to be based to ensure that the land use assumptions within each service area conform with the city's general plan.
- B. If the land use assumptions upon which an infrastructure improvement plan is based have not been updated within the last five years, the city will evaluate the land use assumptions to determine whether changes are necessary. If, after general evaluation, the city determines that the land use assumptions are still valid, the city will issue the report required by this article.
- C. If the city determines that changes to the land use assumptions are necessary in order to adopt or amend an infrastructure improvement plan, the city will make such changes as necessary to the land use assumptions prior to or in conjunction with the review and approval of the infrastructure improvement plan.

110-3.3 Infrastructure improvement plan; contents. The infrastructure improvement plan will be developed by qualified professionals and may be based upon or incorporated within the city's capital improvements plan. The infrastructure improvement plan will:

- A. Specify the categories of necessary public services for which the city will impose a development impact fee.
- B. Define and provide a map of one or more service areas within which the city will provide each category of necessary public services for which development impact fees will be charged.
 - 1. Each service area must be defined in a manner that demonstrates a substantial nexus or direct benefit between the capital facilities to be provided in the service area and the service units to be served by those capital facilities.

2. For library facilities, and park facilities larger than 30 acres, each service area must be defined in a manner that demonstrates a direct benefit between the capital facilities and the service units to be served by those capital facilities.
 3. The city may cover more than one category of capital facilities in the same service area provided that there is an independent substantial nexus or direct benefit, as applicable, between each category of necessary public services and the service units to be served.
- C. Identify and describe the land use assumptions upon which the infrastructure improvement plan is based in each service area.
 - D. Analyze and identify the existing level of service provided by the city to existing service units for each category of necessary public services.
 - E. Identify the level of service to be provided by the city for each category of necessary public services in each service area based on the relevant land use assumptions and any established standards or policies related to required levels of service. If the same category of necessary public services is provided in more than one service area, the infrastructure improvement plan will include a comparison of the levels of service to be provided in each service area.
 - F. For each category of necessary public services, analyze and identify the existing capacity of the capital facilities in each service area, the utilization of those capital facilities by existing service units, and the available excess capacity of those capital facilities to serve new service units including any existing or planned commitments or agreements for the usage of such capacity. The infrastructure improvement plan will additionally identify any changes or upgrades to existing capital facilities that will be needed to achieve or maintain the planned level of service to existing service units, or to meet new safety, efficiency, environmental, or other regulatory requirements for services provided to existing service units.
 - G. Estimate the total number of existing and future service units within each service area based on the city's land use assumptions and projected new service units in each service area.
 - H. Provide a summary table or tables describing the level of service for each category of necessary public services by relating the required capital facilities to service units in each service area, and identifying the applicable service unit factor associated with each category of development.
 - I. For each category of necessary public services, analyze and identify the projected utilization of any available excess capacity in existing capital facilities, and all new or expanded capital facilities that will be required to provide and maintain the planned level of service in each service area as a result of the new projected service units in that service area, for a period not to exceed ten years.

Nothing in this subsection prohibits the city from additionally including in its infrastructure improvement plan projected utilization of, or needs for, capital facilities for a period longer than ten years, provided that the costs of such capital facilities are excluded from the calculation of the cost per service unit.

- J.** For each category of necessary public services, estimate the total cost of any available excess capacity and/or new or expanded capital facilities that will be required to serve new service units, including costs of land acquisition, improvements, engineering and architectural services, studies leading to design, design, construction, financing, and administrative costs, as well as projected costs of inflation. Such total costs shall not include costs for ongoing operation and maintenance of capital facilities, nor for replacement of capital facilities to the extent that such replacement is necessary to serve existing service units. If the infrastructure improvement plan includes changes or upgrades to existing capital facilities that will be needed to achieve or maintain the planned level of service to existing service units, or to meet new regulatory requirements for services provided to existing service units, such costs shall be identified and distinguished in the infrastructure improvement plan.
- K.** Forecast the revenues from taxes, fees, assessments or other sources that will be available to fund the new or expanded capital facilities identified in the infrastructure improvement plan, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions.
- L.** Estimate the time required to finance, construct and implement the new or expanded capital facilities.
- M.** Calculate required offsets as follows:

 - 1. From the forecasted revenues, identify those sources of revenue that:

 - (a) are attributable to new development, and
 - (b) will contribute to paying for the capital costs of necessary public services.
 - 2. For each source and amount of revenue identified pursuant to subparagraph (1), calculate the relative contribution of each category of development to paying for the capital costs of necessary public services in each service area.
 - 3. Based on the relative contributions identified pursuant to subparagraph (2), for each category of necessary public services, calculate the total offset to be provided to each category of development in each service area.

4. For each category of necessary public services, convert the total offset to be provided to each category of development in each service area into an offset amount per service unit by dividing the total offset for each category of development by the number of service units associated with that category of development.
 5. Beginning August 1, 2014, for purposes of calculating the required offset, if the city imposes a construction, contracting, or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate that is imposed on the majority of other transaction privilege tax classifications in the city, the entire excess portion of the construction, contracting, or similar excise tax must be treated as a contribution to the capital costs of necessary public services provided to new development unless the excess portion is already utilized for such purpose pursuant to this section.
 6. In determining the amount of required offset for land included in a community facilities district established under A.R.S. title 48, Chapter 4, article 6, the city will take into account any capital facilities provided by the district that are included in the infrastructure improvement plan and the capital costs paid by the district for such capital facilities, and will offset impact fees assessed within the community facilities district proportionally.
- N.** Calculate the cost per service unit by:
1. Dividing the total projected costs to provide capital facilities to new service units for each category of necessary public services in each service area into the number of new service units projected for that service area over a period not to exceed ten years, considering the specific service unit factors associated with those service units for each category of necessary public services.
 2. Subtracting the required offset per service unit calculated pursuant to subsection (L).

110-3.4 Multiple infrastructure improvement plans.

- A.** An infrastructure improvement plan adopted pursuant to this section may address one or more of the city's categories of necessary public services in any or all of the city's service areas. Each capital facility will be subject to no more than one infrastructure improvement plan at any given time.

110-3.5 Reserved capacity.

- A. The city may reserve capacity in an infrastructure improvement plan to serve one or more planned future developments, including capacity reserved through a development agreement. All reservations of existing capacity must be disclosed in the infrastructure improvement plan at the time it is adopted.

110-3.6 Infrastructure improvement plan; adoption and modification. The infrastructure improvement plan must be adopted or amended subject to the following procedures:

A. *Major amendments to the infrastructure improvement plan.*

- 1. Except for minor amendments, the adoption or amendment of an infrastructure improvement plan must occur at one or more public hearings according to the following schedule, and may occur concurrently with the adoption of an update of the city's land use assumptions as provided in Chapter:
 - (a) Sixty days before the first public hearing regarding a new or updated infrastructure improvement plan, the city must provide public notice of the hearing and post the infrastructure improvement plan and the underlying land use assumptions on its website; the city must additionally make available to the public the documents used to prepare the infrastructure improvement plan and underlying land use assumptions and the amount of any proposed changes to the cost per service unit.
 - (b) The city must conduct a public hearing on the infrastructure improvement plan and underlying land use assumptions at least 30 days, but no more than 60 days, before approving or disapproving the infrastructure improvement plan.

B. *Minor amendments to the infrastructure improvement plan.* Notwithstanding the other requirements of this section, the city may update the infrastructure improvement plan and/or its underlying land use assumptions without a public hearing if all of the following apply:

- 1. The changes in the infrastructure improvement plan and/or the underlying land use assumptions will not add any new category of necessary public services to any service area.
- 2. The changes in the infrastructure improvement plan and/or the underlying land use assumptions will not increase the level of service to be provided in any service area.
- 3. Based on an analysis of the impact fee study and the city's adopted development impact fee schedules, the changes in the infrastructure

improvement plan and/or the underlying land use assumptions will not, individually or cumulatively with other amendments undertaken pursuant to this subsection, cause a development impact fee in any service area to increase by more than five percent above the development impact fee that is provided in the current development impact fee schedule.

4. At least 30 days prior to the date that a minor amendment is adopted, the city must post the proposed amendments on the city website.

110-3.7 Renewal and updating.

- A. Except as provided in subparagraph (B), below, not later than every five years the city must update the applicable infrastructure improvement plan and impact fee study related to each category of necessary public services. Such five-year period will be calculated from the date of the adoption of the infrastructure improvement plan or the date of the adoption of the impact fee study, whichever occurs later.
- B. Notwithstanding subparagraph (a), if the city determines that no changes to an infrastructure improvement plan, underlying land use assumptions, or impact fee study are needed, the city may elect to continue the existing infrastructure improvement plan and impact fee study without amendment by providing notice as follows:
 1. Notice of the determination must be published at least 180 days prior to the end of the five-year period described in subparagraph (A) above.
 2. The notice must identify the infrastructure improvement plan and impact fee study that shall continue in force without amendment.
 3. The notice must provide a map and description of the service area covered by the infrastructure improvement plan and impact fee study.
 4. The notice must identify an address to which any resident of the city may submit, within 60 days, a written request that the city update the infrastructure improvement plan, underlying land use assumptions, and/or impact fee study and the reasons and basis for the request.
- C. Response to comments. The city must consider and respond within 30 days to any timely requests submitted pursuant to subparagraph (B) above.

ARTICLE 4 – DEVELOPMENT IMPACT FEES

110-4.1 Impact fee study; adoption and amendment.

- A. The impact fee study must summarize the costs of capital facilities necessary to serve new development on a per service unit basis as defined and calculated in the infrastructure improvement plan, including all required offsets, and must recommend a development impact fee structure for adoption by the city. The actual impact fees to be assessed must be disclosed and adopted in the form of impact fee schedules.
- B. Any adoption or amendment of an impact fee study and fee schedule must occur at one or more public hearings according to the following schedule:
 - 1. The first public hearing on the impact fee study must be held at least 30 days after the adoption or approval of an infrastructure improvement plan. The city must give at least 30 days' notice prior to the hearing, provided that this notice may be given on the same day as the approval or disapproval of the infrastructure improvement plan.
 - 2. The city must make the infrastructure improvement plan and underlying land use assumptions available to the public on the city's website 30 days prior to the public hearing described in subparagraph (1), above.
 - 3. The impact fee study may be adopted by the city no sooner than 30 days, and no later than 60 days, after the hearing described in subparagraph (1), above.
 - 4. The development fee schedules in the impact fee study adopted pursuant to this subsection become effective 75 days after adoption of the impact fee study by the city.

110-4.2 **Collection.** Development impact fees will be calculated and collected prior to issuance of permission to commence development; specifically:

- A. Unless otherwise specified pursuant to a development agreement, development impact fees must be paid prior to issuance of a building permit, water or sewer connection, or certificate of occupancy, according to the current development impact fee schedule for the applicable service area or other development impact fee schedule as authorized in this chapter.
- B. If a building permit is not required for the development, but water or wastewater connections are required, any and all development impact fees due must be paid at the time the water service connection is purchased. If only a wastewater connection is required, the development impact fees must be paid prior to approval of a connection to the sewer system. Wastewater development impact fees must be assessed if a development connects to the public sewer, or

as determined by the city, is capable of discharging sewage to a city public sewer.

- C.** If the building permit is for a change in the type of building use, an increase in square footage, a change to land use, or an addition to a residential or non-residential point of demand to the water or wastewater system, the development impact fee must be assessed on the additional service units resulting from the expansion or change, and following the development impact fee schedule applicable to any new use type.
- D.** For issued permits that expire or are voided, and the development impact fees paid for such development have not been refunded, the permittee, or the permittee's assignee, must pay the difference between any development impact fees the permittee paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.

110-4.3 Exceptions. Development impact fees will not be owed under either of the following conditions:

- A.** Development impact fees have been paid for the development and the permit that triggered the collection of the development impact fees has not expired or been voided.
- B.** The approval that triggers the collection of development impact fees involves modifications to existing residential or non-residential development that do not:
 - 1. add new service units,
 - 2. increase the impact of existing service units on existing or future capital facilities, or
 - 3. change the land-use type of the existing development to a different category of development for which a higher development impact fee would have been due.
- C.** To the extent that any modification does not meet the requirements of this paragraph, the development impact fee due must be the difference between the development impact fee that was or would have been due on the existing development and the development impact fee that is due on the development as modified.

110-4.4 Development impact fee assessment; delay on new or increased fees.

- A.** For a period of 24 months after the commencement of development, no new or increased portion of a modified development impact fee may be assessed

against a development. For purposes of this section, the 24-month period will commence as follows:

1. For single family residential development, from the date that the first building permit is issued pursuant to an approved site plan or subdivision plat, provided that no subsequent changes are made to the approved site plan or subdivision plat that would increase the number of service units. The 24-month period cannot be extended by a renewal or amendment of the site plan or final subdivision plat.
 2. For all other development, from the date of the city issues final approval of a development plan or subdivision plat. Other uses includes, but are not limited to retail, high traffic retail, industrial, general office, medical facilities, institutional, recreational, or multifamily development. The 24-month period cannot be extended by a renewal or amendment of the development plan or final subdivision plat.
- B.** During the 24-month period referred to above, if changes are made to a development's final development plan, site plan or subdivision plat that increases the number of service units, the city may assess any new or modified development impact fees against the additional service units. If the city reduces the amount of an applicable development impact fee during the 24-month period referred to above, the city will assess the lower development impact fee.
- C.** Upon request, the city will provide a copy of the applicable development impact fee schedule (that is the schedule in effect prior to the new or increased modified development impact fee) that will be in force for the 24-month period, and which will expire at the end of the last business day of the 24-month period. During the effective period of the applicable development impact fee schedule, any building permit issued for the same development shall not be subject to any new or modified development impact fees.

110-4.5 Option to pursue special fee determination.

- A.** Where a development is of a type that does not closely fit within a particular category of development appearing on an adopted development impact fee schedule, or where a development has unique characteristics such that the actual burdens and costs associated with providing necessary public services to that development will differ substantially from that associated with other developments in a specified category of development, the city may require the applicant to provide the city with an alternative development impact fee analysis. Based on a projection of the actual burdens and costs that will be associated with the development, the alternative development impact fee analysis may propose a unique fee for the development based on the application of an appropriate service unit factor to the applicable cost per service unit, or may propose that the development be covered under the development impact fee schedule governing

a different and more analogous category of development. The city will review the alternative impact fee analysis and make a determination as to the development impact fee to be charged. The decision will be appealable under this chapter. The city may require the applicant to pay an administrative fee to cover the actual costs of reviewing the special fee determination application.

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ARTICLE 5 – CREDITS AND CREDIT AGREEMENTS

110-5.1 Eligibility of capital facility. All development impact fee credits must meet the following requirements:

- A.** One of the following must be true:
 - 1. The capital facility, or the financial contribution toward a capital facility that will be provided by the developer and for which a credit will be issued, must be identified in an adopted infrastructure improvement plan and impact fee study as a capital facility for which a development impact fee was assessed; or
 - 2. The applicant must demonstrate to the satisfaction of the city that, given the class and type of improvement, the subject capital facility should have been included in the infrastructure improvement plan in lieu of a different capital facility that was included in the infrastructure improvement plan and for which a development impact fee was assessed. If the subject capital facility is determined to be eligible for a credit in this manner, the city will amend the infrastructure improvement plan to (i) include the subject replacement facility and (ii) delete the capital facility that will be replaced.
 - 3. Credits are not available for any infrastructure provided by a developer if the cost of the infrastructure will be repaid to the developer by the city through another agreement or mechanism. To the extent that the developer will be paid or reimbursed by the city for any contribution, payment, construction, or dedication from any city funding source including an agreement to reimburse the developer with future collected development impact fees, any credits claimed by the developer must be
 - (a) deducted from any amounts to be paid or reimbursed by the city or
 - (b) reduced by the amount of the payment or reimbursement.
- B.** Eligibility of subject development. To be eligible for a credit, the subject development must be located within the service area of the eligible capital facility.

110-5.2 Calculation of credits.

- A.** Credits will be based on that portion of the costs for an eligible capital facility identified in the adopted infrastructure improvement plan for which a development fee was assessed pursuant to the impact fee study. If the total applicable impact fee for a particular category of necessary public service is adopted at an amount lower than the cost per service unit, the amount of any

credit shall be reduced in proportion to the difference between the cost per service unit and the total applicable impact fee adopted. A credit shall not exceed the actual costs the applicant incurred in providing the eligible capital facility.

110-5.3 Allocation of credits.

- A.** Before credits can be issued to a subject development (or portion of it), credits must be allocated to that development as follows:
 - 1. The developer and the city must execute a credit agreement including all of the following:
 - 2. The total amount of the credits resulting from provision of an eligible capital facility.
 - 3. The estimated number of service units to be served within the subject development.
 - 4. The method by which the credit values will be distributed within the subject development.
- B.** It is the responsibility of the developer to request allocation of development impact fee credits through an application for a credit agreement.
- C.** If a building permit is issued or a water/sewer connection is purchased, and a development impact fee is paid prior to execution of a credit agreement for the subject development, no credits may be allocated retroactively to that permit or connection. Credits may be allocated to any remaining permits for the subject development in accordance with this chapter.
- D.** If the entity that provides an eligible capital facility sells or relinquishes a development (or portion of it) that it owns or controls prior to execution of a credit agreement or development agreement, credits resulting from the eligible capital facility will only be allocated to the development if the entity legally assigns such rights and responsibilities to its successor in interest for the subject development.
- E.** If multiple entities jointly provide an eligible capital facility, both entities must enter into a single credit agreement with the city, and any request for the allocation of credit within the subject development must be made jointly by the entities that provided the eligible capital facility.
- F.** Credits may only be reallocated from or within a subject development with the city's approval of an amendment to an executed credit agreement, subject to the following conditions:

1. The entity that executed the original agreement with the city, or its legal successor in interest and the entity that currently controls the subject development are parties to the request for reallocation.
 2. The reallocation proposal does not change the value of any credits already issued for the subject development.
- G.** A credit agreement may authorize the allocation of credits to a non-contiguous parcel only if all of the following conditions are met:
1. The entity that executed the original agreement with the city or its legal successor in interest, the entity that currently controls the subject development, and the entity that controls the non-contiguous parcel are parties to the request for reallocation.
 2. The reallocation proposal does not change the value of any credits already issued for the subject development.
 3. The non-contiguous parcel is in the same service area as that served by the eligible capital facility.
 4. The non-contiguous parcel receives a necessary public service from the eligible capital facility.
 5. The credit agreement specifically states the value of the credits to be allocated to each parcel and/or service unit, or establishes a mechanism for future determination of the value of the credits.
 6. The credit agreement does not involve the transfer of credits to or from any property subject to a development agreement.

110-5.4 Credit agreement. Credits may only be issued pursuant to a credit agreement that conforms to the requirements set forth in this article, subject to the following:

- A.** The developer requesting the credit agreement must provide all information requested by the city to allow it to determine the value of the credit to be applied.
- B.** The developer must submit a draft credit agreement to the city for review in the form provided to the applicant by the city. The draft credit agreement must include, at a minimum, all of the following information and supporting documentation:
 1. A legal description and map depicting the location of the subject development for which the credits are being applied, depicting the location of the capital facilities that have been or will be provided.

2. An estimate of the total service units that will be developed within the subject development depicted on the map and described in the legal description.
 3. A list of the capital facilities, associated physical attributes, and the related costs as stated in the infrastructure improvement plan.
 4. Documentation showing the date of acceptance by the city, if the capital facilities have already been provided.
 5. The total amount of the credits to be applied within the subject development and the calculations leading to the total amount of the credits.
 6. The credits to be applied to each service unit within the subject development for each category of necessary public services.
- C.** The city's determination of the credits to be allocated is final.
- D.** Upon execution of the credit agreement by the city and the applicant, credits are deemed allocated to the subject development.
- E.** Any amendment to a previously approved credit agreement must be initiated within two years of the city's final acceptance of the eligible capital facility for which the amendment is requested.
- F.** Any credit agreement approved as part of a development agreement must be amended in accordance with the terms of the development agreement and this chapter.

110-5.5 Issuance of credits. Credits allocated pursuant to this article may be issued and applied toward the total applicable impact fees due from a development, subject to the following conditions:

- A.** Credits issued for an eligible capital facility may only be applied to the development impact fee due for the applicable category of necessary public services, and may not be applied to any fee due for another category of necessary public services.
- B.** Credits may only be issued when the eligible capital facility from which the credits were derived has been accepted by the city or when adequate security for the completion of the eligible capital facility has been provided in accordance with all terms of an executed development agreement.
- C.** Where credits have been issued pursuant to subparagraph **B.** above, an impact fee due at the time a building permit is issued must be reduced by the credits stated in or calculated from the executed credit agreement. Where credits have not yet been issued, the total applicable impact fee must be paid in full, and

credits due refunded when the developer demonstrates compliance with subparagraph **B.** above in a written request to the city.

- D.** Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that credits may be released for reuse on the same subject development if a building permit for which the credits were issued has expired or been voided and is otherwise eligible for a refund.
- E.** Notwithstanding the other provisions of this section, credits issued prior to January 1, 2012, may only be used for the subject development for which they were issued. The credits may be transferred to a new owner of all or part of the subject development in proportion to the percentage of ownership in the subject development to be held by the new owner.

ARTICLE 6 – DEVELOPMENT AGREEMENTS

110-6.1 General.

- A. Development agreements containing provisions regarding development impact fees, development impact fee credits, and/or disbursement of revenues from development impact fee accounts shall comply with the requirements of this section.

110-6.2 Development agreement required. A development agreement is required to authorize any of the following:

- A. To issue credits prior to the city's acceptance of an eligible capital facility.
- B. To allocate credits to a parcel that is not contiguous with the subject development and that does not meet the requirements of article V.
- C. To reimburse the developer of an eligible capital facility using funds from development impact fee accounts.
- D. To allocate different credit amounts per service unit to different parcels within a subject development.
- E. For a single family residential dwelling unit, to allow development impact fees to be paid at a later time than the issuance of a building permit as provided in this article.

110-6.3 General requirements.

- A. All development agreements must be prepared and executed in accordance with A.R.S. § 9-500.05 and any applicable requirements of the City Code. Except where specifically modified by this article, all provisions of article V shall apply to any credit agreement that is authorized as part of a development agreement.

110-6.4 Early issuance of credits.

- A. A development agreement may authorize the issuance of credits prior to acceptance of an eligible capital facility by the city when the development agreement specifically states the form and value of the security (i.e. bond, letter of credit, etc.) to be provided to the city prior to issuance of any credits. The city

110-6.5 Non-contiguous allocation of credits. A development agreement may authorize the allocation of credits to a non-contiguous parcel only if all of the following conditions are met:

- A.** The non-contiguous parcel is in the same service area as that served by the eligible capital facility.
- B.** The non-contiguous parcel receives a necessary public service from the eligible capital facility.
- C.** The development agreement specifically states the value of the credits to be allocated to each parcel and/or service unit, or establishes a mechanism for future determination of the credits.

110-6.6 Uneven allocation of credits.

- A.** The development agreement must specify how credits will be allocated amongst different parcels on a per-service unit basis, if the credits are not to be allocated evenly. If the development agreement is silent on this topic, all credits will be allocated evenly amongst all parcels on a per-service unit basis.

110-6.7 Use of reimbursements.

- A.** Funds reimbursed to developers from impact fee accounts for construction of an eligible capital facility must be utilized in accordance with applicable law for the use of city funds in construction or acquisition of capital facilities, including A.R.S. § 34-201 et seq.

110-6.8 Deferral of fees.

- A.** A development agreement may provide for the deferral of payment of development impact fees for a residential development beyond the issuance of a building permit; provided that a development impact fee may not be paid later than 15 days after the issuance of the certificate of occupancy for that dwelling unit. The development agreement shall provide for the value of any deferred development impact fees to be supported by appropriate security, including a surety bond, letter of credit, or cash bond.

110-6.9 Waiver of fees.

- A.** If the city agrees to waive any development impact fees assessed on development in a development agreement, the city shall reimburse the appropriate development impact fee account for the amount that was waived.

110-6.10 No obligation.

- A.** Nothing in this section obligates the city to enter into any development agreement or to authorize any type of credit agreement permitted by this section.

DRAFT

ARTICLE 7 – OVERSIGHT OF DEVELOPMENT IMPACT FEE PROGRAM

110-7.1 Annual report.

- A.** Within 90 days of the end of each fiscal year, the city will file with the city clerk an unaudited annual report accounting for the collection and use of the fees for each service area and must post the report on its website in accordance with A.R.S. § 9-463.05(N) and (O), as amended.

110-7.2 Biennial audit.

- A.** In addition to the annual report described in this article, the city will provide for a biennial, certified audit of the city's land use assumptions, infrastructure improvement plan and development impact fees.
- B.** An audit pursuant to this section must be conducted by one or more qualified professionals who are not employees or officials of the city and who did not prepare the infrastructure improvement plan.
- C.** The audit will review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development impact fees assessed, collected, and spent on capital facilities.
- D.** The audit will describe the level of service in each service area, and evaluate any inequities in implementing the infrastructure improvement plan or imposing the development impact fee.
- E.** The city shall post the findings of the audit on the city's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.
- F.** For purposes of this section a certified audit shall mean any audit authenticated by one or more of the qualified professionals conducting the audit pursuant to subparagraph **B** above.

CHAPTER 111 - INFILL INCENTIVE DISTRICTS

ARTICLE 1 - IN GENERAL

111-1.1 Definitions

- A. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A

Adaptive reuse means the conversion of historic or obsolescent building(s) from their original or most recent use to a new use representing compatible and appropriate change.

B

(intentionally left blank)

C

Commercial development means all buildings and lots within the territorial limits of the city, other than residential dwelling units.

Cottage industry means a business as defined in **Chapter 102** of this Ordinance.

D

Dwelling unit means a room or group of rooms within a building or structure containing cooking accommodations. An apartment, manufactured or modular home, live/work unit, shall be considered dwelling units, but a motel room or hotel room is not considered a dwelling unit under the provisions of this article.

E; F; G; H; I; J; K; L

(intentionally left blank)

M

Manufactured home space means any lot or space, but not necessarily located, in a manufactured home park or manufactured housing subdivision.

N

New business means new construction or 51 percent reconstruction of the total building square footage of an existing building. For the purposes of this article, a new business is not an existing business, which has only changed ownership.

O; P

(intentionally left blank)

Q

Qualifying commercial development means new or expanding developments that will be:

- (1) Legal and conforming upon project completion;
- (2) In possession of all required development approvals pursuant to city regulations, process, procedures and policies;
- (3) Occupying vacant property or replacing dilapidated buildings, or if expanding an existing business facility by at least 1,000 square feet and increasing the number of employees by ten percent.

R; S; T; U; V; W; X; Y; Z

(intentionally left blank)

111-1.2 Infill incentive district creation and boundaries

- A.** *Established.* There is established, pursuant to the authority granted in A.R.S. § 9-499.10(A), an infill incentive district called the Original Townsite infill incentive district.
- B.** The Original Townsite infill incentive district includes the area bounded by Bell Road to the north, El Mirage Road to the east, Greenway Road to the south and Dysart Road to the west and depicted on the below diagram, **Figure 111-1a**.

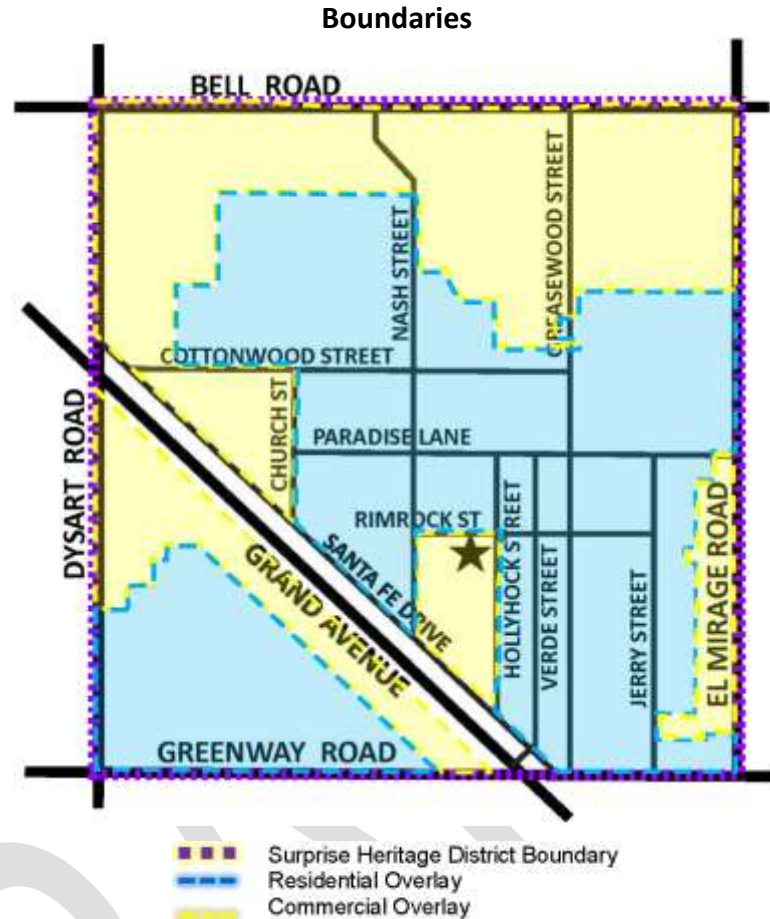


Figure 111-1a

111-1.3 Original Townsite infill incentive district plan

- A.** Chapter 111 of this Code shall be referred to as the "infill incentive plan" as required by A.R.S. § 9-499.10(B). The infill incentive plan is adopted as a means to encourage redevelopment within the area of Surprise known as the original Townsite.
- B. Incentives.**
 - (1) Residential development. Any new residential development on parcels zoned either as SHD-RO or as SHD-CO shall receive a 100-percent waiver of City of Surprise development impact fees.
 - (2) Commercial development, on parcels zoned either as SHD-RO or as SHD-CO.
 - a. New or expanding qualifying commercial developments within the Original Townsite infill district may receive a 100-percent waiver of building permit, building plan review fees, and/or City of Surprise development impact fees.

- b. Cottage industry businesses affiliated with a local-oriented small business promotion organization (such as "Local First Arizona") shall be exempt from paying the annual City of Surprise business license fee. Proof of such affiliation must be presented annually to the city.
- C. *Application for incentives under plan.* Persons developing residential property per the standards listed in (B)(1) above shall automatically receive the incentive at time of issuance of a building permit. Commercial property within the Original Townsite infill district wishing to receive incentives under the Original Townsite infill incentive plan shall submit an application to the community development director. The community development director shall process and submit the request to the City Council for final approval.
- D. *Original Townsite specific plan.* The City of Surprise "Specific Plan for the Revitalization of the Original Townsite", adopted on May 23, 2002 by Resolution No. 02-104, shall be the master plan for development in the infill incentive district along with other regulations adopted by the City Council.

PLANNING AND ENGINEERING DESIGN STANDARDS (PEDS)



November 23, 2020

VOLUME 1: PLANNING DESIGN STANDARDS

Table of Contents

<u>INTRODUCTION</u>	<u>1</u>
<u>CHAPTER 1 – STANDARD REQUIREMENTS FOR ALL LAND USES</u>	<u>2</u>
1.1 INTRODUCTION	
1.2 OPEN SPACE DESIGN	
1.3 CIRCULATION DESIGN	
1.4 LANDSCAPE AND STREETScape DESIGN	
1.5 BUILDING FORM AND ARCHITECTURE	
1.6 GRADING & DRAINAGE DESIGN AND FLOODWAYS	
1.7 UTILITY SCREENING	
1.8 ART IN PUBLIC PLACES	
 <u>CHAPTER 2 – NEIGHBORHOOD LAND USES</u>	 <u>15</u>
2.1 GENERAL LAND/SITE DESIGN & DEVELOPMENT	
2.2 OPEN SPACE DESIGN AND PUBLIC PLACES	
2.3 CIRCULATION DESIGN	
2.4 LANDSCAPE AND STREETScape DESIGN	
2.5 BUILDING FORM AND ARCHITECTURE	
2.6 EDGE TREATMENT AND TRANSITIONS	
2.7 RESIDENTIAL SOLID WASTE GUIDELINES	
 <u>CHAPTER 3 – COMMERCE, OFFICE, AND MIXED USE LAND USES</u>	 <u>38</u>
3.1 GENERAL LAND/SITE DESIGN AND DEVELOPMENT	
3.2 OPEN SPACE DESIGN AND PUBLIC PLACES	
3.3 CIRCULATION DESIGN	
3.4 LANDSCAPE AND STREETScape DESIGN	
3.5 BUILDING FORM AND ARCHITECTURE	
3.6 EDGE TREATMENT AND TRANSITIONS	
3.7 OTHER CONSIDERATIONS	
 <u>CHAPTER 4 – BUSINESS PARK AND INDUSTRIAL LAND USES</u>	 <u>53</u>
4.1 GENERAL LAND/SITE DESIGN AND DEVELOPMENT	
4.2 CIRCULATION DESIGN	
4.3 LANDSCAPE AND STREETScape DESIGN	
4.4 BUILDING FORM AND ARCHITECTURE	
4.5 EDGE TREATMENT AND TRANSITIONS	

<u>CHAPTER 5 – ENVIRONMENTALLY SENSITIVE LANDS STANDARDS</u>	<u>59</u>
5.1 GENERAL LAND/SITE DESIGN AND DEVELOPMENT	
5.2 WALLS: PERIMETER, PRIVACY AND RETAINING	
5.3 ROADWAYS	
5.4 WATER FEATURES	
5.5 TRANSITION STANDARDS AND EDGE TREATMENTS	
5.6 HILLSIDE DEVELOPMENT AREA	
 Appendix A – Glossary of Terms	 68
Appendix B – Public Right of Way & Public Spaces Plant List	77
Appendix C – Low Water Use Drought Tolerant Plant List	83

VOLUME 2: ENGINEERING DEVELOPMENT STANDARDS

TABLE OF CONTENTS

<u>CHAPTER 1 – POLICIES AND ENGINEERING DEVELOPMENT STANDARDS</u>	<u>1-1</u>
1.1 INTRODUCTION	1-1
1.2 OVERVIEW OF THE ENGINEERING DEVELOPMENT STANDARDS	1-1
1.3 APPLICABLE POLICIES, CODES AND STANDARDS	1-2
1.4 ENGINEERING STANDARDS MODIFICATION REQUESTS	1-3
1.5 INSURANCE REQUIREMENTS	1-3
1.5.1 PERMITTEE LIABILITY	1-3
1.5.2 INSURANCE LIMITS	1-3
1.5.3 EFFECTIVE TIMEFRAME OF INSURANCE	1-4
1.5.4 INSURANCE OF PERMITTEE'S AGENTS, CONTRACTORS AND SUBCONTRACTORS	1-4
APPENDIX 1-1 ENGINEERING STANDARDS MODIFICATION REQUEST SUMMARY FORM 1-1-1	
<u>CHAPTER 2 – LAND DEVELOPMENT DESIGN AND CONSTRUCTION STANDARDS</u>	<u>2-1</u>
2.1 DEVELOPMENT PLANS AND SUPPORTING DOCUMENTS	2-1
2.2 ENGINEERING SERVICES DIVISION REVIEW TIME & FEES FOR DEVELOPMENT PLANS	2-2
2.3 DEVELOPMENT IN PHASES	2-2
2.4 PROJECT ABANDONMENT	2-2
2.5 RIGHT-OF-WAY ACQUISITION FOR A PROPOSED DEVELOPMENT	2-2
2.6 FIRE DEPARTMENT ACCESS REQUIREMENTS	2-3
2.7 PUBLIC STREET LIGHTS	2-4
2.7.1 STREET LIGHT PLAN	2-4
2.7.2 STREET LIGHT IMPROVEMENT DISTRICT (SLID)	2-4
2.8 SOLID WASTE VEHICLE ACCESS AND ROUTE DESIGN	2-4
2.9 CONSTRUCTION PERMITS	2-4
<u>CHAPTER 3 – STREET DESIGN STANDARDS</u>	<u>3-1</u>
3.1 GENERAL INFORMATION	3-1
3.2 VALLEY GUTTERS	3-2
TABLE 3-2 TECHNICAL DESIGN REQUIREMENTS BY STREET CLASSIFICATION	3-3
APPENDIX 3-1 DRIVEWAY PLAN FOR RESIDENTIAL LOT	3-1-1

CHAPTER 4 – TRAFFIC ENGINEERING STANDARDS **4-1**

4.1	GENERAL INFORMATION	4-1
4.2	STREET AND LANE CLOSURE PERMITS	4-1
4.3	TRAFFIC IMPACT ANALYSIS PROCEDURES	4-1
4.4	TRAFFIC CONTROL POLICIES AND PROCEDURES	4-2

APPENDIX 4-1	TRAFFIC IMPACT ANALYSIS (TIA)	4-1-1
--------------	-------------------------------	-------

CHAPTER 5 – STORM WATER STANDARDS **5-1**

5.1	GENERAL INFORMATION	5-1
5.2	DRAINAGE REPORT	5-1
5.3	STREET DRAINAGE	5-2
5.4	LOT GRADING	5-2
5.5	BOX CULVERTS	5-2
5.6	STORM DRAINS	5-3
5.7	OPEN CHANNELS	5-3
5.8	STORM INLETS	5-4
5.9	RETENTION/DETENTION FACILITIES	5-4
5.10	DETENTION FACILITIES	5-6
5.11	DRAINAGE EASEMENT	5-7
5.12	STORM WATER POLLUTION PREVENTION PLAN (SWPPP) CHECKLIST	5-7

APPENDIX 5-1	CHECKLIST FOR STORM WATER POLLUTION PREVENTION PLAN (SWPPP)	5-1-1
--------------	---	-------

APPENDIX 5-2	CHECKLIST FOR CONSTRUCTION SITE SWPPP INSPECTION	5-2-1
--------------	--	-------

APPENDIX 5-3	PRELIMINARY AND FINAL DRAINAGE REPORT GUIDELINES	5-3-1
--------------	--	-------

APPENDIX 5-4	UNDERGROUND RETENTION/DETENTION SYSTEMS STANDARDS AND SPECIFICATIONS	5-4-1
--------------	--	-------

CHAPTER 6 – WATER AND RECLAIMED WATER STANDARDS **6-1**

6.1	GENERAL INFORMATION	6-1
6.2	POTABLE WATER SOURCE	6-2
6.3	POTABLE WATER QUALITY	6-2
6.4	FACILITIES	6-2
6.5	DESIGN CRITERIA	6-2
6.6	RECLAIMED WATER SYSTEM	6-3
6.7	PIPELINE MATERIALS	6-4
6.8	FIRE SERVICES	6-4
6.9	DEPTH AND SEPARATION OF POTABLE AND RECLAIMED LINES	6-6
6.10	AIR RELEASE	6-6
6.11	VALVES	6-6

6.12	SERVICE LINES AND METERS	6-7
6.13	PIPE BEDDING, BACKFILL AND MARKER BALL REQUIREMENTS	6-9
6.14	CONSTRUCTION WATER	6-9
6.15	BACKFLOW PREVENTION DEVICES	6-10
6.16	SITE WATER MODEL REQUIREMENTS	6-10
6.17	NEW OR REPAIRED WATER LINE/SYSTEM TESTING	6-10

APPENDIX 6-1	WATER MODEL REPORT FORMAT GUIDELINES	6-1-1
--------------	--------------------------------------	-------

CHAPTER 7 – SEWER SYSTEM DESIGN STANDARDS **7-1**

7.1	GENERAL INFORMATION AND REQUIREMENTS	7-1
7.2	TYPES OF SANITARY SEWER LINES	7-1
7.3	MATERIALS OF SANITARY SEWER LINES	7-2
7.4	DESIGN CRITERIA OF SEWER LINES	7-2
7.5	LOCATIONS OF SEWER LINES	7-3
7.6	DEPTH AND SEPARATION OF SEWER LINES	7-3
7.7	PIPE BEDDING AND MARKER BALL REQUIREMENTS	7-3
7.8	SEWER SERVICE TAPS	7-4
7.9	SEWER MANHOLES AND CLEANOUTS	7-4
7.9.1	MATERIALS OF MANHOLES	7-4
7.9.2	SPACING OF MANHOLES AND CLEANOUTS	7-5
7.9.3	MANHOLE LOCATIONS	7-5
7.9.4	MANHOLE DESIGN CRITERIA	7-5
7.10	WASTE CONTROL FROM COMMERCIAL DEVELOPMENTS AND MULTI-FAMILY RESIDENTIAL	7-6
7.11	WASTE CONTROL FROM INDUSTRIAL DEVELOPMENTS	7-7
7.11.1	PRELIMINARY TREATMENT FACILITIES	7-7
7.11.2	CONTROL VAULT/MONITORING MANHOLE REQUIREMENTS	7-7
7.11.3	INDUSTRIES REQUIRED TO INSTALL CONTROL VAULTS IN THE BUILDING	7-8
7.12	SEWER LINE CONSTRUCTION	7-9
7.13	SEWER LINE INSPECTION	7-9

APPENDIX 7-1	SEWER TAP PLAN PERMIT APPLICATION	7-1-1
--------------	-----------------------------------	-------

CHAPTER 8 – LANDSCAPING AND IRRIGATION STANDARDS **8-1**

8.1	GENERAL INFORMATION	8-1
8.2	IRRIGATION SYSTEMS	8-2
8.3	IRRIGATION SYSTEMS SUPPLIED BY RECLAIMED WATER	8-3
8.4	CROSS CONNECTION TESTING REQUIREMENTS	8-4

CHAPTER 9 – CONSTRUCTION PLANS **9-1**

9.1	GENERAL REQUIREMENTS	9-1
-----	----------------------	-----

9.2	FINAL RECORDED PLAT SUBMITTAL FORMAT	9-3
-----	--------------------------------------	-----

APPENDIX 9-1	CHECKLISTS FOR THE PREPARATION OF UNIFORM PLAN SETS	9-1-1
--------------	---	-------

<u>CHAPTER 10 – CONSTRUCTION INSPECTION GUIDELINES</u>	<u>10-1</u>
---	--------------------

10.1	GUIDELINES	10-1
10.2	GENERAL REQUIREMENTS FOR INSTALLATION OF UNDERGROUND UTILITIES	10-7
10.3	TRENCH SPECIFICATIONS AND ACCEPTANCE REQUIREMENTS	10-9
10.3.1	DOCUMENTS REQUIRED FOR TRENCHING IN THE CITY OF SURPRISE RIGHT-OF-WAY	10-9
10.3.2	SPECIFICATIONS FOR TRENCHING WITHIN THE CITY OF SURPRISE RIGHT-OF-WAY	10-10
10.3.3	TRENCH TESTING REQUIREMENTS	10-10
10.3.4	TRENCH WARRANTY	10-12
10.4	UTILITY PERMIT PROCEDURES AND REQUIREMENTS FOR UTILITIES WITH FRANCHISE AGREEMENTS	10-12
10.4.1	PAVEMENT CUT SURCHARGE FEE	10-12
10.4.2	MANDATORY BEGIN WORK NOTIFICATION	10-12
10.4.3	TRAFFIC RESTRICTION AND BARRICADING REQUIREMENTS	10-13
10.4.4	ARIZONA BLUESTAKE, INC. AND OVERHEAD HIGH VOLTAGE SAFETY	10-13
10.4.5	CONSTRUCTION STANDARDS FOR EXCAVATIONS (OSHA)	10-13
10.4.6	GENERAL INSPECTIONS	10-13
10.4.7	DRY UTILITY BLANKET PERMITS	10-14
10.4.8	WARRANTY OF WORK	10-14
10.4.9	PERMIT CLOSE OUT	10-15
10.4.10	DEFAULT NOTICE	10-15
10.5	INSPECTION PROCEDURES FOR SUBSTANTIAL COMPLETION AND FINAL APPROVAL OF PROJECTS	10-15
10.5.1	INSPECTION GUIDELINES	10-15
10.5.2	PRE-WALK REQUIREMENTS	10-15
10.5.3	SUBSTANTIAL COMPLETION WALK	10-16
10.5.4	REQUIRED DOCUMENTATION FOR CERTIFICATE OF OCCUPANCY	10-16
10.5.5	COUNCIL ACCEPTANCE	10-17
10.5.6	WARRANTY PERIOD	10-17
10.5.7	WARRANTY WALK	10-17
10.5.8	RELEASE OF WARRANTY FINANCIAL ASSURANCE	10-18

APPENDIX 10-1	CHECKLISTS FOR PROJECT WALKOUT	10-1-1
---------------	--------------------------------	--------

APPENDIX 10-2	CHECKLISTS FOR CONDITIONAL AND FINAL PROJECT APPROVAL	10-2-1
---------------	---	--------

CITY OF SURPRISE SUPPLEMENTAL STANDARD DETAILS

List of Abbreviations

ADA	Americans with Disabilities Act
ADEQ	Arizona Department of Environmental Quality
ADOT	Arizona Department of Transportation
ADWR	Arizona Department of Water Resources
A.R.S.	Arizona Revised Statutes
C of O	Certificate of Occupancy
EDS	Engineering Development Standards
FCDMC	Flood Control District of Maricopa County
FEMA	Federal Emergency Management Agency
LDO	Land Development Ordinances
MAG	Maricopa Association of Governments
MCDES	Maricopa County Department of Environmental Services
MCDOT	Maricopa County Department of Transportation
PEDS	Planning and Engineering Design Standards
SUDC	Surprise Unified Development Code

INTRODUCTION

The purpose of Volume One of the “Planning & Engineering Design Standards (PEDS) Manual” is to communicate to developers, architects, engineers, and other design professionals, the City’s design standards and development expectations for the many and varied land uses in the City of Surprise. The Planning Design Standards are not intended to be viewed as the only solution, but as the baseline for the minimum design expectations necessary for development approval by the City. These design standards are preferred approaches, but alternative solutions that achieve expected protection of existing neighborhoods and the native desert setting may be proposed and considered. The intent is to ensure the creation of smartly designed, sustainable, compatible, quality development that enhances the livability and desirability of the City of Surprise.

The Standards identify key site design and architectural elements, streetscape, right-of-way and on-site landscaping, and connectivity and *multimodal* aspects that are important to the City while providing latitude for creative, innovative solutions to design proposals. The basic nature of these standards affords the necessary flexibility to permit creativity and innovation, which the City encourages, as new technologies, techniques, and products become available as well as to accommodate difficult or unusual site design situations. However, the following Planning Design Standards and all appendices herein are formally adopted in Chapter 107 of the Land Development Ordinance (LDO) and therefore have the full force and effect of law.

Some land uses will be more auto-centric than others, but in all cases an objective is to balance vehicular access with those of alternative modes such as pedestrians, bicyclists, transit/bus, and the potential for commuter/light rail in the future.

In addition to ensuring quality development, these Planning Design Standards are intended to implement the Surprise General Plan 2035 by:

- Increasing pedestrian and *multimodal* connectivity;
- Promoting energy efficient and environmentally sensitive designs;
- Creating sustainably built environments;
- Providing quality development with compatibility between developments;
- Diversifying development in a manner that enhances the value of property;
- Encouraging distinctive development that reinforces Surprise’s “sense of place”.

The following Volume One Planning Design Standards work in conjunction with the Engineering Development Standards found in Volume Two to constitute the Surprise PEDS Manual. Words or phrases expressed using *italics* shall assume the meaning as ascribed in Appendix A herein.

CHAPTER 1: STANDARD REQUIREMENTS FOR ALL LAND USES

1.1 GENERAL LAND/SITE DESIGN & DEVELOPMENT

- A. Existing features of the site, including but not limited to, rock outcroppings, steep slopes, washes, and views of the surrounding mountains shall be incorporated in the planning and design of the development to shape the identity and character of both the development and the open space component to the greatest extent possible.
- B. Sustainable development practices shall be followed when planning the design of any proposed project regardless of its physical location within the City of Surprise. In addition, the provisions and standards found in **Chapter 5: Environmentally Sensitive Lands Standards** herein and the regulations in **Article 2, Chapter 104** of the LDO shall be followed for any proposed project on property that possesses *cultural resources and/or environmentally sensitive features*.
- C. If a development parcel is located adjacent to or encompasses areas identified as open space, trails and *greenways*, in either the Surprise General Plan or Parks and Recreation Master Plan, the development shall be required to provide for and incorporate those areas into the overall site design and the open space network of the development. Conservation of these identified community-wide open spaces, trails, and *greenways* and construction of the improvement within them shall be the responsibility of the developer. These larger community-wide trails shall be platted as a “multi-use trail easement” and stated to allow for public use and access, with maintenance responsibilities falling onto the Homeowners’ Association, unless those open spaces, trails and *greenways* have been dedicated to and accepted by the City of Surprise into the City park system for maintenance responsibilities.
- D. The open space component of a new development shall tie to the City’s broader *multimodal* system, open space system including washes and wildlife corridors, and ultimately to the hierarchy of parks planned throughout the City.
- E. The development’s pedestrian circulation and open space system shall provide for connections to adjacent developments to enhance continuous *multimodal* circulation and open space throughout the City of Surprise. These spaces shall be large enough to also serve as a buffer between incompatible land uses, different development densities, and different development patterns.
- F. All new dry utilities must be placed underground; with the exception of wireless facilities (WF) and 69 KV or larger electric lines.

1.2 OPEN SPACE DESIGN

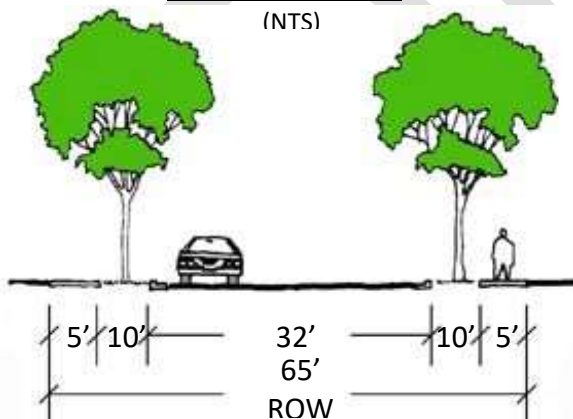
- A. The amount of required open space for any development is based on the zoning of the property and further outlined in **Chapter 104** and **Chapter 106** in the LDO. Different kinds of open space serve different needs (for example, ecological, recreational, entertainment, and culture). While some open space may serve more than one need, there is a particular need to retain natural desert open space and corridors.

- B.** The required open space shall be designed, located, and oriented according to the following:
1. Conservation of the Sonoran Desert vegetation and *wildlife habitats* that are important to native wildlife species and create a “sense of place” for the community.
 2. Individual development parcels that provide opportunities for hiking, cycling and equestrian trails that are safely and conveniently located and provide bicycle racks, benches and/or other amenities that promote their use.
 3. Provide physical connections to adjacent parcels that enhance a structure of continuous open space, streetscape, and a *multimodal* circulation system. Utilize and enhance existing access easements along the CAP canal with additional five- to ten-foot (5'-10') tracts for trails and open space with parallel ROW, limiting backyards/walls distances to less than eight hundred feet (800').
 4. Preservation and/or enhancement of watersheds, major drainage ways, *wildlife corridors*, *cultural resources*, and natural desert open space view corridors to the surrounding mountains.
 5. Include on-site storm water retention facilities as an integral component and useable amenity of the open space network. Plan the site's drainage to lead runoff away from active use areas, pathways, and parking areas while utilizing a Low Impact Design.
 6. Wherever and whenever possible, orient open space for optimal solar access to extend its use throughout the year. Provide user-friendly gathering and rest areas that are shaded, landscaped, lighted, and furnished to invite and encourage use by the public.
 7. Maintain appropriate buffer areas and/or setbacks between wildlife corridors and developed areas to mitigate edge effects on wildlife corridors.
 8. Maintain connectivity to other community and regional parks, trails and greenspaces.
 9. Provide for wildlife permeability within open space corridors and across restrictive sections of major roadways and other potential barriers.
- C.** In addition to the undeveloped buffer areas, the preserved *environmentally sensitive features*, and/or *cultural resources* the following amenities and infrastructure designs are examples of areas/elements that can also be calculated as open space for the purpose of meeting the open space requirements for the specific property:
1. Existing desert washes and *wildlife corridors* if:
 - a. they are incorporated into the overall open space design of the development in their historical unaltered location; and

- b. the buffer area adjacent to such wash/corridor is improved with a multi-use pathway for bicycles, pedestrians and if applicable equestrians.
2. Usable open space such with amenities as outlined in Chapter 2 of the PEDS such as landscaped or hardscaped plazas, wide landscaped tracts at ends of residential blocks, and gathering and sitting areas designed to provide an open park like atmosphere;
3. Community gardens;
4. Protected bike lanes within the right-of-way and multi-use pathways outside of the right-of-way (not sidewalks associated with the street right-of-way);
5. Retention facilities if:
 - a. given a “natural” character (not ditch-like in design) by terracing, berming, and contouring to naturalize and enhance the aesthetics of the basin and constructed with/of natural materials (not concrete lined); and
 - b. landscaped and connected into the overall open space system in a manner that could accommodate amenities as outlined in Chapter 2 of the PEDS.
6. If the developer chooses to utilize the Alternative Local Street cross section (see **Illustration 1A**) in lieu of the Standard Local Street cross section (see **Illustration 1B**) then the entire *landscape strip* may be calculated as open space even though the *landscape strip* is within the public right-of-way. The excess *landscape strip* must exceed standards by a minimum of five (5) foot for open space credit to apply.

ILLUSTRATION 1A

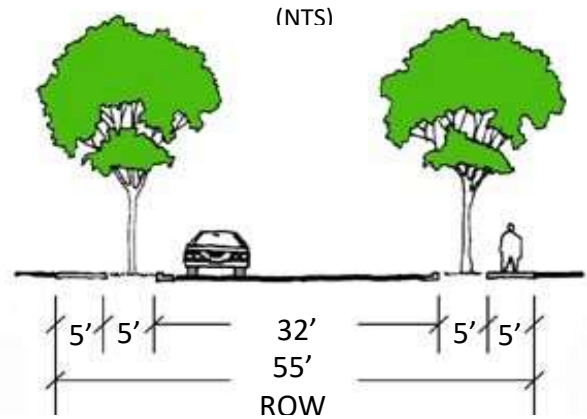
(NTS)



Alternative Local Street: Provides a 10 foot landscape strip rather than the standard 5 foot; the entire landscape strip (10 feet) may be calculated as open space.

ILLUSTRATION 1B

(NTS)



Standard Local Street: Provides a 5 foot landscape strip.

1.3 CIRCULATION DESIGN

A. ROADWAY DESIGN.

1. The road system shall be designed to permit the safe, efficient and orderly movement of vehicles, bicycles and pedestrians; meet the needs of present and future populations served; have a simple and logical pattern; respect natural features and topography, promotes street life and activity and; present an attractive streetscape.
2. There shall be no development of roadways built to freeway, highway, or parkway standards unless and until that roadway and roadway alignment is shown in the Roadway Systems Element of the Surprise General Plan 2035 as a proposed roadway; unless an amendment to the General Plan is approved.
3. All proposed public rights-of-way shall be developed with interconnected streets, sidewalks and pathways to accommodate multimodal travel and comply with ADA requirements. Travel modes may include but are not limited to, vehicles, Neighborhood Electric Vehicles (NEV), pedestrians, bicycles, public transit and, where appropriate equestrian.
4. All parkway, arterial and collector streets shall be designed with on-street bicycle lanes, a minimum of five feet (5') in width.
 - a. Parkway and arterial streets shall provide protected bike lanes.
 - b. The collector streets may use striping to delineate the on-street bike lane.
5. All parkway, arterial and collector streets shall separate vehicular traffic from pedestrian uses by utilizing detached sidewalks that create a *landscape strip*. The *landscape strip* should be designed to allow landscape plantings, including but not limited to street trees, and in a manner that utilizes LID design for watering. Plant material should not impact either the drive lane or the sidewalk with low overhanging branches or root upheaval. For arterial and collector streets the sidewalk typically will run parallel to the street with the *landscape strip* between curb and sidewalk being between eight feet to sixteen feet (8'-16'-) in width for the specific type of street per the Engineering Development Standards outlined in Volume Two.
6. Collector streets shall be designed to the street widths necessary to serve the planned intensity and density of land uses, the number of average daily trips generated by those uses, at the appropriate service level acceptable to City, as demonstrated by the required Traffic Impact Analysis (TIA).
7. All existing and proposed street alignments and connections shall provide direct routes to local destinations such as neighborhood commercial centers, schools, parks and other common destinations in order to: encourage greater use of streets by pedestrians and cyclists; eliminate concentration of traffic on just a few roads; and avoid the use of

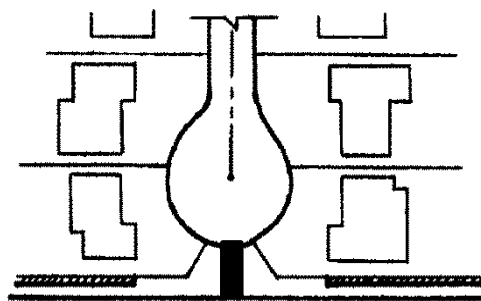
overly circuitous street layouts and cul-de-sacs, unless physical site constraints require modifications to the connections and alignments.

8. The intersection of two (2) streets shall be at right angles with one another; except when constrained by topography and approved by the City Engineer.

B. CUL-DE-SAC DESIGN.

1. Cul-de-sacs may be permitted only to accommodate specific site conditions, such as natural topographical constraints when all other design options have been exhausted.
2. When adjacent to a parkway, arterial, collector road, community trail, or regional drainage corridor a cul-de-sac shall be designed so that the bulb end provides a minimum thirty foot (30') wide landscaped open space tract that directly connects the cul-de-sac to the parkway, arterial, collector road, trail, or corridor. This open space area shall be designed with a paved walkway/trail to allow pedestrian and bicycle access to the larger community circulation and/or open space systems. (see **Illustration 3**).

ILLUSTRATION 3



*Arterial &/or Collector Street
Community Trail, or
Regional Drainage Corridor*

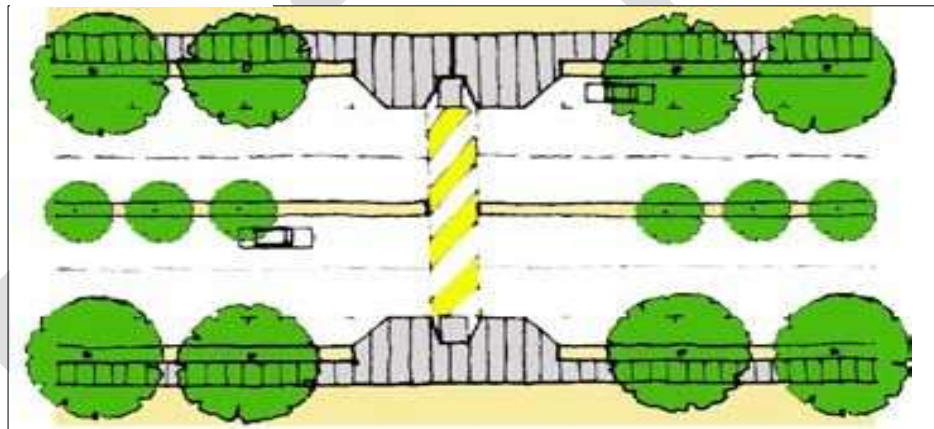
Provide landscaped open space and connectivity by opening the subdivision perimeter fence at the end of abutting interior cul-de-sac streets.

C. MULTIMODAL/MULTI-USE PATHWAY DESIGN.

1. The pedestrian network in all new development shall consist of both:
 - a. Sidewalks that provide continuous direct routes and connections internally to neighborhood parks and externally to adjacent arterial and collector streets to provide safe routes to places where people want to go - including homes, schools, parks, recreation, *third places* and neighborhood shopping areas, public services, and transit.
 - b. Multi-use pathways (associated with the open space and greenways) designed to accommodate pedestrians and cyclists, and where necessary equestrians, that are an integral component of the open space system and that facilitates the interconnectivity to different neighborhoods, adjacent developments, and the larger community and regional pathways and open space systems.

2. Developments that either contain, are adjacent to, or can directly connect to a Community and/or Regional Trail/Path, as shown in the Surprise Parks and Recreation Master Plan, shall both design the pedestrian and bicycle trails/paths as outlined and provide the minimum easements as delineated in the said Master Plan. Equestrian trails shall also be considered; where appropriate and adjacent to the "Regional Path" as shown on the Surprise General Plan 2035 and the Surprise Parks and Recreation Master Plan.
3. Where multi-use pathways cross arterial streets, the pathway shall comply with ADA requirements and include safety measures; such as bicycle and pedestrian activated signals, median refuges, warning signs for both motor vehicles and pathway users, special street markings or striping, and barrier posts ("bollards") that are spaced widely enough to permit cyclists and wheelchair user's easy passage but prevent motor vehicle access (see **Illustration 4** below).

ILLUSTRATION 4



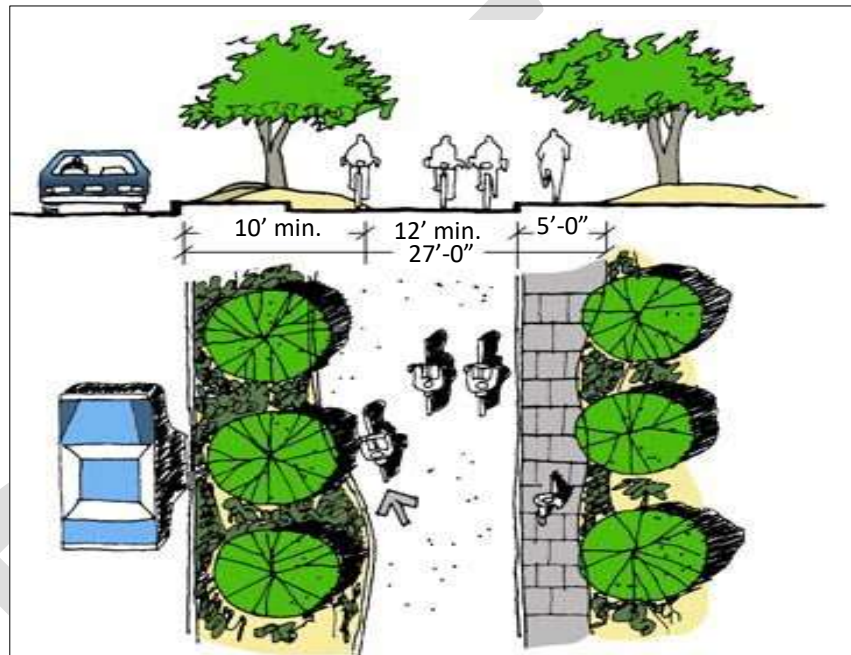
Special markings shall be required where pathways intersect major arterial streets.

4. A multi-use pathway shall be designed to be, at a minimum, ten feet (10') wide for two-way pedestrian and bicycle movements. The pathway may be either a single or split pathway provided there is a minimum hard-surface width of five feet (5') for pedestrians and five feet (5') for bicycles and skaters.
5. Multi-use pathways shall be placed within tracts or public use easements and located outside of the public right-of-way to provide pedestrians, cyclists and other users' alternate means of moving throughout the development via a complete and continuous separation from vehicular traffic. Where the pathway is adjacent and parallel to the roadway a minimum ten foot (10') wide landscaped *landscape strip* shall be provided to separate the street from the pathway (see **Illustration 5** below).
6. Where pathway corridors are also designed for use by equestrians, the minimum width of the total pathway right-of-way, including a minimum landscaped area of ten feet (10') shall be twenty-seven feet (27'), with the additional five foot (5') portion devoted to equestrians constructed of a softer surface consisting of stabilized decomposed granite, a ground

gravel or other compatible dense, yet soft material (see **Illustration 5** below).

7. Under-crossings for multi-use pathways shall be well lit and designed to provide a minimum width of fourteen feet (14') and a minimum overhead clearance of ten feet (10').
8. When equestrian paths are designed they may require additional standards.

ILLUSTRATION 5



Illustrative Example: Multi-use pathway parallel to a roadway.

1.4 LANDSCAPE AND STREETScape DESIGN

A. GENERAL LANDSCAPE STANDARDS.

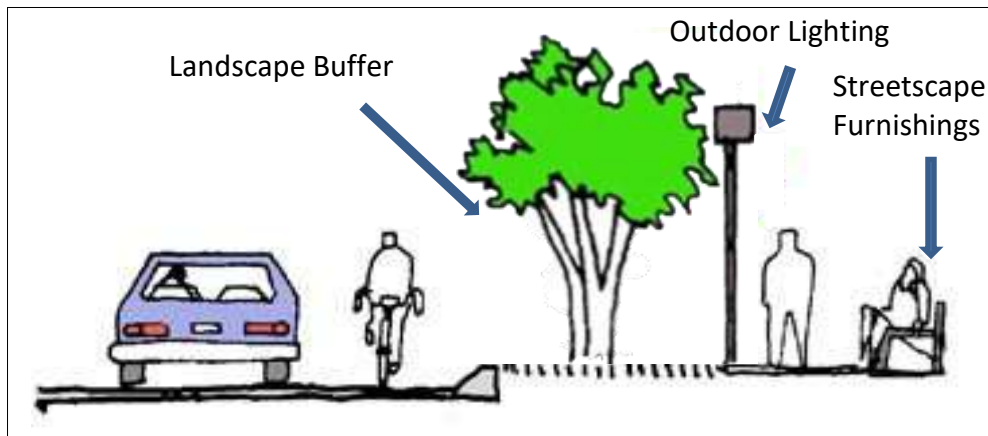
1. Xeriscape methods and low water use drought tolerant plants shall be utilized within all public rights-of-way, public spaces, and landscaped areas associated with all surface parking lots; the plant list for such public spaces is **Appendix B** in PEDS Volume 1 herein. The City's preferred plant list for homeowners associations/property associations for private development open spaces, buffer areas, and the individual homeowner's on-site use is **Appendix C** in PEDS Volume 1 herein.
2. All landscape areas shall be supplied with an efficient irrigation system. Introduced landscape materials shall consist primarily of durable species tolerant of soil compaction, and requiring minimal irrigation, fertilization and maintenance (see **Appendix B** and **Appendix C** herein).

3. The landscape design should strive to visually create a larger massing of a single color groundcover and/or shrub with an accent color rather than being seen as a number of individual plants.
4. The use of turf shall not be allowed in any public rights-of-way. The use of natural turf outside of the public rights-of-ways shall be limited to twenty percent (20%) of the total landscaped area; excluding artificial turf and designated turf areas on a single family lot, when required in retention basin, within public parks, and golf courses.
5. Retain native trees and cacti and incorporate it into the project unless determined to be unsalvageable by a licensed landscape professional (refer to **Chapter 107** of the LDO).
6. Any landscape design in the City of Surprise shall comply with the provisions of the city's Water Conservation regulations (**Chapter 58; Article VII**) and in particular the specific limitations regarding the use, design, location and installation of fountains or water features.
7. Landscaping maintenance of the center medians within those streets classified as Parkways and Arterial streets shall be the responsibility of the City of Surprise after acceptance.
8. Additional standards for Neighborhood Developments, Commerce, Office and Mixed-Use Developments, and Business Park and Industrial Developments may be found respectively in **Articles 2, 3 and 4** herein. Additionally, adherence to the landscape regulations in **Chapter 107** of the **LDO** shall be required.

B. GENERAL STREETSCAPE STANDARDS.

1. Landscape medians within the right-of-way shall utilize "Low Impact Development" methods to capture first flush stormwater, refer to **Section 1.6** herein and meet the requirements of Volume Two Engineering Development Standards; Chapter 8 of the PEDS.
2. To encourage high pedestrian usage and reinforce the community's *multimodal* circulation system the street rights-of-way shall incorporate landscaping, outdoor lighting and, when determined by the City, appropriate streetscape furnishings along arterial and collector roadways. (See **Illustration 6** below).

ILLUSTRATION 6



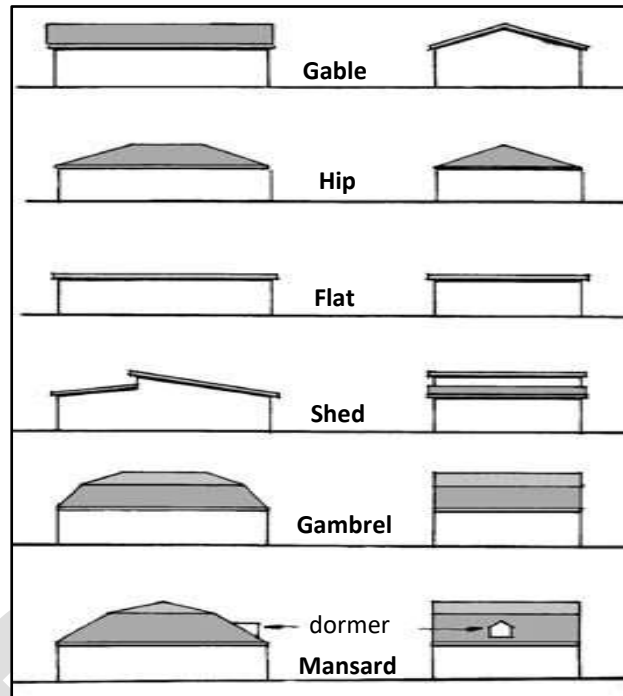
Landscaping between street and detached sidewalks create an intimate streetscape.

1.5 BUILDING FORM AND ARCHITECTURE

- A. High quality “stylized” or “theme” architecture is permitted, as long as it incorporates the architecture of the area and maintains continuity with the community as a whole.
- B. Buildings shall be designed and oriented to minimize heat gain and maximize pedestrian shade opportunities; including materials, elements, and details (i.e. extended or cantilevered roof eaves, thickened building walls, awnings).
- C. The City strongly encourages all new buildings to meet Leadership in Energy and Environment Design (LEED) certification standards; and building sites and development in general to utilize Low Impact Development (LID) technologies.
- D. All exterior elevations shall provide architectural detailing (360° architecture) by the consistent use of color, patterning, finish, type and application of materials, and the wrapping of materials around onto adjoining walls of the structure to provide design continuity and a finished appearance to the building.
- E. Flat monolithic facades and large unvaried rooflines are not permitted. The building façade shall utilize recessed entryways and windows, groupings of windows, horizontal and vertical offsets and reveals and three-dimensional detail between surface planes, to create shadow lines and break up long continuous flat wall areas.
- F. The use of architectural features such as three-dimensional cornice treatments, enclosed parapet wall forms and details, and overhanging eaves shall be utilized to enhance the architectural character of the roof.
- G. Solar panels located on rooftops shall be placed consistent with roof pitch, and sized to appear as an integral part of the overall roof design. The solar panels may be used as the roof structure itself (e.g. carports, shade structures, patio covers).

- H. When appropriate to the style of a building, a variety or combination of roof forms are preferred as a means of adding visual interest and diversity to the City's "roof horizon" and to avoid the "sameness" of roof styles. The typical roof types are gable, hip, flat, shed, gambrel and mansard style roofs as shown in **Illustration 7**.

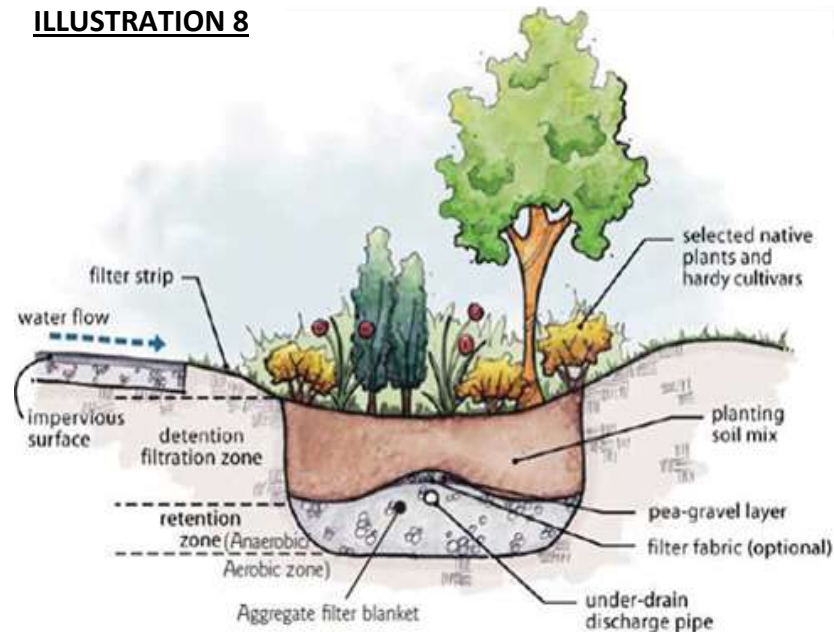
ILLUSTRATION 7



1.6 GRADING & DRAINAGE DESIGN AND FLOODWAYS

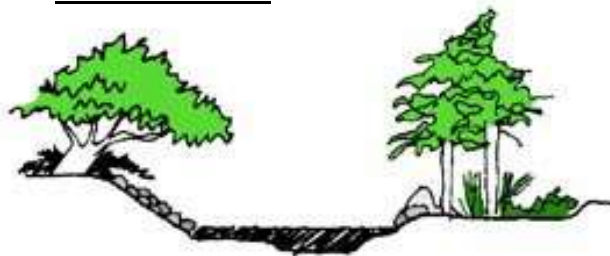
- A. Washes and drainage patterns shall be maintained in their historic location. Mass grading of parcels over five acres (5 ac) in size shall require additional approval from the Community Development Director; phased grading of a development is the preferred method. The grading concept for any site shall be a balanced cut and fill on the site to limit damage to the natural topography; except in the case of approved and permitted mining activities.
- B. Low Impact Development (LID) construction methods to meet the needs of both on-site and off-site stormwater drainage, such as but not limited to, bioswales, bioretention planters, and strategic use of water features shall be implemented to both improve stormwater management and enhance the built environment of the development (see **Illustration 8** below).

ILLUSTRATION 8



- C. In the event that retention basins are required, per the drainage analysis, they shall be designed as landscape features rather than large, plain depressions in the site. To the greatest extent possible, basins shall be located and oriented to connect with other open space areas of the development which in turn connect physically, functionally, and visually with open space in adjoining developments/sites.
- D. Design any water harvesting approaches to supplement landscape irrigation, reduce stormwater discharge, and downsize retention facilities.
- E. Where a floodway or wash traverses a development site, the floodway or wash shall be set aside as open space and improved using environmentally sensitive channel and bank stabilization techniques to provide a naturally appearing restored, enhanced and stabilized floodway or wash. Under no circumstance shall the channel or sides of a floodway or wash be paved over in concrete or similar material (see **Illustration 9**).

ILLUSTRATION 9



1.7 UTILITY SCREENING

- A. Above ground ancillary equipment appurtenant to underground utility facilities, such as surface-mounted transformers, electrical panel boxes, pull boxes, pedestal cabinets, service terminals, telephone splice enclosures, or other similar above-ground facilities normally associated with an underground utility system shall be located to the rear of the project site, not located along a street frontage or at the entrance to a development, and shall be decoratively screened from public view.
- B. All residential development site utility equipment including, but not limited to, HVAC equipment, electrical transformers, electrical and telephone panels and switch gear, generators, irrigation backflow prevention devices, natural gas pressure regulators, fire distribution valves, and cable and junction boxes shall be located so as not to be visible from any street, pedestrian way or other public right-of-way. Said utility equipment shall be screened from public view, located within the building structure, or placed underground.
- C. Utility equipment serving large commercial, office, industrial, and civic/institutional buildings shall be located in a utility room(s) within the building structure; or within a separate structure attached to the principal building on the site.
- D. When undergrounding utility support equipment is determined not to be feasible due to a pre-existing land condition such as a high water table or excessive bedrock, or a technical or space limitation problem within the building itself would preclude an indoor location; the utility support equipment shall be located away from abutting streets and screened by one or a combination of the following techniques:
 - 1. An architectural barrier such as a decorative, masonry wall enclosure consisting of sound absorbent and sound scattering wall materials; and/or
 - 2. Landscaped earthen berm having a minimum height of four feet that incorporates planting having a minimum height at maturity of six feet (6'), measured from the top of the berm. Berm landscaping shall consist of a combination of dense shrubbery and clusters of trees having a minimum three-inch caliper trunk measurement; and/or
 - 3. Incorporated/decorated as public art.
 - 4. Chain-link and/or slat fencing shall not be used to satisfy screening requirements for utility and service areas.

1.8 ART IN PUBLIC PLACES

- A. To encourage the creation of more attractive, unique, and aesthetically pleasing social spaces, artwork is encouraged to be integrated into public and private spaces within all types of development and accessible to the public via different multi-use pathway systems.

- B.** Public art invites participation and interaction, adds local meaning, and reinforces the unique character and “sense of place” when incorporated into a development’s outdoor spaces, such as but not limited to plazas and park spaces, subdivision entries, or public facilities. Public art that is designed for public use may be credited as open space if it can be demonstrated that the art meets one of the following options:
1. Building features and enhancements such as customized bike racks, gates, benches, water features, or pedestrian shade screens, which are unique to the development;
 2. Landscape art enhancements such as walkways, bridges, formal plantings or art features within a community garden;
 3. *Murals* or mosaics covering walls, floors, and walk ways. Non-signage *murals* may be painted or constructed with a variety of materials, including the use of imbedded and nontraditional materials;
 4. Sculptures, which can be freestanding, wall-supported or suspended, kinetic, electronic, and made of durable materials;
 5. Community art projects resulting in tangible artwork, such as community non-signage *murals*, sculptures, or kiosks;
 6. Spaces for regular artistic expression of performance art as well as the creation of artwork which is experienced by an audience;
 7. Community accents at intersections, at neighborhood gathering locations, or in neighborhood parks such as statues, animal feeders or baths, artistic variations on standard street furniture elements, water features, or place markers;
 8. Temporary artistic installations in social settings or permanent location(s) in which artwork is regularly relocated or rotated to;
 9. Artistic design on utility boxes or screening of the utility boxes.
- C.** Art work on or adjacent to roadways and public right-of-way shall not be in conflict with traffic safety, such as covering signs or reducing sight visibility.

CHAPTER 2: NEIGHBORHOOD LAND USES

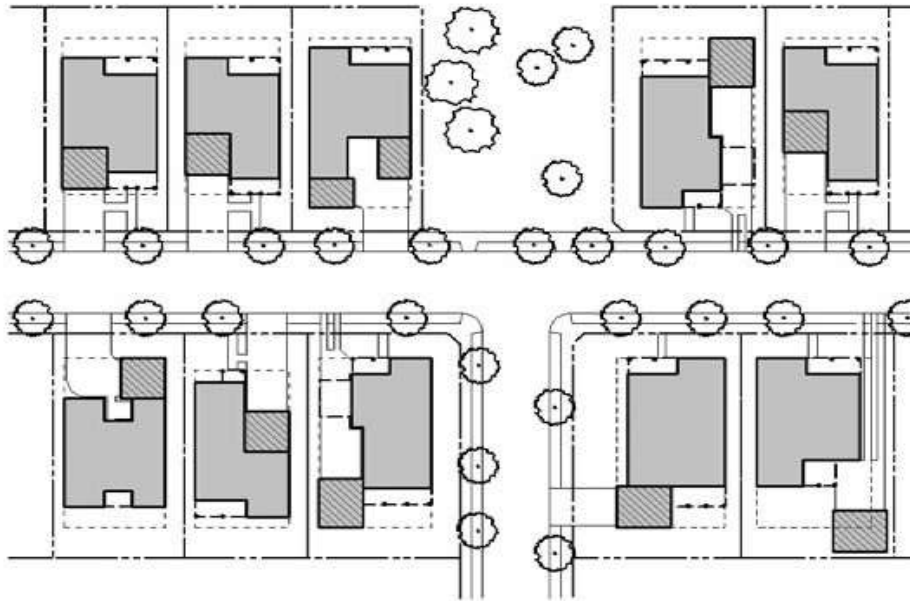
2.1 GENERAL LAND/SITE DESIGN & DEVELOPMENT

- A. The development plan shall be interconnected through the open space, landscaping, and its visual design characteristics.
- B. Large development plans proposed for phased development shall be planned and designed so that each phase is complete and can exist independently in terms of the functionality of its infrastructure and circulation systems as well as the drainage.
- C. When allowed, high-density residential and non-residential development shall be located within mixed-uses projects or adjacent to, and oriented toward, the arterial and/or collector roadways, transit/bus services, and the community's pedestrian circulation and trail system.
- D. Subdivision and street layout, lot orientation, and home design and siting, shall utilize the most advantageous solar orientation, climatic, and environmental conditions of the development site.
- E. Design of accessory elements such as group mailboxes and security huts and gates, transit/bus shelters, and streetscape shall be compatible with the architectural style and/or unique theme of the development or neighborhood in which it is located.
- F. Group mailboxes for residential developments shall be placed into an architectural structure that is strategically and conveniently located throughout as a part of the pedestrian circulation system features such as illumination, shade trees and benches for neighbor interaction. All group mailboxes shall be accessible to persons with disabilities.
- G. Multi-family & Non-residential Buildings in the Neighborhood Land Use: Trash and refuse collection containers shall be screened from public view with a six foot (6') decorative masonry wall enclosure and located such that they are not the visual focal point of a driveway or cannot be viewed from a public street. Those sites that can only locate the refuse containers in a highly visible location shall provide screening the containers with decorative latching gates at the opening to the enclosure.
- H. To reduce the impact of the garage dominant architecture garage doors shall not comprise more than forty-five percent (45%) of the total linear frontage of the residential front elevation.
 - 1. Development plans may include up to ten percent (10%) of home products with additional options such as but not limited to front porch or patio that comprises of the remaining front elevation, or balconies within a subdivision may have garage doors up to sixty percent (60%) of the total linear frontage of the residential front elevation.
 - 2. For 3-car garages, garage proportions may be up to fifty percent (50%) on homes. Stalls will be separated such that no more than two (2) stalls are in the same vertical plane or adjacent to each other (i.e., provide a two-foot

(2') offset with architectural trim for at least one (1) stall or provide one (1) stall in a side-entry or tandem configuration).

- I. Subdivisions must create a more diverse street character, especially in the case of homogenous design of lot widths narrower than forty-eight feet (48') that causes numerous long-term conflicts and constraints for city services, design standards, parking, and quality of pedestrian movement over the lifespan of the neighborhood. All residential lots shall incorporate a combination of designs methods for site layout such as but not limited to those below, which can also act as a supplement the quantity and type of designs outlined for residential subdivisions Section 108-2.5 of the LDO (see **Illustration 10** below):
 1. Stagger the building frontage depths between adjacent lots;
 2. A five foot (5') or greater recess for the garage from the front plane of the home;
 3. A porte-cochere;
 4. A garage located in the rear of the lot utilizing a single car drive adjacent to the home or accessed from an alley;
 5. A side-entry garage product as part of a variety of floor plans; or
 6. Decorative pavers or other driveway treatments to the menu of options.
 7. Garage doors with windows, raised or recessed panels, architectural trim, and/or single garage doors
 8. Architectural treatment above the garage such as windows or balconies
 9. Single-car driveways and garages (including tandem)
 10. Open carports,
 11. Matching, mirrored, and/or shared driveways,
 12. At least 2/3 of home products that fit on narrow lots must be two-story with the second story brought toward the front elevation.
 13. Other designs may be proposed that vary from the strict provisions of this section in such a manner that intent is maintained with such modification

ILLUSTRATION 10



- K.** Traditional Neighborhood Developments (TND) shall provide blended density residential neighborhoods that provide for and encourage different housing types (i.e. detached single-family, attached-product, duplex, townhome, shared court, shared cluster, mansion apartment, and live-work) and varying lot sizes within the same residential development parcel(s) and preferably on the same street rather than separating housing types by whole neighborhoods.

2.2 OPEN SPACE DESIGN AND PUBLIC PLACES

A. GENERAL RESIDENTIAL OPEN SPACE DESIGN.

1. Multi-use pathways and equestrian trails uses as a secondary mode of travel and access throughout neighborhoods and the City shall be landscaped, provided with low level lighting for safety, and furnished to provide rest areas at transition points and other locations as determined to accommodate the specific needs of the community.
2. In the event retention basins are required, per the drainage analysis, they shall be developed as an amenity and landscaped to accommodate active and/or passive recreation. They shall be located and oriented to physically, functionally, and/or visually connect with other open space areas and the abutting open space of neighboring development plans.
3. Retention basins with a bottom area in excess of one-half acre (1/2ac), shall be designed, turfed in a manner to accommodate a play/sport field rather than being landscaped with decomposed granite. All structures and play equipment are to be located above the 100-year, 2-hour high water line and an ADA path provided to the structures.

4. When naturally occurring desert washes are present, the development plan's drainage shall be designed to allow storm water retention to meander throughout as a greenbelt and multi-use path, simulating natural filtration lands, as opposed to constructing a series of separate and distinct basins.
5. Open space shall be evenly distributed and connected throughout the development plan and constructed in conjunction with the approved phasing plan; if applicable. Exceptions may be made, if approved by the Community Development Director, when natural washes and floodways account for the required open space acreage.
6. The development plan shall provide a backbone network of both on-street bike lanes as well as off-street multi-use pathways to accommodate all levels of cyclists and to provide a safe alternative *multimodal* system, such as open space lots used to break up block lengths. On-street bike lanes will not be calculated as part of the required open space unless they are "protected bike lanes". Off-street multi-use pathways may be calculated as open space.
7. Golf courses shall be designed to be watered using effluent water, reclaimed water, or a renewable water source.
8. Open space within and throughout any residential development plan shall be designed so that usable open space is provided within one thousand three hundred and twenty feet (1,320') of every residential lot.
 - a. Access to park and open space areas shall be direct from a street or through designated access between lots.
 - b. Such accesses shall be a minimum of thirty feet (30') in width to prevent a long, narrow, "tunnel" effect between adjoining homes and fences.
 - c. View fences may be constructed along the adjacent private property lines along the access.
 - d. Adjoining houses are encouraged to provide windows facing the access to provide a sense that the space is being observed and is not isolated.

B. AMENITIES AND RECREATION SINGLE-, TWO, AND THREE-FAMILY DEVELOPMENTS

1. Public open space shall conform to the goals and standards of the parks and trails master plan.
2. The following amenity options encourage and enhance areas of usable open space within a neighborhood, such as but not limited to
 - a. Ramada with BBQ and seating area.
 - b. Tot lot area that is a minimum three thousand (3,000) square feet.

- c. Sport court.
 - d. Concrete multi-use court sixty (60) feet by sixty (60) feet minimum.
 - e. Outdoor fitness equipment
 - f. Weight room.
 - g. Putting green.
 - h. Permanent game equipment (such as a horseshoe pit, table tennis, or chess table).
 - i. Frisbee golf course
 - j. Shaded seating
 - k. water fountains, including bottle filling and/or pet access
2. New development plans will provide a minimum number of amenities incorporated into the open space outlined in **Sec 1.2.C.** herein according to the total number of allowed dwelling units. Shown in **Table 2a** below.

Table 2a Number of Amenities Incorporated into Open Space	
Allowed dwelling units	Min. number of amenities provided
Less than 50	1
50-199	3
200-349	4
350-499	5
Greater than 500	6

4. Subdivisions with small/narrow lots, small side setbacks, and medium densities have minimal individual recreation space on each lot. In order to encourage and enhance areas of usable open space, all new residential development plans shall provide a Community amenity according to the following:
- a. The residential development plan exceeds one hundred sixty gross acres (160 ac) with a gross density equal to or greater than four Dwelling Units per Acre (4 DU/Ac); or,
 - b. Any residential subdivision that contains more than twenty-five percent (25%) of lots narrower than fifty feet (50') wide.
 - c. Off-street parking may be required according to use calculations outline in Chapter 108 of the Land Development Ordinances (LDO).
 - d. The size of the land used for a large amenity shall be based on the number of occupants as determined by the following formula:

(Number of dwelling units within the residential development) X
(3.8 persons per dwelling unit) X (100 sf per persons served)

Example: 250 DU X 3.8 persons/DU X 100 sf/persons = 95,000 sf

- e. The large amenity may include but is not limited to a collection of amenities outline in **Section 2.2.B.2**, a community facility, or community pool.

C. ADDITIONAL OPEN SPACE DESIGN STANDARDS FOR TND DEVELOPMENTS.

- 1. The TND development shall be integrated through a combination of multi-use pathways, *greenways*, parks, community and civic facilities, public plazas, and compact open space areas that relate to a compact multimodal system. Landscaping shall be strategically planned and provide for urban plazas and parks in selected areas to encourage pedestrian movement and as well as shaded respites.



- 2. The open space component of any TND shall include some sort of appropriate active outdoor recreational facilities for adults, such as lighted athletic fields, full court basketball courts, tennis courts, volleyball courts, and other similar recreational facilities along with facilities for children such as tot lots.

- 3. Increase the pedestrian experience at the street level as well as in plazas, parks, and recreational open space by providing site amenities such as shade, street furniture, special paving treatments, bikeways, and strategic use of accent and flowering plants to provide both comfort and safety for the residents.



- 4. In order to create user-friendly spaces and to encourage use by the public, the required open space and other public spaces shall incorporate all of the following features to the maximum extent feasible:

- a. A sense of privacy for outdoor seating areas with landscaping, topography, and/or buildings and structures;
- b. A consistent palette of streetscape furnishings, such as lighting, benches, landscaping, shelter, and trash receptacles;
- c. Locate streetscape furnishings in clusters or nodes throughout the entire TND – not just within the “neighborhood core”; and

- d. Use creative surfaces and materials for walking paths and gathering and seating areas that are appropriate for their respective functions. Stabilized porous hardscape, sustainable materials, and water harvesting should be considered.
- 5. Open spaces and outdoor public spaces shall be located to:
 - a. Be shared by adjoining buildings, when within the same site or complex;
 - b. Visually and/or physically connect with open space on adjacent properties and to the community-wide open space network;
 - c. Connect the entrances of multiple buildings on a site to provide meeting and gathering spaces;
 - d. Orient towards views of activities or natural features that provide visual interest;
 - e. Provide a connection between the TND and the greater City of Surprises open space system.
- 6. Each parcel within the TND, developed as a residential subdivision, shall provide both bicycle and pedestrian connections to the TND's backbone open space network.

D. OPEN SPACE DESIGN STANDARDS FOR MULTI-FAMILY DEVELOPMENTS.

- 1. Multi-family developments shall create on-site open space that follow the guidelines outlined in **Section 2.2.B.5.** above, and at a ratio per dwelling unit as outlined in **Chapter 106** of the LDO. This open space shall include surfacing that is ADA compliant, safety features such as lighting, and amenities that enable residents to use and enjoy the open space.
- 2. Common open space that is accessible to all dwelling units via sidewalks or local paths shall provide:
 - a. Features to make the area more functional and enjoyable for a range of users including, but not limited to, paths or walkable areas, landscaping, seating, lighting, play structures, sports courts or other pedestrian amenities. Potential noise issues related to hard court sports such as basketball, tennis and handball may require additional design considerations.
 - b. Common space shall be separated from ground level windows, streets, service areas and parking lots with landscaping, view fence, or other treatments as approved by the Community Development Director or Designee that enhance safety and privacy for both the common open space and the dwelling units.
 - c. The space shall be oriented to maximize afternoon shade, unless site conditions such as topography warrant waiving this requirement by the Community Development Director or Designee.

3. Rooftop decks and terraces may be considered as common open space provided these areas contain amenities such as seating areas, barbeques, fireplaces, recreational space, shade structures and landscaping as an integral component of the areas.
4. On-site indoor recreational areas may be considered as open space if the area(s) are designed for communal use by all residents and provide space for entertaining, gathering, or fitness activities.

2.3 CIRCULATION DESIGN

A. GENERAL STANDARDS.

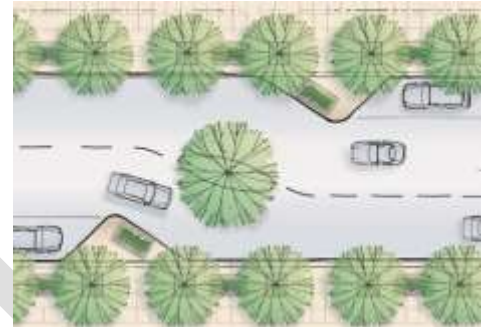
1. All proposed residential developments shall provide a Traffic Impact Analysis (TIA) for the proposed development. If as a result of the traffic analysis, it is determined that a new roadway(s) at the Arterial classification level is necessary to serve the development a General Plan Amendment may be required. The TIA shall be used to determine projected traffic volumes, desired operating speeds, projected traffic types, projected construction phasing, and determine the need for new traffic signals.
2. Local streets shall utilize either the alternative or standard cross section (see **Illustration #1A** and **#1B** herein).
3. Collector streets in new residential developments shall be located to minimize cut-through vehicular traffic on the local streets and through the neighborhoods, by utilizing a modified grid street pattern.
4. Streets classified as a Parkway, Arterial, and/or Collector shall utilize the City's most updated cross section with a detached sidewalk design with the resulting *landscape strip*.

B. ROADWAY DESIGN.

1. Within the hierarchy of existing and proposed two-way City streets, a minimum unobstructed pavement width of twenty feet (20'), with a minimum vertical clearance of fifteen feet (15') shall be provided for fire apparatus access. The unobstructed pavement width for fire apparatus may be reduced to a minimum of twelve feet (12') in developments where median divided streets exist.
2. New collector streets within a residential development may require a landscaped multi-use path in addition to the on-street bicycle lane to connect with a regional trail system.

3. The periodic and strategic placement of traffic calming devices, including roundabouts, chicanes, bulb-outs, and narrow landscaped medians on residential collector and residential local streets shall be encouraged throughout the City to help slow traffic, discourage through neighborhood traffic, and to create a unique sense of place. Traffic calming devices shall not narrow the travel way. Additional traffic calming measures may be approved by the City Engineer on a case-by-case basis.
4. To achieve the community's desire for developing pedestrian-friendly streets, all new residential development shall provide for the use of staggered or off-set parking bays, parking "one-side-only", or other alternative means of accommodating on-street parking of vehicles on local streets; required in any TND residential neighborhood where a shared court, shared cluster, or a 5-pack housing product is approved (see **Illustration 11**).
5. The layout and design of alleys, local streets, cul-de-sacs, and traffic calming devices shall accommodate the width and turning radius necessary for city sanitation and emergency vehicle use (refer to the Volume Two of the PEDS for specifics).
6. Block lengths for "local streets" within the interior of a residential development may range from four hundred to eight hundred feet (400' – 800') in length, with the optimal length being closer to six hundred feet (600') in length in order to create a walkable scale and exterior access points at safe distances from the arterial/collector intersections.

ILLUSTRATION 11



Chicane with parking alternating from side to side.

C ADDITIONAL DESIGN REQUIREMENTS FOR TND DEVELOPMENTS.

1. If the area of the TND is traversed by or adjacent to a proposed collector or arterial street as shown on the Surprise General Plan, the TND shall be designed to continue the street(s) and dedicate the necessary right-of-way within the TND boundaries to accommodate said street unless otherwise approved through a General Plan Amendment approved by the City Council.
2. The collector streets and rights-of-way shall be shared between vehicles (moving and parked), bicycles, and pedestrians and shall be shaded by rows of trees to slow traffic and improve the environment for pedestrians and bicycles. Design conflict between vehicular and pedestrian movement shall be decided in favor of the pedestrian.
3. Different pavement surfaces may be considered, if found to be acceptable by the City Engineer, in order to enhance pedestrian and bicycle safety and comfort or to create an aesthetically pleasing or unique environment.

4. The creation of new dead-end streets shall not be permitted in a TND Development. All thoroughfares shall terminate at other thoroughfares, forming a network. Internal thoroughfares shall connect wherever possible to thoroughfares on adjacent sites or developments, except when constrained by topography.

D. ACCESS.

1. A subdivision development may be permitted “limited access” points to the surrounding collector and arterial streets at a quarter mile ($\frac{1}{4}$) spacing and “full access” points on the half mile ($\frac{1}{2}$) and full mile spacing; where supported by the Traffic Impact Analysis (TIA) and accepted by the City Traffic Engineer.
2. The use of alleys with rear garage configurations and entry access points may be considered as a means of vehicular and pedestrian access to a residential lot.
3. Alleys shall be paved, well-lit and designed for pedestrian connectivity and view-fencing rather than solid fencing along the rear property lines to further enhance the safety, appearance, and use of the alley. Standard Detail cross-sections for alleys can be found in the **PEDS, Volume 2 Engineering Development Standards**.
 - a. Minimum right-of-way or easement width of twenty feet (20’);
 - b. A twelve-foot (12’) wide paved surface centered in the right-of-way, with pavement material, texture, pattern and strength selected to accommodate automobiles, garbage disposal trucks (when garbage pick-up is planned at the rear of the property), pedestrians, and bicycles;
 - c. A four-foot (4’) wide landscaped strips located on either side of the paved area of the alley. Landscaped strips will contain a combination of trees and shrubbery and architectural lighting consistent with the character of the neighborhood. The placement, type, height and spacing of landscape and lighting shall comply with the landscape and lighting standards set forth in this Ordinance;
 - d. Opaque fencing along the rear property line abutting the alley line shall not exceed four feet (4’) in height, except view fences may be permitted up to six feet (6’) in height;
 - e. Ribbon curbs (no gutters) to permit natural recharge of groundwater shall be required; except or unless, because of drainage conditions, additional engineered measures are required by the city manager or designee to facilitate stormwater runoff and drainage;
 - f. No parking shall be permitted on an alley unless parking bays or pull outs adjacent to garages have been included and approved as part of the rear lane design; and

- g. When the alley is also used to collect garbage, storage bins containing trash for pick-up shall be placed on a designated surface integrated into the design of the landscape strip.
4. All lots shall have frontage onto a fully improved publicly dedicated or approved private street developed to “local street” standards and may have access by either the public/private local street or an alley refer to the Volume Two of the PEDS for specifics.

E. CIRCULATION AUXILIARY AMENITIES.

1. The planning and design of public transit and school bus stops within a master planned development and individual neighborhoods shall be considered and should at a minimum include an improved hardscaped space of adequate size for adults and/or children to safely gather and sit.
2. Private “pedestrian-only” walking paths (excluding cyclists, skateboarders, wheelchair, and equestrian uses) are allowed, when approval by the Community Development Director. Where permitted these paths shall:
 - a. Be a minimum of five feet (5') in width; have a maximum grade of five percent (5%) ; be constructed of concrete, asphalt, permeable paving surface, or stabilized decomposed granite material.
 - b. Shall be lighted for pedestrian safety, in accordance with a City approved photometrics plan, and with pedestrian scaled (overhead or bollard style) light fixtures that are compatible with the character of the area, and spaced appropriately to provide an even, non-glare light level along the course of the walking path.
3. **Parking Lots:** Multi-family and non-residential buildings within the neighborhood land use shall be designed in an “up front” manner that locates buildings along the street frontage and the required off-street parking spaces located in the rear or to the side of the structures. Parking may also be designed beneath the structures to avoid interrupting the rhythm of the established streetscape and to make land on site available for gardens and courtyards rather than for surface parking. Parking lots shall be landscaped in accordance with **Chapter 107** of the LDO and utilizing the plant palette list in **Appendix C** herein.

2.4 LANDSCAPE AND STREETSCAPE DESIGN

A. LANDSCAPE STANDARDS.

1. **Private Lots:**
 - a. Individual residential lots shall be designed to minimize the use of turf, including artificial turf, per Chapter 107 of the LDO. New production home builders may not provide a front yard landscape option that includes natural turf. Low water use/drought tolerant

landscaping materials, as listed in **Appendix C** of these PEDS, is preferred overall.

- b. Drip irrigation systems or automatic sprinkler systems shall be required and rain sensors should be utilized.

2. Common Area(s):

- a. Landscaping along sidewalks, multi-use pathways, and “pedestrian-only” walking paths shall include continuous clusters of low-maintenance, drought-resistant, plant materials that require minimum maintenance and can survive without extensive irrigation; and are deep-rooting species that do not extend into the walkway and cause root up-lift.
- b. Trees shall be located along both the sidewalk system and the multi-use pathway system and clustered to form shade canopies when adjacent to seating and rest areas.
- c. Where possible, seating areas should be integrated into the common area and open space landscaping in the form of retaining walls, planter walls and other such landscape architectural treatments; with limited use of freestanding benches.
- d. Different tree species and amenities (i.e. seating, shade, lighting, and materials etc.) shall be used to enhance common area design and to define and identify the hierarchy of the open space areas within and throughout a development.
- e. Irrigation, construction, and plan standards shall adhere to those outlined in **Chapter 107** of the **LDO** and **Appendix D** herein. The specific plant palette utilized shall adhere to City of Surprise Right-of-Way Plant List included herein as **Appendix B** and to the “Low Water Use/Drought Tolerant Plant List” included herein as **Appendix C** of these PEDS.

B. STREETSCAPE STANDARDS.

1. General Requirements for All Development:

- a. Landscape within the public right-of-way, public areas, and common areas of a development shall adhere to the plant palette listed in **Appendix B** herein. When overhead utilities, substations, and utility boxes are present, planting locations will coordinate with utility planting standards such as the APS “Right Tree, Right Place” policy guide.
- b. Landscaping within the street rights-of-way (medians and *landscape strip*) shall include both street trees and shrubs and/or cacti. Local streets shall plant street trees within the *landscape strip* to provide shade to both the street and sidewalk. Arterial and collector streets shall plant street trees and shrubs and/or cacti within the center medians and street trees and shrubs (not cacti)

within the *landscape strip*. Landscape planting shall not obscure traffic signs or the sight visibility.

- c. If the City of Surprise has a designated arterial street “street tree” for the geographic area of the city in which the development is located then the development shall incorporate that street tree into their landscape palette.
- d. Different tree species shall be used to enhance streetscape design and to define and identify the hierarchy of streets within and throughout a development.
- e. Lighting at the sidewalk along “local streets” and in common areas shall maintain a pedestrian scale to aid in the walkability of the development with a total maximum height (pole and light fixture) of twelve feet (12’).
- f. Lighting along all roadways shall comply with the Outdoor Lighting regulations in **Chapter 107** of the LDO per the specific Lighting Zone in which the development is located.

2. Additional Streetscape Requirements for TND Developments.

- a. The TND Development Plan shall identify the specific species of tree(s) that will be planted as the collector and local “street trees” along with a key that identifies which species will be used for the main thoroughfares and the different development parcels throughout the TND development.
- b. Within the “public frontages” the prescribed types of public planting shall be drought tolerant and shall be called out in the application and Development Plan for the TND as part of the uniqueness and texture of the TND. Likewise, public lighting shall conform to the outdoor light regulations in **Chapter 107** of the LDO but the specific design of the lighting standards and fixtures may be unique to the TND.

2.5 BUILDING FORM AND ARCHITECTURE

A. GENERAL STANDARDS.

- 1. All homes shall provide an architecturally integrated, open enhanced entryways designed to engage with the streetscape of at least 60 square feet (60sf). No dimension shall be less than 6 feet in depth as measured from the dwelling façade to the interior edge of the supporting post. Enhanced entryway designs include but are not limited to covered front porches, patios, and plazas.

2. Mechanical equipment and similar utility devices, whether ground level or roof mounted, shall be screened from public view and designed to appear as an integral part of the building, with the exception of solar panels. The mechanical equipment screening shall be included in the overall allowed building height. Mechanical equipment shall be treated to be non-reflective. Electrical meters, service components, and SES cabinets should be screened from public view or designed to appear as an integral part of the building and painted to match the building.
3. Ground mounted mechanical equipment and building projections (other than roof eaves) shall not be located within the required “unobstructed” side yard setback and shall be screened from public view (see **Chapter 106** of the LDO for setback information).
4. All exterior elevations of a residential structure shall provide architectural detailing (360° architecture); not just the front elevation. Window embellishments shall be provided on all homes by adding architectural features which enhance the elevations, e.g. greater variation of window design, different window styles, recesses, surrounds, shutters, lintels and sills, gabled roof features over the windows, etc. Such features must be added to all of the exterior elevations of the structure, including second story windows, to provide interest and relief. In the case of residential construction this material wrap/wainscot shall continue along the side elevations to the point where it meets the side lot perimeter fence return.
5. The City strongly encourages new residential neighborhoods to meet Leadership in Energy and Environmental Design (LEED-ND) certification standards and building sites to utilize Low Impact Development (LID) technologies.
6. Production homebuilders shall provide a minimum of four (4) floor plans, with a minimum of three (3) distinctly different elevations for each floor plan; including a variety of products with front entries facing the street. Additionally, a minimum of three (3) roof pitches/styles/materials/colors, three (3) styles of garage doors, three (3) window designs/embellishments, and three (3) exterior paint colors shall be required as a standard feature to further promote visual interest and architectural diversity.
7. The developer/production home builder shall be responsible for assuring that no two similar rear building elevations and rooflines are allowed on adjacent lots that back to a public right-of-way.
8. The developer/production home builder shall be responsible for assuring that not more than two (2) of the same building elevations are on adjacent lots and on lots directly across the street from one another. For clarification, lots “directly across the street” are those where at least fifty one percent (51%) of the lot’s street frontage is directly across from the street frontage of the lot on the opposite side of the street (measured by extending sided lot lines to the street centerline).
9. Corner lots shall be limited to a single story home and the side elevation fronting the side street shall be fully embellished and the roofline varied.

B. ATTACHED SINGLE-FAMILY DWELLINGS.

1. All buildings shall have their main entrance fronting onto either a street or oriented towards and arranged around a shared open space courtyard.
2. A variety of rooflines styles and heights shall be used as well as building projections and recesses. The structures shall have stylistic architectural design elements on all exposed building elevations. The architecture shall incorporate style-appropriate and varied door and window openings and architectural embellishments. A variety of front and rear porch configurations shall be used to provide functional yet varied architectural integrity to the buildings.
3. Brick, integral colored block, or slump block shall be used (not painted concrete masonry units) for buildings using masonry as the primary material.
4. Flat asphalt shingles shall not be permitted. Clay tile, concrete tile, architectural asphalt shingles, cementitious or fiberglass tiles, and standing-seam or corrugated metal shall be the permitted roofing material. Alternative roofing products shall require city approval.

C. MULTI-FAMILY DWELLINGS.

1. The residential development shall have a building frontage presence to the neighborhood street rather than a parking lot frontage. The front entry shall include a walkway to the street or surrounding neighborhood.
2. All multi-story buildings shall have unified and stylistic design elements present on all sides of the building(s). A variety of massing and building heights and stepping rooflines are strongly encouraged. Straight rooflines should be minimized by using offsets, differing heights, stepping, or different orientations to produce variety within a development.
3. A color palette of earth tones shall be the predominate color used. The use of accent colors is encouraged to provide a festive and lively streetscape. Accent color, different from the dominate wall color, should, at a minimum, be used to accent entryways and special architectural features of a building.
4. Reflective building materials are prohibited; except for the normal use of glass windows. Metallic surfaces, including roof materials, shall be treated to be non-reflective.
5. The use of metal or corrugated metal as the primary building material is prohibited; it may however be used as an architectural accent or decorative element.
6. All buildings shall harmonize architecturally with the residential character of the neighborhood as determined by the Community Development Director or designee.

D. MODEL HOME COMPLEX

1. Guidelines:
 - a. Seventy-five percent (75%) of plans constructed in a model home complex must be "non-garage dominant".
 - b. If any approved product line consists of one plan that provides a significantly recessed garage, that plan must be modeled.
 - c. If any approved product line consists of two or more plans that provide a significantly recessed garage, the number of those plans modeled will be determined by the city manager or designee.
2. Site standards:
 - a. Site design shall comply Sec 106-10.29 of the LDO.
 - b. Landscapes for model home complexes shall comply with the PEDS and Chapter 107 of the LDO.
3. A "zero-step" entrance shall be required for all model homes within the City of Surprise.
 - a. "Zero-step" entry shall have a floor or landing on each side of the primary entrance door. Such floor or landing shall be at the same elevation on each side of the door. Landings shall be level, except for exterior landings, which are permitted to have a slope not to exceed 0.25 units vertical in 12 units horizontal (two percent). Thresholds for such doors shall not exceed one-half-inch in height, and thresholds with changes in level greater than one-quarter-inch shall be beveled with a slope not greater than one unit vertical in units horizontal.
 - b. The city manager or designee may waive the requirement "zero-step" entry if it is found that it would prove to be cost prohibitive. Such cases however, the builder must still provide a zero-step entry into at least one model home and an ADA compliant pathway to all models.
 - c. Model signage. All new model homes and sales areas shall include signage that read - "Ask Us About Accessibility Options."
 - d. Education. An educational DVD shall be available to sales staff and potential homebuyers regarding the benefits of visitability.

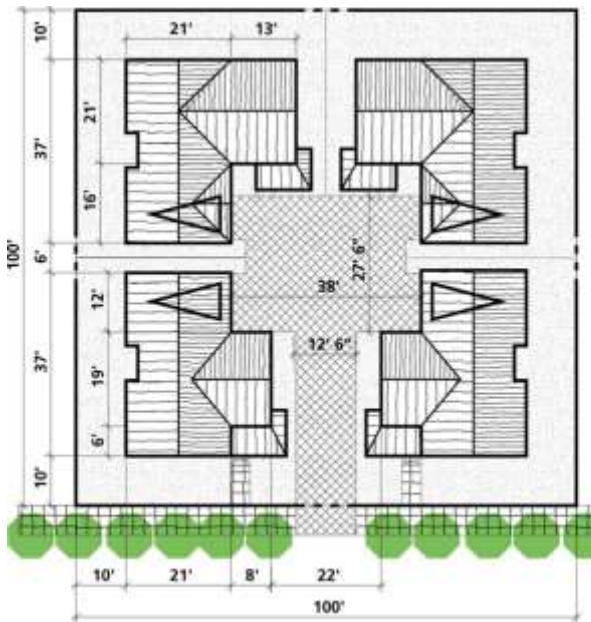
E. ADDITIONAL BUILDING TYPES IN TND DEVELOPMENTS.

1. In order to create neighborhoods of blended densities; to provide a broad choice of housing types for lifelong livability and a diversity of needs; to promote walkability; and to enable appropriately-scaled and well-designed compatible land uses it is important for the TND to consider building types other than what might traditionally be expected.
2. The following four (4) types of housing products shall only be permitted in conjunction with the Traditional Neighborhood Development (TND) Zoning

District (see **Chapter 106, Article 4** of the LDO):

- a. Shared Court: This design consists of a 4-5 of detached dwellings arranged to a defined shared auto court that is typically perpendicular to the street; known as 4-packs and 5-packs (see **Illustration 12** below).

ILLUSTRATION 12 - Shared Court

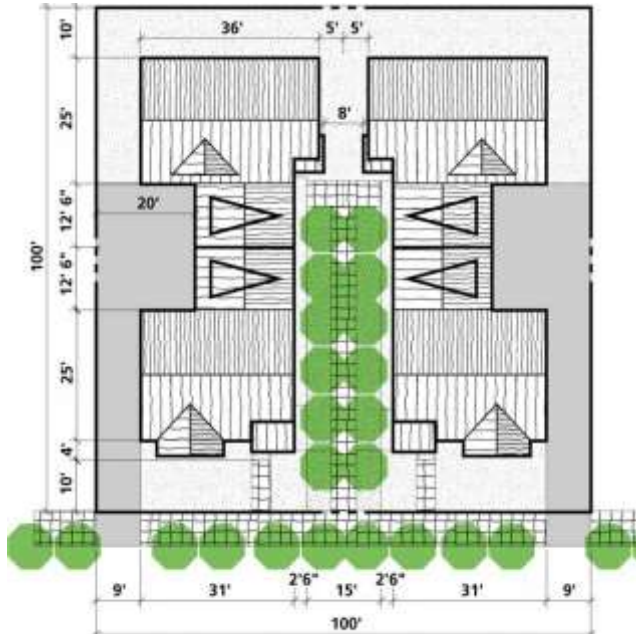


Specifics: (minimum 10,000 SF lot)

- 4-5 attached or detached units
- (1,600–1,850 square foot each) possible.
- Two units face the public street, gives appearance of two single-family homes from street.
- As shown would require condominium ownership. With modifications, may also be possible with units on separate lots oriented toward the shared court as a private street tract.
- Arranged around a shared driveway with special paving that provides both vehicle and pedestrian access. Single access point allows up to 4 off-street parking spaces.

- b. Shared Cluster: The shared cluster takes the place of a private rear or front yard and becomes an important community-enhancing element for this product type. This product type is appropriately scaled to fit four (4) units on an individual lot of ten thousand square feet (10,000 sf) or more. (See also **Illustration 13** below).

ILLUSTRATION 13 - Shared Cluster



Specifics: (minimum 10,000 SF lot)

- 4 units (1,500–1,950 square foot each)
- Arranged around a common green, either attached or detached.
- Intended to allow fee simple ownership, with common green held as a common tract.
- Massing of front units reflects neighborhood patterns of houses on 50' wide lots.

- c. Mansion Apartment: This building type consists of a minimum of 4 side-by-side and/or stacked dwelling units with one shared entry. This product type has all the appearance of a medium-large sized single-family home and is appropriately scaled to fit on an individual lot size of ten thousand square feet (10,000 sf) or more (see **Illustration 14** below).
- d. Rowhouse/Townhouse: This building type is a small to medium sized, typically attached structure that consists of 4–8 rowhouses placed side-by-side that front to a public street. This type may be appropriate in a location that transitions from a traditional detached single-family neighborhood into a higher density, mixed use, neighborhood core (TND), or a transit-oriented development (TOD) land use with the appropriate scale to fit on an individual lot of four thousand square feet (4,000 sf) or more. (See **Illustration 15** below).

ILLUSTRATION 14 - Mansion Apartment



Specifics: (minimum 10,000 SF lot)

- Min of 4 units (1,000-1,400 sq. ft. each; not including garages)
- One shared main entrance area off front porch. Unit division from within structure.
- Street frontage designed to reflect appearance and scale of a single-dwelling house to blend with neighborhood context.

ILLUSTRATION 15 – Row House/Townhome



Specifics: (minimum 4,000 SF lot/DU)

- Consists of 4–8 rowhouses placed side-by-side that
- Front to a public street
- Transitions from a traditional detached single-family neighborhood into a higher

E. NON-RESIDENTIAL BUILDINGS IN THE NEIGHBORHOOD LAND USE.

1. Non-residential structures shall be designed to create transitions to the surrounding residential development with the size, massing and height of the structure relating to the prevailing scale of the adjacent residential neighborhood.
2. Taller buildings shall be made to appear less imposing by stair-stepping building heights and rooflines back from the property lines, breaking up the mass of the building, providing a broader open space/landscape area as foreground for the building, and providing a building frontage presence to the neighborhood street rather than a parking lot frontage.
3. Assembly Uses may be required to provide a traffic study, depending on the specific location.

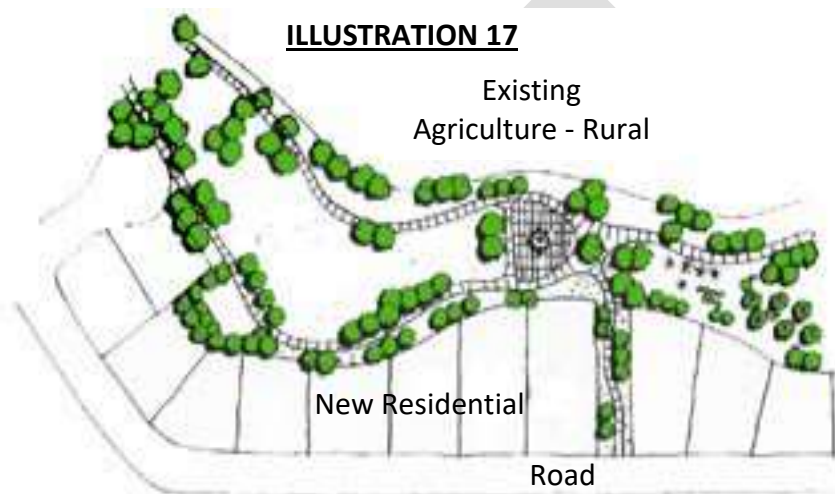
2.6 EDGE TREATMENT AND TRANSITIONS

A. EDGE TREATMENT.

1. No transition or buffer area shall be required if a new development that directly adjoins/abuts an established residential neighborhood is of the

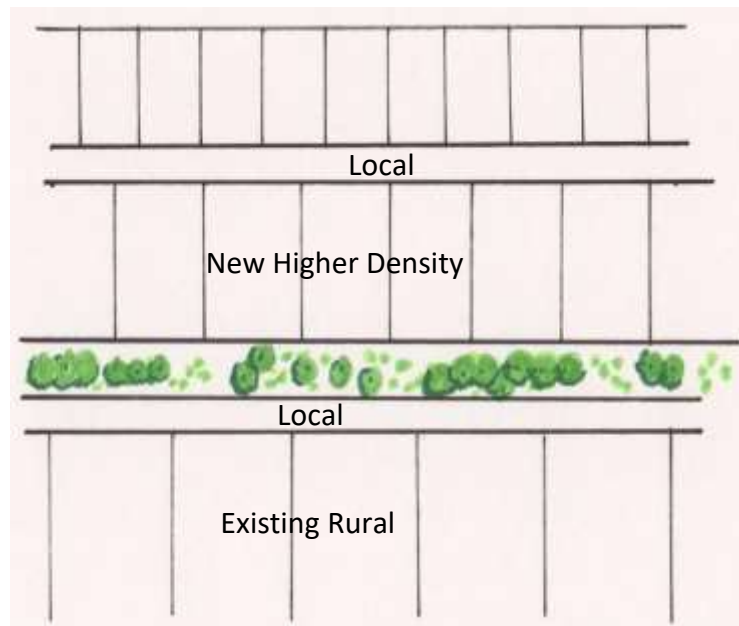
same density and provides lot sizes that are approximately the same size as the existing neighborhood.

2. New residential development proposed for the edge of the urbanized area of the City shall buffer and transition from existing adjacent agricultural or rural developments. Any increased density shall be designed inward onto the new project and/or along the shared urbanized edge.
 - a. Buffer the existing established neighborhood using a landscaped open space tract that is a minimum of one-hundred feet (100') in width along the perimeter between the two neighborhoods (see **Illustration 17** below); and



- b. The open space buffer area shall be designed in a manner to connect to the open space, pedestrian and trail systems within the new development and in a manner that will further accommodate future connections from other adjoining developments as urbanization occurs.
 - c. The buffer area shall be preserved for perpetuity as either a tract or easement, allows public use and access, and calculated as part of the development's open space requirement.
 3. When a new development of higher density proposes to only be separated from an established lower density or rural residential neighborhood by a "residential local" street the new development shall provide a landscaped buffer, a minimum of fifty feet (50') in width, adjacent to the shared local street plus a single row of lots, which are no smaller than one-half the average lot size of the adjacent existing rural neighborhood lots (see **illustration 18** below).

ILLUSTRATION 18



4. New residential developments that directly adjoin /abut a planned or existing open space, trails and *greenways* area, as designated in the Surprise General Plan or Parks and Recreation Master Plan, shall utilize an open style of perimeter fencing rather than a solid or view obscuring perimeter wall along that specific edge of the development.
5. New residential development proposed in those areas that abuts one of the three (3) Employment Character Areas of the City, as shown in the General Plan, shall be responsible for providing the buffer and transition area from the employment character area and not the other way around. The use of appropriate landscaped buffering, lot orientation, stepped building heights, and street design should be utilized in close proximity to these designated areas.

B. ADDITIONAL EDGE TREATMENT STANDARDS FOR TND DEVELOPMENTS.

1. The exterior boundaries for a TND development shall be designed in a manner that provides fifty percent (50%) of the frontages to the greater community that are something other than typical privacy perimeter walls, including but not limited to, open space areas, civic space land uses, mixed-use and multi-family land uses.
2. Residential development parcels, within the TND development, that have home sites backing onto the exterior boundaries of the TND development along public rights-of-way shall provide both a decorative privacy wall and then a landscaped open space tract, a minimum of thirty feet (30') in width, outward towards the greater community along said exterior boundary.

3. If residential lots are platted directly adjacent to an existing residential neighborhood or a vested but undeveloped residential parcel (outside the TND) then those TND lots shall provide a lot size not less than one-half ($\frac{1}{2}$) the size of the existing or proposed adjacent lots as applied to the lot line that borders the existing or vested residential parcel(s) except if lots are separated by a street or open space buffer area that is at least one hundred feet (100') in depth.

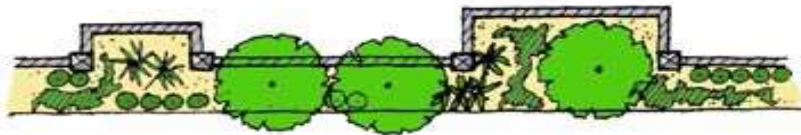
C. TRANSITIONS.

1. Buildings located along the exterior edge of new master plan projects, adjacent to undeveloped land or existing rural development shall either maintain a low profile in terms of height, bulk and massing or increase the width of the buffer area between the two (2) different intensities of use by a distance equal to the proposed building height.
2. Grade changes from the off-site grades along the perimeter of a new subdivision shall be minimized and lots in the new subdivision shall not be more than eighteen inches (18") above or below the abutting lots in the existing subdivision. If a greater grade change is desired or necessary, there shall be a buffer or a gradual grade transition on the new subdivision in order to minimize the change at the property line.

D. SCREENING.

1. In order to promote a more "visually friendly" and open community, the construction of long, unbroken and monotonous expanses of six foot (6') high, solid fences and stucco walls around the perimeter of new single and/or multi-family residential developments is strongly discouraged. If perimeter walls are provided, they shall be designed to include: changes in the surface plane of the wall or fence; variable heights; articulated recesses and wall offsets sufficient in depth to permit landscaped pockets for the planting of significant clusters of mature trees and shrubbery. (See **Illustration 19** below)

ILLUSTRATION 19



2. Walls and fences shall be kept as low as possible and be designed to blend with the site's architecture through the use of similar materials and colors.

2.7 RESIDENTIAL SOLID WASTE GUIDELINES

A. GENERAL STANDARDS.

1. All solid waste collection routes shall meet engineering design criteria (street width and turning radii).
2. Residential refuse/recycle collection. Solid waste collection vehicles require free and clear access to street right of way and clear curbside access to residential solid waste containers placed out for service on designated day of collection. In addition, solid waste collection vehicles require collection routes shall be designed so that collection vehicles can safely access and lift containers without obstruction. (ground or aerial).
3. Solid waste vehicles require 44' – 0" outside turning radius and 28' – 6" inside turning radius. (see detail)
4. Solid waste collection vehicles are approximately 30'-0" long and can weigh up to twenty-nine (29) tons when fully loaded. Collection routes must be engineered to support collection vehicles.
5. To maintain the safety of the site, solid waste vehicles shall not be required to back up more than fifty feet (50') when or after servicing a trash/recycle container.
6. The collection route must be designed such that, collection vehicles shall travel through a site without back tracking or making u-turns.
7. No building, awning, or fixed structure projections shall be allowed in the route of the solid waste collection vehicle. Residential collection requires a minimum overhead clearance of sixteen feet (16') from the right of way, and a minimum of two feet (2') behind the collection container and/ or sidewalk, is required along the route curb line.
8. Routes shall be clear of all obstructions at the curb, to include walls, overhead wires, awnings, and other fixed objects.
9. Private streets must have an area for collection without obstruction.
10. Private streets must be designed to withstand the weight of thirty-seven cubic yard (37 cu yd) collection vehicles (approx. 29 tons).
11. Gated subdivisions must supply the solid waste department with a gate code and three remotes at the time of installation. Exit only gates will be wired for automatic opening.
12. Street width requirements for on street parking:
 - a. Under thirty feet (30') width shall have no parking either side
 - b. Between thirty feet and thirty-two feet (30'-32') width- shall have no parking on one side as signed. Developers will coordinate with solid waste and engineering to determine which side may have parking.

- d. 32'- no parking in front of barrel.
- 13. Developments with more than two (2) abutting lots of less than fifty-feet (50') wide shall be signed "no parking on trash days"

B. CLUSTER HOMES, SHARED DRIVEWAYS, AND DEADEND ALLEYS

- 1. Each unit must have a predetermined location for a minimum of two containers (trash and recycle) per unit (2/du). Containers shall have a designated location on the street with a permanent marking on the curbing identifying address or unit number. Show all container locations, with addresses on site plan, for visibility triangle, refer to latest version of engineering and design standards.
- 2. Designated container location may be signed "no parking on trash days". There should be fifteen feet (15') of space from the start of the no parking area to the first container. Containers should have a minimum seventy-eight inches (78") spacing center to center of container. There should be fifteen feet (15') of space from the last container to the end of the no parking area.
- 3. Placement designations will not be located near cluster mailboxes.
- 4. The required use of identified locations should be included in the homeowners conditions covenants, and restrictions.
- 5. Designated container locations will also be used for bulk collection for each unit.

CHAPTER 3: COMMERCE, OFFICE, AND MIXED USE LAND USES

3.1 GENERAL LAND/SITE DESIGN AND DEVELOPMENT

A. GENERAL BUILDING SITE DESIGN.

1. Limited residential land uses may be permitted in the Commerce and Office Character Areas as shown in the General Plan; in which case development patterns shall provide for higher street connectivity, smaller block lengths, and improved transit options. When developed, residential land uses must be zoned mixed-use (MU), high density residential (R-3), or be part of a TND development, and located along and oriented toward a proposed or existing collector or arterial corridor where direct access to transit is available or will be provided over time.
2. The project design, including the building location and orientation, shall incorporate and benefit from the desirable local elements (e.g. winter sun, mountain views, and even stormwater for irrigation) and to deflect unwanted elements (e.g. noise, summer sun) regardless if the development is a conventional single structure building, freestanding as “pad” sites and/or “in-line” buildings within a commercial center, outdoor recreational facilities, or parking structures.
3. Building(s) shall be designed in a manner to take advantage of the connection to the greater community open space system. Appropriate linkages (i.e. double building frontages, outdoor seating and dining spaces, walkways, common landscape areas, plazas, and unfenced property lines) shall be considered to further encourage a *multimodal* connection to the site and the use of the public open spaces as a transitional element.
4. Community/regional commercial development, office, institutional, mixed-use, and civic/cultural land uses shall be located adjacent to and oriented toward major arterials, public transportation routes, and the community’s *multimodal* circulation system when applicable.
5. The building(s) shall be visually if not physically linked to both the on-site parking lot as well as to the public street by way of a designated walkway to safely and conveniently move pedestrians as they use the development. These pedestrian connections shall provide relief from the sun through the use of shade trees, arbors and other shade techniques that may prove acceptable to the City. These pedestrian connections may be constructed using a type of permeable pavement.



6. A corner building shall have a strong frontage “presence” at the setback lines for each street. This “presence” requirement may be accomplished through angled or sculpted building corners, providing an open plaza, outdoor patios, display (not storage) areas, and seating areas that further encourage and add to the pedestrian environment at the street (see photo examples below).



7. Undeveloped pad sites/phases of a development that have been disturbed in any manner shall be required to install dustproof ground cover ahead of the construction phase schedule to prevent the intrusion of unwanted dust or blowing debris from the site/lot.

B. MULTIPLE BUILDINGS SITE DESIGN.

1. When a development has multiple buildings (e.g. office complexes, commercial centers, mixed-use/residential etc.) the buildings shall be designed as groups or integrated clusters rather than designing them in-line, as stand-alone buildings, or pad sites. The way these buildings are grouped or clustered should further define and create an outdoor room of open space for either active or passive uses, including but not limited to, plazas, courtyards, gathering areas. The resulting open space area should allow for extended shop fronts, outdoor dining, and entertainment areas at the edges of this open space/plaza area.

2. All large scale retail centers and commercial office centers shall provide a pedestrian oriented design with sidewalks, seating, trees, lighting, and pedestrian scale signage. At least one outdoor gathering space/open space, that provides amenities, including but not limited to, seating, shade, lighting, and heating for year-round use, shall be provided for every one hundred and fifty thousand (150,000 sf) of developed floor space or fraction thereof.
3. As a center of pedestrian activity, plazas in multiple building commercial, office, and mixed-use developments shall provide adequate seating in the form of benches or low seating walls in addition to any seating areas that may be provided in association with dining areas.
4. Plazas, including their entrances and exits, shall be illuminated in a manner that facilitates natural surveillance opportunities and discourage unsafe activities. All lighting in plazas shall adhere to the lighting standards in **Chapter 107** of the LDO.



C. ADDITIONAL STANDARDS for TND DEVELOPMENTS

1. The commercial development within the TND shall be designed with interior oriented parcels for the development of a “neighborhood core” to first serve the TND and secondly serve the wider community. The neighborhood core is intended for smaller scale pedestrian oriented retail, service, mixed-use, and public facility/civic space uses that provide opportunities to create *third places* and serve the daily needs of the residents within the TND development.
2. The neighborhood core and other commercial parcels shall be integrated into the TND by providing:
 - a. prevalent pedestrian connections to the TND pathway system and adjacent residential parcels; and
 - b. gathering spaces and outdoor areas that connect the commercial spaces to the open space network and the TND pathway system (other than sidewalks along the street system) of the TND; and
 - c. compact design and spatial organization of the commercial buildings that are walkable and inviting by providing seating and shade; and
 - d. *multimodal* use of right-of-ways and incorporation of streetscape and amenities that enhance the pedestrian activity level of the street; and

- e. vehicular connection internal to the TND that does not require access via an arterial street outside of the TND development.
- 3. As part of a mixed use development, residential uses are encouraged as a vertically integrated use within commercial buildings both within the residential neighborhoods and in the neighborhood core setting.
- 4. The horizontal integration of different and mixed land uses, particularly within the neighborhood core, shall be compact and interconnected through the pedestrian space; utilizing the hardscape area between uses and buildings for extended shop fronts, outdoor dining, entertainment and outdoor gathering areas, information kiosks, mobile carts, and other street related activities.
- 5. Live/Work units (occupant owned business) are encouraged when allowed.



D. SCREENING.

- 1. Trash and refuse collection containers shall be screened with a six (6) foot decorative masonry wall. Trash and refuse containers shall be located such that they are not the visual focal point of a driveway or parking area, or cannot be viewed from a public street. Projects which provide on-site daily management and maintenance personnel (i.e. service stations and convenience markets), and those sites that can only locate the refuse containers in a highly visible location shall provide decorative latching gates, for screening the containers, at the opening to the enclosure.
- 2. Equipment such as, but not limited to, vending machines, collection bins, newsstands, and shopping cart corrals shall be placed in an area designed for their use. These uses shall be screened and situated in a manner so as not to block vehicular or pedestrian traffic, reduce any required parking, block the sidewalk, or become a focal point for the development.
- 3. Outside storage areas, work areas, and production areas shall be screened from the public street view and adjacent residences, mixed-use, office, and other commercial uses with a minimum six feet (6') high decorative masonry wall; except for the living plant materials areas associated with an outdoor landscape/garden center which may use non-masonry fencing. Non-plant materials shall not be stacked, piled, or stored in such a manner as to project above the screen wall.
- 4. Building site details related to utility boxes, transformers, generators, chiller farms, mailboxes, and air conditioning units shall be integrated into the overall design of the building and/or development and screened from public view, yet remain accessible for servicing.

5. Mechanical equipment and similar utility devices, whether ground level or roof mounted, shall be screened from public view and architecturally designed to appear as an integral part of the building; except for solar panels. The mechanical equipment screening shall be included in the overall building height. Mechanical equipment shall be treated to be non-reflective. Electrical meters, service components, and SES cabinets shall be screened from public view and designed to appear as an integral part of the building.
6. Electrical transformers, backflow prevention devices, large water standpipes, telephone panel boxes and any other obtrusively large electrical or mechanical device that is installed as a part of, or results from, a new development project shall be located to the rear of the project site; and screened from public view through the use of landscaping and/or screening walls. If new installations require locations at the front of a development site or where such devices currently exist at the front of a site, they shall be screened by substantial landscaping, an architectural barrier, or an artistic wrap to blend or match the existing environment.
7. No deliver or loading dock, mechanical trash compacting equipment, or service loading bay (automotive service, tire, etc.) shall be located in a manner that will cause them to front onto the development entry drive, or onto a major or minor arterial roadway. These items shall be located in the least obtrusive manner, preferably on a less prominent and visible side of the building and shall be adequately screened from public view.
8. Parking areas adjacent to the required setback from right-of-ways shall be screened from public view and from adjacent residential properties by a solid three foot (3') high screen wall that is decoratively treated to match the architectural style and design of the development or a landscape berm or combination thereof.
9. Boundary line fencing along the common property line shall be required when the development is abutting a single family residentially zoned property. This wall shall be a solid decorative masonry wall limited to six feet (6') in height; unless otherwise indicated on the LDO. A *multimodal* pathway connection shall be required from the residential neighborhood into the commercial development whenever the adjacent residential development can accommodate such access point.
10. All masonry walls intended for screening functions shall have an architectural texture, color and finish compatible with the primary building.

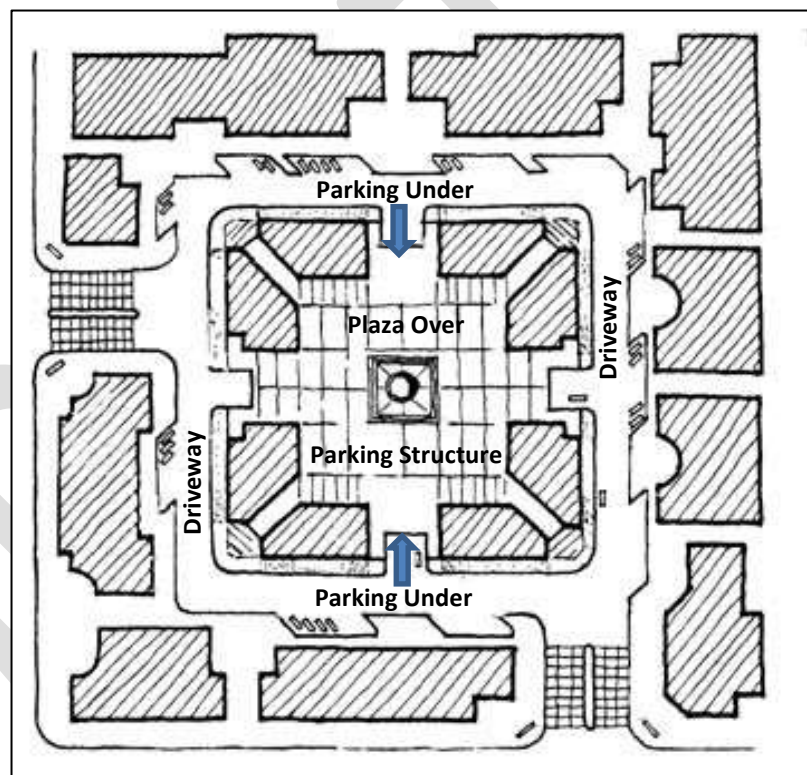
E. PARKING DESIGN.

1. Private parking lots for commercial and office uses that are adjacent to one another, but operate under separate property ownership, shall to the greatest extent possible, be designed and located contiguously to each other, provide for prominent drop-off points for ride sharing, and have shared and reciprocal access and an internal circulation system that

provides for the safe and efficient internal site movement of motor vehicles, pedestrians and cyclists from one property to another without having to re-enter the street serving the developments.

2. Off-street parking serving large multi-use commerce centers, mixed-use projects, and office complexes are encouraged to provide shared parking facilities in the form of underground structures whose roof tops can be developed as landscaped pedestrian plazas, as well as retail and dining uses or clustered *parking pods* that are heavily landscaped and integrated with the onsite circulation driveways and connected to the pedestrian and open space system (see **Illustration 18**).

ILLUSTRATION 18



Shared parking in submerged or underground garage

3. Above ground parking structures shall incorporate design features such as electric re-charging stations, autonomous vehicle (AV) staging areas, and solar panel shade structures. Rather than ramped floors, the structure itself should be designed with level floors and attached spiral/ramp access structure to facilitate reuse and conversion (i.e. warehousing, commercial office space, or affordable housing units) in the future if the demand and/or need for parking decreases.
4. To maximize the business visibility from public streets, provide definition and scale to the streetscape, and establish a pedestrian rhythm to the

streetscape no more than fifty percent (50%) of the off-street parking for large commercial centers shall be directly visible from the primary abutting street. Rather, the off-street parking spaces shall be located in smaller *parking pods* and/or to the rear or side of the structures; with the structures moved closer to the street.

5. New office, commercial, and mixed- use developments that are over ten (10) acres in size and located adjacent to major arterials and transit stops designated to provide express service to the regional transit network, may be required to provide a sheltered transit stop as determined by the City in partnership with the regional transit provider.
6. Parking lots that contain over one hundred (100) spaces should be designed with traffic calming devices installed (other than speed bumps/humps) to enhance safety and to clearly indicate the hierarchy of on-site vehicular circulation consisting of major access drives, major internal circulation drives, and parking aisles for direct access to parking spaces.
7. Provide landscaped bioretention planters at the end of parking aisles and in-between parking rows, in accordance with the provisions outlined in **Chapter 107** of the **LDO**, to provide shade for both cars and people.
8. Utilize the rainwater harvesting technique of sloping the parking lot surfaces to direct the stormwater runoff toward these landscaped bioretention planters. The bioretention landscaped planters may be designed as: raised flow-through planter boxes; flush in-ground planter boxes; or below grade planter boxes. Use curbstop sections, formed curb with curb openings, or flush curbs to stop car tires but allow water to flow into the planting areas.
9. All walkways that traverse vehicle drive aisles shall be differentiated from driving surfaces through a change of hardscape materials, textures, or color to emphasize the conflict points. Decorative materials such as specialty pavers, permeable pavers, stamped or colored concrete should be used to clearly delineate pedestrian travel areas from drive aisles. All paving material for walkways shall be developed in accordance with ADA requirements.
10. Minimize the use of driveways and parking aisles for walking routes by combining the landscaped islands with walkways.



3.2 OPEN SPACE DESIGN AND PUBLIC PLACES

- A. Open space areas shall be clustered into larger, more meaningful areas rather than equally distributing them into smaller individual areas of lesser significance.
- B. The required on-site parking area shall not be calculated as open space. Those portions of the required parking lot landscaping that are also designed in conjunction with a walking route may be calculated as open space. Building setbacks, street frontage, and on-site retention areas may be calculated as open space if those areas are landscaped.
- C. The pedestrian connections, plazas, courtyards, and gathering areas within and throughout the development may be calculated as open space if they are landscaped and/or shaded in some manner and provide seating, lighting, and other pedestrian amenities.
- D. The use of permeable paving (such as a structural grid system or permeable pavers), designed to accommodate stormwater and reduce the heat island effect, may be considered in areas of lower traffic volume limited only to private on-site sidewalks, pathways, and plazas where the soils are acceptably permeable and a maintenance plan and property owners association is in place to maintain the permeability of the surfaces.
- E. Public art is encouraged and should be in harmony with the character and scale of the open space area in which it is placed (see **Section 1.7** herein for more specific guidelines).



3.3 CIRCULATION DESIGN

- A. When determined necessary by the City Engineer, a development project may be required to provide a Traffic Impact Analysis (TIA) prior to receiving approval. When required the TIA shall, at a minimum, discuss the ingress and egress points, the impact of commercial traffic on adjacent development, and the overall internal circulation system of the proposed development.
- B. Commercial retail and office center developments that include separately leased or owned lots/pad sites or outparcels fronting on major arterial and /or collector streets shall be treated as a single development unit, and access to the outparcels shall be from the internal circulation system of the principal commercial center rather than from separate driveways and entrances located along the adjoining arterial and/or collector street and meet the Volume Two Engineering Development Standards (EDS) access management standards.
- C. Access from adjacent residential areas shall be provided by incorporating wall and landscape openings with physical connections to the commercial development's onsite pedestrian circulation system.

- D.** Provide locations for bicycle racks and storage areas as well as facilities that are necessary to the use of public transportation (transit stops, benches, shade, and lighting) if suggested by the TIA. Bicycle racks shall be located off of the development's onsite pedestrian circulation system and/or near to building front entrances.
- E.** Proposed new major centers of employment and governmental offices shall plan and design their pedestrian walkways and bicycle paths and open space system to link directly with public transit stops.
- F.** New large scale commercial and civic and institutional uses shall incorporate decorative paving patterns, approved traffic "calming" devices, landscaping, streetscape furnishings, and lighting at onsite street intersections.
- G.** The pedestrian circulation system may also be used for other uses and activities, including informational kiosks, public art installations, and outdoor dining; provided such uses and activities do not interfere with the safety of and accessibility by pedestrians and leave a five foot (5') clear path of travel.
- H.** Sidewalks shall be designed primarily for pedestrians, conform to ADA guidelines, and be as free from obstacles as possible such as but not limited to, trash bins, fire hydrants, utility equipment and cabinets, signal poles, mail drops as well as excessive overhang from automobiles parked either diagonally or perpendicularly to the sidewalk.
- I.** Within a Traditional Neighborhood Development (TND) the local streets and any arterial street within the "village core" shall be designed in a grid pattern to create a walkable street system that improves the overall pedestrian environment.

3.4 LANDSCAPE AND STREETScape DESIGN

A. GENERAL REQUIREMENTS.

- 1. Design landscapes to:
 - a. Utilize, to the greatest extent possible, harvested stormwater; and
 - b. Strategically locate appropriate plantings to cool buildings and shade parking lots, plazas and gathering areas; and
 - c. Provide visual screens; and
 - d. Improve both visual and physical aesthetics.
- 2. When a phased commercial development abuts residential uses the perimeter landscape and fencing shall be required to be installed and maintained along the shared property lines ahead of the construction phasing schedule.

B. ON-SITE LANDSCAPING.

1. All surface parking facilities shall provide a master landscape plan that delineates mature landscaping along the perimeter of the lot, as well as throughout the interior of the lot in accordance with **Chapter 107** of the **LDO** and with the plant palette listed in **Appendix B** herein.
2. Landscape should be fully integrated with the building mechanical systems such that air conditioning condensate collection may be used directly by the landscape or directed into a cistern system; and building roof drains and downspouts whether exposed or integrated within the building walls shall be directed to landscape areas adjacent to the building where it can be stored and used to irrigate the plants or infiltrated into the ground. To accommodate pedestrian traffic the use of grated drains shall be used to direct the stormwater under sidewalks that may be adjacent to the building and into the landscape areas.
3. Initiatives utilizing short term landscape treatments should be considered for vacant building and/or pad sites within a phased development to improve the visual character as well as provide interim dust and weed control.
4. Any proposed water features should be located in plazas and gathering areas and not in auto-oriented entryways. Water features, while in use, shall continuously recirculate the water. Fountains and other water features shall be located and sized according to the scale and specific use of the open space area within a development as determined by the Community Development Director; with smaller water features utilized in smaller, more intimate open space/gathering areas.
5. Trees planted within the paved area of a sidewalk or pedestrian plaza in commercial and/or office areas having high pedestrian usage shall have tree grates that are flush with the level of the surrounding sidewalk surface, and shall be located so as not to impede through pedestrian movement. Sizing of the grates shall account for the expected growth of the trees.



C. STREETSCAPE.

1. Landscaping, lighting, furnishings, and signage should be key components in the design, location, orientation and material treatment of pedestrian and bicycle paths, and their integration into the urban streetscape.
2. As part of the first phase of a multi-phased project the perimeter right-of-way improvements, such as but not limited to, landscaping and sidewalks shall be installed.

D. ADDITIONAL TND STANDARDS

1. In the civic space area and commercial areas of the TND the “public frontage” shall include trees of various species suitable to Surprise’s

natural environment, planted in a regularly-spaced lineal pattern of single or alternated species with shade canopies of a height that at maturity clears at least one story.

2. At retail frontages the spacing of the trees may be irregular to avoid obscuring shopfronts.
3. Accommodate locations for street vendors such as mobile carts, information kiosks, public art, entertainment and other outdoor temporary uses.

3.5 BUILDING FORM AND ARCHITECTURE

A. GENERAL ARCHITECTURAL STANDARDS.

1. Where these standards call for using similar materials, forms and details, in the interest of conveying a coordinated design for a development, it does not mean that all buildings should look the same within the development. Rather, it actually seeks to balance continuity and consistency with similarity and diversity. Continuity is considered achieved when a sufficient number of design variables are similar in execution (but not necessarily identically) throughout a development.
2. All buildings on the same site shall be architecturally unified. This provision shall apply to new construction, additions and remodeling. Architectural unity means that buildings shall be related in unifying elements such as architectural style, color scheme, and building materials but that does not mean identical.
3. “Big Box” stores that have outdoor storage areas and garden centers should incorporate the outdoor storage and/or garden center area into the initial architectural design of the primary building. Screening materials and colors shall be consistent with the overall theme of the building.
4. Monotonous look-a-like structures will be discouraged. Buildings shall be designed to create a visually interesting “building rhythm” by varying building form, volume, massing, heights, roof styles and site orientation.
5. Projects with more than one building or with a single building over 20,000 SF in size shall create different angles of buildings to the street to avoid monotony in site design unless other architectural treatments can achieve the desired result.
6. The development shall be designed to facilitate the efficient use of energy through building orientation, window and door placement, awnings, canopies, window treatments and other appropriate design solutions.
7. Buildings over thirty feet (30') in height shall be made to appear less imposing by a combination of stair-stepping the building height back from the street, breaking up the mass of the building, and/or providing a broader open space/pedestrian plaza areas as foreground for the building.

8. All buildings shall provide architectural detailing on all exterior elevations (360° architecture); not just the front elevation. Window embellishments shall be provided by adding architectural features that enhance the elevations (e.g. greater variation of window design, different window styles, tile inlays and recesses, structural pop-outs, gabled roof features over the windows, etc.).

B. MATERIALS AND COLOR.

1. Subtler, less intense colors shall be used on larger, more plain-looking buildings, while the use of a greater variety and intensity of color may be appropriate for smaller structures. The use of accent colors is encouraged to provide a festive and lively streetscape. Color should be used to accent entryways and special architectural features of a building.

C. ROOF ARCHITECTURE.

1. Full roof architecture utilizing simple and varied roof forms shall be required for all new commercial, office and mixed-use development; while long, continuous mansard roofs, false mansard roofs, large expanses of flat roofs and veneer (false-front) parapets are discouraged. Parapet walls shall be designed and constructed in a manner to appear as a solid, three-dimensional form rather than a veneer.
2. Roof access shall be from within the interior of the building.
3. Green or living roofs may be considered; in efforts to absorb rainwater, provide building insulation from solar gain and heat loss, help mitigate the surrounding heat island effect, and create *wildlife habitat*.
4. Roof-top plumbing, vents, ducts, air conditioning and heating equipment, and any other mechanical or electrical equipment shall be concealed from public view; and screened in a manner so as not to be visible from any angle or any height outside a building. The height of a parapet wall for screening purposes must be equal to or greater than the height of any mechanical equipment. Roof top communication antennae shall be camouflaged and/or stealth in design in accordance with **Chapter 107** of the **LDO**.
5. All rooftop screening shall be part of the articulation of a building and not appear as an afterthought; shall be architecturally integrated and compatible with the architectural style.

D. BUILDING FACADES.

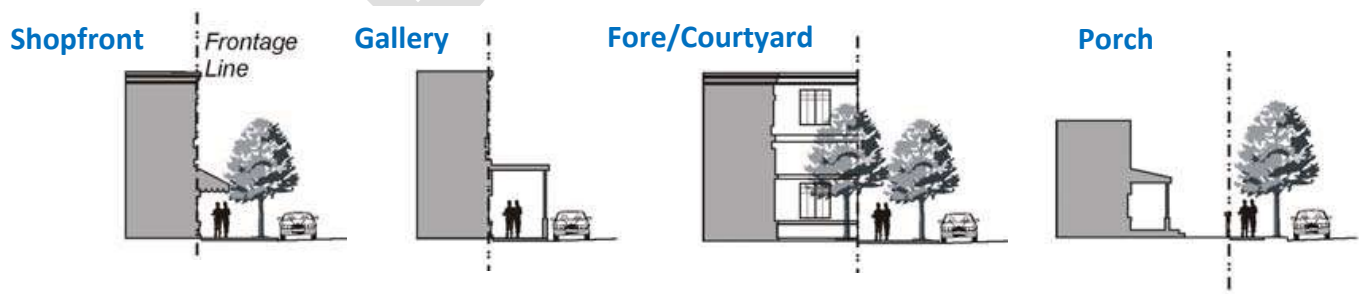
1. Commercial “storefronts” that reflect the architectural style of the building, balance window space to building wall space, and create display windows rather than floor to ceiling glass fronts is encouraged. Windows and doors shall be aligned and sized to bring order to the building façade and sufficiently recessed to contribute to the building’s energy efficiency and create facade patterns that add variety and visual interest to the building design.

2. Some element(s) of display windows, awnings, entry areas, colonnades and arcades shall be designed along the street frontage, plaza areas and along the pedestrian sidewalks.
3. In the event an arcade or colonnade is to be used along the front of a building as a primary pedestrian way, the arcade or colonnade shall be designed as an integral part of the overall architecture of the building; located and oriented to connect with adjacent open space areas of the development; and of sufficient height and width to accommodate the anticipated unobstructed pedestrian traffic generated by anticipated uses in the development.
4. All building facades must contain conspicuously placed street address numbers (refer to **Chapter 109** of the LDO).

E. ADDITIONAL STANDARDS FOR TND DEVELOPMENT

1. The edges of a commercial area should blend into adjacent neighborhoods and/or the civic space through building forms, massing and architectural styles and without buffers. Parking lots and garage doors rarely front the street.
2. All commercial activities shall be conducted entirely within the enclosed commercial buildings with limited outside storage which shall be screened from public view with an opaque fence or decorative wall not to exceed six(6') feet in height. Materials shall not be stacked, piled, or stored in such a manner as to project above the screen wall.
3. Outdoor patios and dining areas, seating areas, or small "vignette style" display areas are required to add to the pedestrian environment of the neighborhood.
4. The commercial buildings shall be designed in a manner that is more residential in scale and mass to be compatible with the residential neighborhood. Shopfront, Gallery, Fore/Courtyard and even Porch frontages are strongly encouraged and should provide a pedestrian connection to the sidewalk, street, or open space network (see **Illustration 20**).

ILLUSTRATION 20



5. Buildings in the "village core" shall be located close to the street, creating a well-defined outdoor room.

6. Consideration of Other Building Types in TND Developments
 - a. Vertically Integrated Mixed-Use: This building type is a small-to medium-sized structure, typically attached, intended to provide a vertical mix of uses with ground-floor retail, or service uses and upper-floor service, or residential uses. This type is an appropriate component of a TND neighborhood core but could be utilized within the residential parcels if carefully located and designed, thereby being a key component for providing neighborhood appropriate retail and/or services.
 - b. Live/Work: This building type is a small to medium-sized attached or detached structure that consists of one dwelling unit above and/or behind a flexible ground floor space that can be used for residential, service, or retail uses. Both the ground-floor flex space and the unit above are owned and/or occupied by one entity. This type is typically located within blended density neighborhoods or in a location that transitions from a residential neighborhood into higher intensity uses such as the neighborhood core. It is especially appropriate for incubating neighborhood-serving retail and service uses and allowing the TND neighborhood core to expand as the market demands.

3.6 EDGE TREATMENT AND TRANSITIONS

A. EDGE TREATMENTS

1. All major new commercial development should include a pedestrian circulation system of active and passive open space areas designed, located and oriented to provide: high pedestrian accessibility within and around the development; connections to adjacent developments to enhance a structure of continuous open space throughout the community; and a buffer between less developed, less densely developed lands and urban development patterns.
2. Buildings located on the exterior of new projects adjacent to the undeveloped edge of the City shall maintain a low profile in terms of single-story height, bulk and massing; except in an urban environment.

B. TRANSITIONS

1. Structures within a multi-building development should be designed to transition into either the surrounding development or natural landscape; with the size, massing and height of the proposed structures relating to the prevailing scale of adjacent development.

3.7 OTHER CONSIDERATIONS.

1. The signage needs (both building mounted signage and freestanding signage) should be carefully considered for all of the buildings/tenants when developing the site plan, landscape plans and elevations for commercial centers.
2. Outdoor lighting shall be consistent and comply with the standards outlined in **Chapter 107** of the **LDO** and Volume Two of this PED Manual when applicable.

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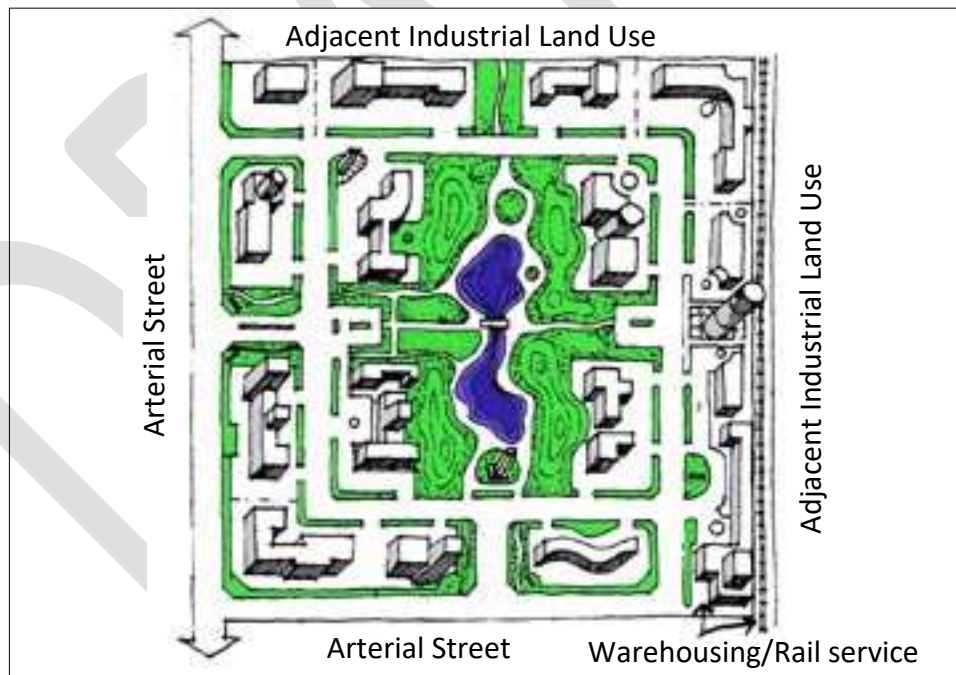
CHAPTER 4: BUSINESS PARK AND INDUSTRIAL LAND USES

4.1 GENERAL LAND/SITE DESIGN AND DEVELOPMENT

A. GENERAL BUILDING SITE DESIGN.

1. Some limited Commercial land uses may be permitted in the Employment Character Areas as shown in the General Plan; in which case the development of such commercial land uses must be part of a business park development rather than a stand-alone commercial development.
2. Land uses permitted by the Business Park (BP) zoning, as delineated in **Chapter 106** of the **LDO**, shall be developed as part of or within an approved planned business park development rather than as a stand-alone project.
3. Business parks shall be designed with an interior street system that takes its access from the major arterials (see **Illustration 21** below). Proposed new major centers of employment and governmental offices shall plan and design their development to link directly with public transit stops when available or will be provided over time and when defined in the TIA for the development.

ILLUSTRATION 21



4. When industrially zoned parcels are developed with permitted industrial land uses, as delineated in **Chapter 106 - Table 106-3** of the **LDO**, and developed as a stand-alone use they shall take direct access only from an arterial street that is appropriately scaled to serve commercial and freight traffic.
5. Subdivision design, site plans, and building design must reflect sensitivity to natural features of the site; including topography; adjacent uses and

development; and views of surrounding mountains.

B. SCREENING.

1. Trash and refuse collection containers: Shall be screened with a six foot (6') solid masonry wall. Trash and refuse containers shall be located such that they are not the visual focal point of a driveway or parking area, or cannot be viewed from a public street. Those sites that can only locate the refuse containers in a highly visible location shall provide decorative latching gates, for screening the containers, at the opening to the enclosure.
2. Outside storage areas, work areas, and production areas: When permitted shall be limited to the rear or side yard (not front yard) and screened as outlined below. Materials shall not be stacked, piled, or stored in such a manner as to project above the screen wall.
 - a. When adjacent to any roadway the screen wall shall be a solid masonry wall, not to exceed eight feet (8') in height, located within the lot at the building setback line (not along the property line). Exceptions to this locational requirement may be made when the business park or industrial subdivision is platted with a landscape tract, not less than thirty-five feet (35') in width, adjacent to the roadway in which case the screen wall may be placed at the rear and/or side lot line.
 - b. When adjacent to residential, mixed-use, office, or commercial land uses the screen wall may be located along the shared property line with the required setback area behind the screen wall. The screen wall shall be a solid masonry wall at least six feet (6') but not to exceed eight feet (8') in height. The City may require the screen wall to be placed at the setback line, rather than on the property line, if it is determined that public access to an existing or planned public open space system would be prevented if the wall were placed at the property line.
 - c. When a business park parcel/lot is adjacent to other business park parcel/lot, a solid masonry wall, not to exceed eight feet (8') in height, may be located at the side and rear property line.
 - d. When an industrial land parcel/lot is adjacent to another industrial land parcel/lot, a fence, not to exceed eight feet (8') in height, may be located along the shared property line.
3. Parking areas: When in front of the building and/or adjacent to a street the parking area shall be screened from public view by a solid three foot (3') high screen wall that is decoratively treated to match the architectural style and design of the development or a three foot (3') high landscape berm or combination thereof. Parking areas shall not encroach into the required front yard and the screen wall shall be located at the front building setback line. The side yard screening wall may be located along the side property

line. The screen wall shall be a minimum three feet (3') back of the parking surface area to accommodate for vehicular overhang.

4. All solid masonry walls intended for screening functions shall be decorative having an architectural texture, color and finish compatible with the primary building; with the finished elevation exposed to the public view or adjacent property.

C. PARKING DESIGN

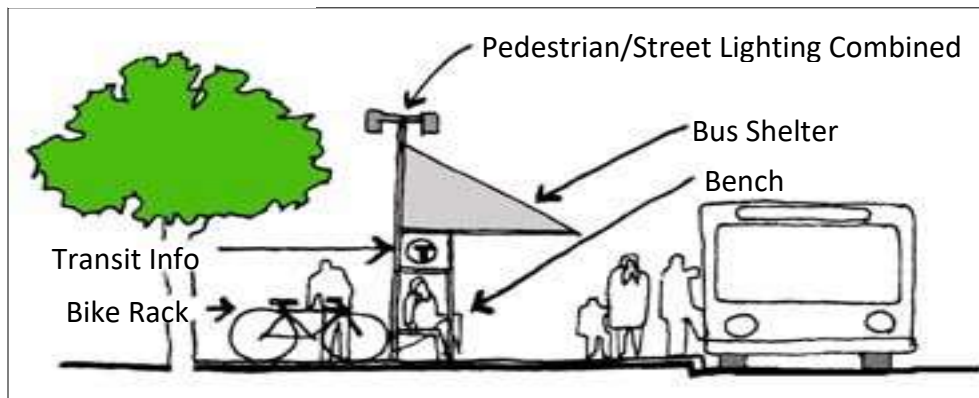
1. Parking lots for major employers, government offices, and businesses within a business park development that contain over one hundred and fifty (150) spaces should be designed with electric re-charging stations, and solar panel shade structures.
2. Parking lots shall be designed to utilize rainwater harvesting techniques by sloping the parking lot surfaces to direct the stormwater runoff into landscaped bioretention planters within and/or along the perimeter of the parking lot. The bioretention landscaped planters may be designed as: raised flow-through planter boxes; flush in-ground planter boxes; or below grade planter boxes. Use curbstop sections, formed curb with curb openings, or flush curbs to stop car tires but allow water to flow into the planting areas.



4.2 CIRCULATION DESIGN

- A. Unless otherwise determined by the City's Traffic Engineer, all development projects are required to provide a Traffic Impact Analysis (TIA) prior to receiving approval; with specific emphasis on the impact of truck traffic on adjacent development, the internal circulation system of the proposed development, and the appropriate development of transit amenities.
- B. Proposed new business park developments and major industrial employment centers shall provide transit related site design features and amenities such as, but not limited to, shelters, benches and lighting (see **Illustration 22** below).
- C. *Multimodal* connections between workplace uses and abutting support uses such as retail and service commercial establishments is encouraged and should include drive, walkway, and trail connections.

ILLUSTRATION 22



4.3 LANDSCAPE AND STREETScape DESIGN

- A. Design the required landscaping to;
 1. Utilize, to the greatest extent possible, harvested stormwater; and
 2. Strategically locate appropriate plantings to cool buildings and shade parking lots; and
 3. Provide both visual screening and land use buffering; and
 4. Improve the aesthetics of the development as seen from public view.
- B. Landscape should be fully integrated with the building mechanical systems such that air conditioning condensate collection may be used directly by the landscape or directed into a cistern system; and building roof drains and downspouts whether exposed or integrated within the building walls shall be directed to landscape areas adjacent to the building where it can be stored and used to irrigate the plants or infiltrated into the ground. Foundation planting shall be required along all building elevations that are visible from the public street and may utilize the plant palette listed in **Appendix C** herein.
- C. All required on-site parking lots shall provide landscaping along the perimeter of the parking lot and within the parking lot utilizing the plant palette listed in **Appendix B** herein and in accordance with **Chapter 107** of the **LDO**.
- D. The *landscape strip*, all required front building setbacks, and those setback areas in front of a screen wall shall utilize the plant palette listed in **Appendix B** herein. Street trees shall be planted in a regularly spaced lineal pattern of single or alternating species with shade canopies of a height that at maturity clears at least one story.
- E. All other required yards that are open areas (outside of screened storage areas, work areas, and production areas or boundary line walls) shall be landscaped utilizing the plant palette listed in **Appendix C** herein.

4.4 BUILDING FORM AND ARCHITECTURE

A. GENERAL ARCHITECTURAL STANDARDS.

1. All buildings shall provide architectural detailing on all exterior elevations (360° architecture); not just the front elevation. Window embellishments shall be provided by adding architectural features that enhance the elevations (e.g. greater variation of window design, different window styles, tile inlays and recesses, structural pop-outs, gabled roof features over the windows, etc.).
2. For all buildings the mechanical equipment and similar utility devices, whether ground level or roof mounted, shall be screened from public view and designed to appear as an integral part of the building; except for solar panels. The mechanical equipment screening shall be included in the overall building height. Mechanical equipment shall be treated to be non-reflective.
3. Service and loading bays shall be oriented away from adjacent residential and mixed-use zoning districts and to the greatest extent possible should not front onto or be visible from the public street. For those sites that can only locate said activities in a highly visible location screening be a method approved by the City may be required.
4. Buildings shall be designed to facilitate the efficient use of energy through building orientation, window and door placement, awnings, canopies, window treatments and other appropriate design solutions.
5. Building orientation and building design shall address and mitigate the negative impacts of noise, odor, or dust that may be generated from a building and/or land use of any Business Park or Industrial development.

B. BUILDING MATERIAL AND DETAILS

1. Reflective building materials are prohibited. Mirrored surfaces or any treatment that changes ordinary glass into a mirrored surface are prohibited. Metallic surfaces, including roof materials, shall be chemically treated to be non-reflective.
2. Color should be used to accent entryways and special architectural features of the building rather than color bands of corporate identity.

C. ROOF ARCHITECTURE.

1. Full roof architecture utilizing simple and varied roof forms shall be required for all new business park and industrial development; while long, continuous mansard roofs, false mansard roofs, large expanses of flat roofs and veneer (false-front) parapets are discouraged. Parapet walls shall be designed and constructed in a manner to appear as a solid, three-dimensional form rather than a veneer.

2. All rooftop screening shall be part of the articulation of a building and not appear as an afterthought; shall be architecturally integrated and compatible with the architectural style.
3. Roof access shall be from within the building.

D. BUILDING FACADES.

1. Windows and doors shall be aligned and sized to bring order to the building façade and sufficiently recessed to contribute to the building's energy efficiency and create facade patterns that add variety and visual interest to the building design.
2. All building facades must contain conspicuously placed street address numbers (refer to **Chapter 109** of the LDO).

4.5 EDGE TREATMENT AND TRANSITIONS

- A. Non-vehicular connections to adjacent developments through shared and/or aligned retention areas, *multimodal* trails, and open space areas are to be made by the Employment land uses whenever available and/or when designated for such future connectivity by the Surprise General Plan or the Parks and Recreation Master Plan.
- B. Development of subdivisions within the Business Park and Industrial zoning districts shall provide a landscape buffer strip, as outlined in **Chapter 106** and **Chapter 108** of the **LDO**, along the perimeter of the development on a subdivision basis rather than encumbering the individual lots within the subdivision with the buffer area requirement.
- C. When developed as a stand-alone industrial land use adjacent to the undeveloped edge of the City or to an existing residential development the industrial development shall be responsible for providing the required buffer area for the development.
- D. Buildings located on lots along the perimeter boundary of a business park and/or industrial subdivision that are adjacent to the undeveloped edge of the City or to an existing residential development shall maintain a low profile building in terms of single-story heights not to exceed twenty-five feet (25'). Building heights above twenty-five feet (25'), up to the maximum building height allowed per the zoning district, may be achieved by increasing the building setback adjacent to the perimeter boundary as outlined under the specific zoning sections of **Chapter 106** of the **LDO**.

CHAPTER 5: ENVIRONMENTALLY SENSITIVE LANDS STANDARDS

5.1 GENERAL LAND/SITE DESIGN AND DEVELOPMENT

- A.** The City of Surprise requires responsible development, the preservation of natural habitats for flora and fauna, and the conservation of environmentally and culturally sensitive lands and resources. Sustainable and creative development is encouraged with the goal being to fit development into the natural site with minimal intrusion, and to be sensitive to adjacent uses. For this reason any property that possesses characteristics which would support their identification as *cultural resources* or having *environmentally sensitive features* shall utilize an *integrated conservation design* approach to development and assure compliance with the Environmentally Sensitive Lands and Cultural Resource Standards set forth in this section and those in **Chapter 104** of the **LDO** as a part of any development submittal.
- B. INTEGRATED CONSERVATION DESIGN APPROACH.** An *integrated conservation design* is vital to reducing fragmentation of both *habitat* and *wildlife movement areas*, improving community character, and protecting both *environmentally sensitive features* and *cultural resources*. Regardless of the acreage or zoning, when any portion of a development site is determined to be in an area with *environmentally sensitive features* or *cultural resources* the entire development site shall be required to utilize an *integrated conservation design* approach and develop an Environmental Inventory Plan (as described in **Chapter 104** of the **LDO**). The development shall provide the City with a development plan rooted in this integrated design approach and based on the Environmental Inventory Plan. The following 4-steps are involved when developing any project using this *integrated conservation design* approach. For subdivisions these design steps occur in an order opposite that of conventional subdivisions.

1. Identify Conservation or Preservation Areas. The first step is identifying areas of the property to conserve or preserve. This is done by completing an "Environmental Inventory Plan" (detailed in **Section 104-2.2** of the **LDO**) that delineates the location of all *environmentally sensitive features*, *cultural resources*, and the associated *buffer areas*. Also, identify the location of any additional *open space* required to satisfy the zoning requirements for the development; keeping in mind the potential to create areas and connections beyond the boundaries of the proposed development to maximize the benefit to wildlife and residents alike.

Example Site Before Development



Integrated Conservation Design identifies the environmentally sensitive features & cultural resources of the site *before* drawing lot lines & roads.

2. Select Building/Housing Locations. Select building/housing sites to complement the location of the *environmentally sensitive features, cultural resources, and open space*. Designing the lots around these conserved spaces ensures that each occupant/resident can take full advantage of these conserved common areas. Utilizing a *cluster development* design may make this simpler to achieve but it is not required.
3. Connect the Dots. Draw in a *multimodal* network of streets and trails that connect the development to existing roads and, if possible, regional trail networks or public greenways.
4. Draw in the Lot Lines. Finally, draw in the individual lot lines.

C. ESTABLISHMENT OF BUFFER AREAS. The *buffer areas* required by **Chapter**

Conventional Development vs. Cluster Development



The cluster subdivision (right) accommodates the same amount of development as its conventional counterpart (left); in this example 32 lots. The difference, however, is that the cluster design provides that more than half of the site is retained as preserved or open space, a permanent amenity shared by all property owners. Conventional development gives each owner a large lot surrounded on all four sides by neighbors whereas the cluster design provides each resident an uninterrupted view of the surrounding landscape and access to preserved communal open space within the development.

104 of the **LDO** shall be designed to achieve the following performance standards:

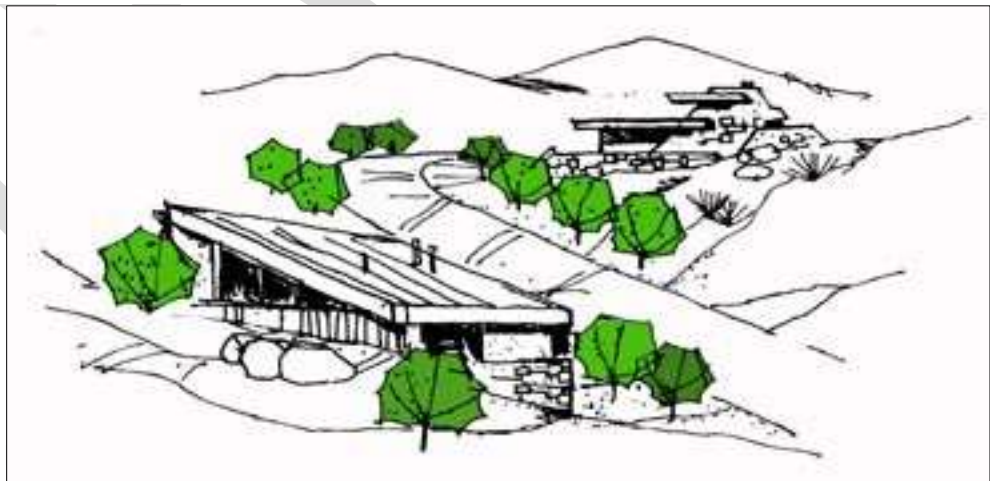
1. Protect the biological function and enhance wildlife use of any natural habitat identified by the Environmental Inventory Plan for the development site.
2. Minimize and, to the greatest extent possible, mitigate the anticipated impacts of development to *environmentally sensitive features and cultural resources*.

3. Enhance the integration of development with the site by preserving existing site topography, including but not limited to, such characteristics as: hillside areas, steep slopes, ridgelines, significant rock outcroppings, and existing drainage and water features.
4. Preservation of significant stands of vegetation and communities of *protected native plant(s)* within and/or adjacent to a development site.
5. Prevent unnecessary and adverse impact upon species utilizing special habitat features, including nest and/or den sites, night roosts, key feeding areas, wintering and/or production areas as identified by the Environmental Inventory Plan.
6. Preserve and enhance the existence of *wildlife corridors* and wildlife movement between natural features, through and adjacent to the development site.
7. Provide appropriate areas for passive human access to the site's natural habitats, *environmentally sensitive features* and *cultural resources*.

D. GENERAL SITE DESIGN.

1. Projects in the vicinity of large natural habitats and natural habitat corridors shall be designed to complement the visual context of the natural habitat. Techniques such as architectural design, site design, the use of native landscaping and choice of colors and building materials shall be utilized in such a manner that scenic views across or through the site are protected, and that manmade facilities are screened from off-site observers and blend with the natural visual character of the area (see **Illustration 23** below). These requirements shall apply to all elements of a project, including any aboveground utility installations.

ILLUSTRATION 23



2.

Illustrative Example: Building siting respects the topography of the area. the site.

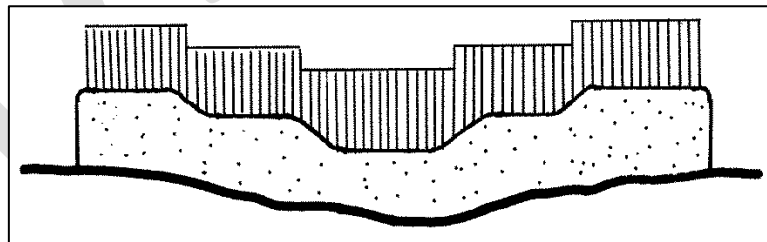
3. The greatest amount of development and the highest densities of housing should occur in the flat land (under five percent (5%) slopes). Irregular terrain with irregular slope conditions and hillside lands (over ten percent (10%) slopes) shall be larger lot residential with a *building envelope* delineated to insure building/site integration and to reduce the impact of development to the hillside.
4. Mass grading is prohibited in the *hillside development area*. Mass grading shall be limited or prohibited for other lands within the environmentally sensitive areas of the City where damage to existing vegetative cover, washes and drainage patterns might occur.
5. Wherever possible, but particularly in *hillside development areas*, site plans and designs should reflect a sensitive approach to development wherein roads, hiking and equestrian trails, access walkways, driveways and drainage areas conform as closely as possible to the natural contours of the site.

5.2 WALLS: PERIMETER, PRIVACY AND RETAINING

A. PERIMETER WALLS

1. Perimeter walls or fences shall follow the contour of the natural terrain and be “open” in design where a wall abuts an open space area, buffer area, or environmentally sensitive feature. Walls or fences shall be a maximum of six feet (6') in height with no more than three feet (3') being constructed of a solid or opaque material. That “open” portion of the wall or fence may not include chain-link or wood materials (see **Illustration 24** below). Notwithstanding the foregoing, walls exceeding six feet (6') in height and constructed of solid or opaque material may be approved by the Community Development Director if the wall is for the purpose of screening non-residential uses.

ILLUSTRATION 24



Perimeter walls shall follow the contour of the natural terrain.

2.

Perimeter walls and fences surrounding a lot, tract, or subdivision within a *hillside development area* shall be prohibited; only privacy walls and retaining walls may be permitted as outlined below.

3. Within the ten to fifteen percent (10-15%) slope category of a *hillside development area*, exceptions to the above prohibition on perimeter fences or walls may be permitted. In those instances where an exception is desired, applicants shall submit a detailed Wall Plan to the Community Development Director for review and action. In conjunction with the submittal of the Wall Plan to the Community Development Director, the applicant shall submit a copy of the Wall Plan to the appropriate City department(s) for review and approval for conformance with all City grading and drainage requirements. Wall Plans shall indicate the proposed locations of walls or fences, the proposed materials, colors and design of any wall or fence, and fence construction and disturbance mitigation measures. Such plans shall be accompanied by a narrative explaining the reasons why such an exception should be made. Wall Plans may be approved by the Community Development Director upon a finding that the proposed location and design of the wall(s) will not be contrary to the intent and purpose of the Environmentally and Culturally Sensitive Land Developments Standards.

B. PRIVACY WALLS

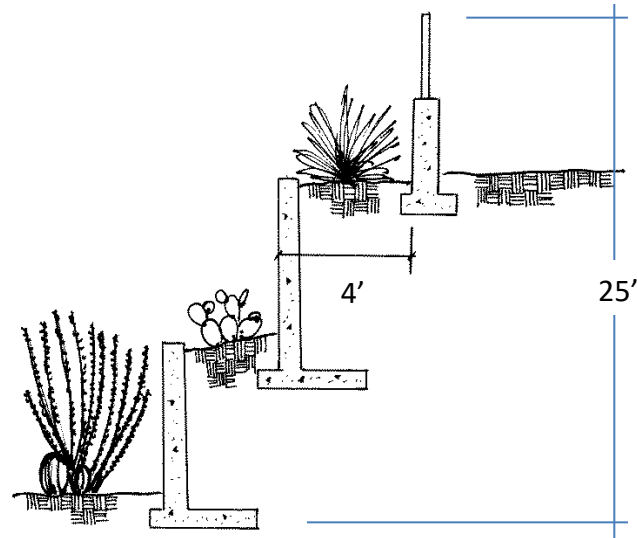
1. Fences or walls on lots within a *hillside development area* shall be restricted to privacy walls attached to or directly screening a portion of the main residence. Privacy walls shall not exceed six feet (6') in height, shall be architecturally compatible with the main residence and shall be limited to the *building envelope* area only.
2. Privacy walls shall not be erected on a retaining wall and shall be offset a minimum of four feet (4') when utilized unless the combined height of the walls does not exceed six feet (6').

C. RETAINING WALLS

1. The design of all retaining walls shall be prepared by a registered engineer or architect and shall be designed to blend with the surrounding environment and/or development in color, materials and style.
2. No first-tier lots shall have a side or rear yard retaining wall exceeding six feet (6') in total vertical wall height in any residential district or ten feet (10') in a non-residential district.
3. A single retaining wall in any front yard shall not exceed four feet (4') in height in residential districts or six feet (6') in height in non-residential districts.

4. Retaining walls of over four feet (4') in height shall not be placed at the property line.
5. Additional retaining height may be achieved through the use of offset retaining walls and terraces: such walls shall be offset a minimum of four feet (4') and all terraces shall be landscaped appropriately for the width of the offset (see **Illustration 25**). Retaining walls shall incorporate weep holes for drainage and sleeves for irrigation.
6. The total vertical wall face (including view fencing) visible from any street, adjacent property line or publically-accessible open space for any single lot shall not exceed twenty-five feet (25') in height. Terraced walls shall be constructed with decorative products and terraces shall be landscaped to minimize their visual impact.

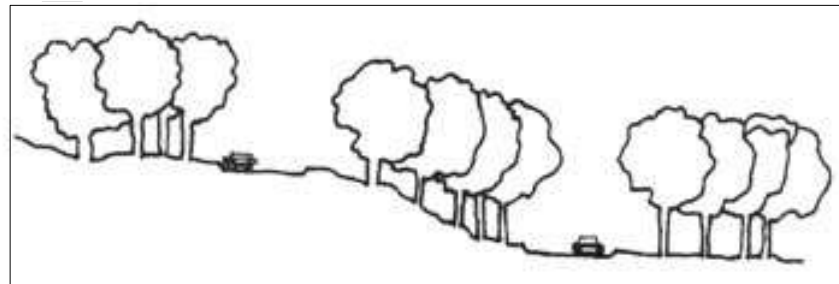
ILLUSTRATION 25



5.3 ROADWAYS

- A. Rather than transforming the area, the roadways shall follow the natural topography of the area with the roadways designed to minimize excavation and embankment scars and the overall amount of land disturbance. The City prefers the use of curvilinear horizontal alignments and gently rolling profiles consistent with the natural topography to minimize unnecessary disturbance to the existing environment (see **Illustration 26**).

ILLUSTRATION 26



Split roadway sections to accommodate grade change.

- B. Additional rights-of-way may be required for cut or fill slopes, bike paths, horse trails, traffic control devices, fire hydrants or other public facilities located adjacent to streets. Where cut or fill slopes extend beyond the rights-of-way, a permanent easement may be provided in lieu of increasing the width of the rights-of-way.

5.4 WATER FEATURES

A. NATURAL WASHES and FLOODWAYS.

1. County *Floodways* and FEMA designated washes that traverse and/or are adjacent to a development site shall be assimilated into a linear open space system that is integrated into both the development's and the community's open space system. A seventy five foot (75') buffer area shall be required along the perimeter of these floodways and washes.

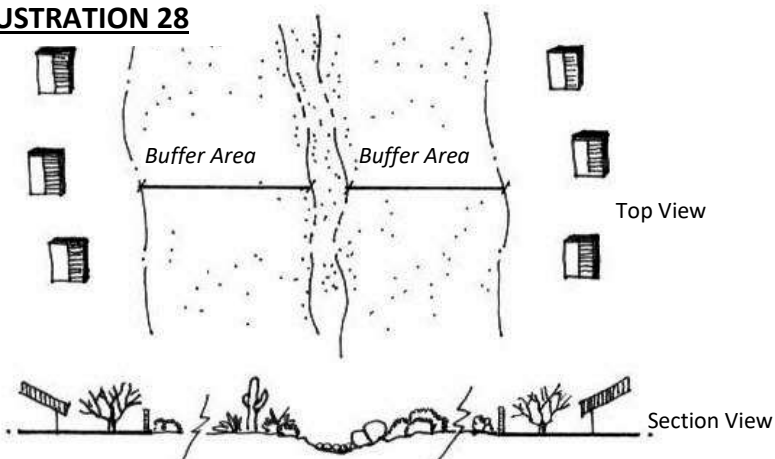
ILLUSTRATION 27



Within the required seventy-five foot (75') *buffer area*, associated with and adjacent to these types of floodways and washes, paths for both pedestrians and bicycles and if applicable equestrian trails are encouraged and may be required to be developed as an amenity by the developer (see **Illustration 27**).

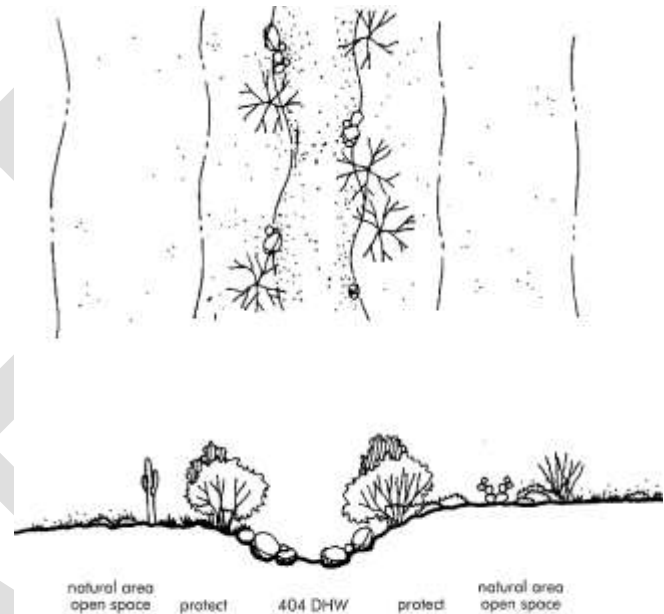
2. Naturally occurring ephemeral desert washes identified by the Drainage Report shall, as much as possible, be retained in their natural condition with *buffer areas* established as natural area open space and with development setback the appropriate distances necessary to allow the *wildlife corridors* to remain uninterrupted (see **Illustrations 28**). Specific *buffer area* dimensions to be determined by the City in consultation with Arizona Game and Fish.

ILLUSTRATION 28



3. Disturbance to larger ephemeral washes shall be limited to that required for road and utility crossings only. The uses of bridges and culverts should be considered for such crossings where their use would cause fewer disturbances to the washes. Disturbed areas shall be revegetated using indigenous vegetation.
4. The City may grant open space credit (at a 1: 1.25 ratio) for habitat restoration of and along those ephemeral washes that have been identified by Arizona Game and Fish as being missing links/sections in important *wildlife corridors*. (see **Illustrations 29**)
5. Drainage basins, retained washes, and new drainage channels shall be given a “natural” desert character. Native materials in the construction of all storm water features (ie. basins, channel bottoms, and headwalls) must be used. Terracing, berming and contouring is required to naturalize and enhance the aesthetics of all drainage basins, retained washes, and channels. Basin slopes shall comply with Engineering Development Standards.
6. Trails will be permitted within these corridors, but motorized vehicles would be prohibited.

ILLUSTRATION 29



5.5 TRANSITION STANDARDS AND EDGE TREATMENTS

- A. On sites where there is significant change in the grade levels from the site to adjacent properties, the site design should accommodate the grading transition through design techniques such as landscaped terraces, landscaped slopes of 4:1 (run-to-rise) or gentler, or some similar gradual technique.
- B. When the site has a non-residential use and the adjacent site is a residential use, required screening walls should either be placed along the edge of the parking/driveway areas if the developing site is higher than the adjacent residential site, or at the property line if the site is lower.
- C. Hillside development shall receive edge treatments that soften the appearance of an abrupt transition between the built and natural environments. Such treatments shall consist of alternative perimeter fencing (adobe, native stone or vegetation etc.), offset, or staggered rear lot lines, transitional landscaping or other similar elements intended to soften the transition.

5.6 HILLSIDE DEVELOPMENT AREA

- A. Those lands considered to be in a *hillside development area* (ten percent (10%) or greater) shall be limited in the density permitted based on the slope bands of the property as further delineated in **Chapter 104** of the **LDO**. 10% Slope:
- B. Slopes that are fifteen percent (15%) and greater are considered to be *steep slopes* and development shall be highly restricted.
- C. The grading concept for any site shall seek to balance cut and fill on the site to avoid off-site stockpiling and further damage to the natural topography.
- D. Significant rock outcroppings, ridgelines and unstable slopes need to be identified and conserved. Incorporate such features as an inclusive element in the overall design of the development rather than isolated and inaccessible.
- E. All site plans and designs should utilize topographic maps that reflect the existing terrain, including: contour intervals (at a maximum of 10 feet), and variations in, the site terrain; elevation of critical spots; rock outcrops and special characteristics of the site.
- F. All structures located within a *hillside development area* shall blend naturally into the landscape through the use of materials and colors compatible with the natural earth colors of the ridgeline area, rather than stand out as a prominent focal point.
- G. Multilevel buildings, as well as all rooflines of buildings, shall follow the general slope of the site in order to keep the building height and profile in scale with surrounding natural features (see **Illustration 30**).

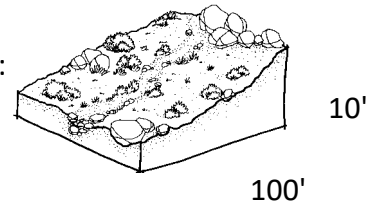
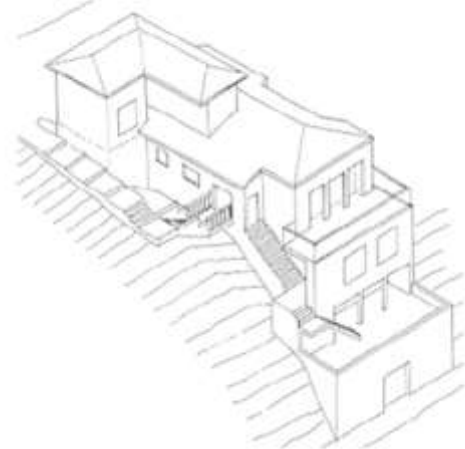


ILLUSTRATION 30



APPENDIX A – GLOSSARY OF TERMS

A. General Terms. For the purpose of carrying out the intent of these Planning and Engineering Design Standards (PEDS), certain terms or words used herein shall be interpreted or defined as follows:

1. Words used or defined in one tense or form shall include other tenses and derivative forms; words used in the singular include the plural; and words in the plural include the singular.
2. The words “shall”, “must”, and “will” are mandatory and not permissive.
3. The words “should”, “encourage”, and “may” are permissive.
4. The word “person” includes an individual, tenant, lessee, firm, co-partnership, joint venture, corporations, associations, estate, trust, receiver, or and any other group or combination acting as a singular entity, including the federal government, another city, county, or school district, except as exempt by law.
5. The following words or terms when applied in these PEDS may be used interchangeably unless contrary to the circumstances: lot, plat, parcel or premise; and “building” applies to the word “structure”.

B. Abbreviations. The following abbreviations and/or acronyms shall have the following meaning:

<i>APS</i>	Arizona Public Service Electric
<i>A.R.S.</i>	Arizona Revised Statutes
<i>PEDs</i>	Planning and Engineering Design Standards

C. Italicized. Words or phrases throughout the PEDS which are expressed using italics shall assume the meaning as ascribed in this Appendix. Words or phrases not expressed in italics shall assume the common meaning of the word or phrase unless such word or phrase is otherwise included herein this Appendix.

D. Specific Terms. The following specific terms, words and phrases shall, for the purposes of understanding these standards, have the following definitions and meanings:

A.

Adaptive Reuse: The conversion of historic or obsolescent building(s) from their original or most recent use to a new use representing compatible and appropriate change.

Apartment Complex:

Archeological Resource: Any material remains of past human life or activities that are of historic or pre-historic significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, cultural landscapes, rock paintings, rock carvings, intaglios, graves, skeletal remains, or any piece of any of the foregoing items (see *cultural resource* herein).

Architectural Feature: A decorative element intended to enhance the building or structure and lend to the overall exterior form, context and appearance of the building or structure. Architectural features may include, but are not limited to balconies, canopies, columns, doors, eaves, porches, wing walls, or similar three-dimensional exterior element of a building or structure.

Aquatic Center: A type of *public pool* that is established primarily for the purpose of hosting water related competitive events such as but not limited to swim meets, water polo, diving, as well as associated practice. The programming of events may include local public and charter schools, public and private universities, local athletic clubs, and other competitive organizations. A city-owned aquatic center may, at the discretion of the Parks and Recreation Department Director, be open to the general public during times when not scheduled for competitive events or related practice times. The facility may also be programed for city-sanctioned aquatic classes.

B.

Berm: A mound of earth that is used to shield, screen or buffer undesirable views, separate incompatible land uses, provide visual and landscape interest, decrease noise, or control the direction of water flow.

Bicycle Circulation System: Multi-use pathways and on-street bicycle lanes combine to provide a comprehensive means by which bicycles can travel within and through the City.

Bollard: A thick, low, architecturally, designed vertical post, or a series of vertical posts, that are placed to help define, or border, pedestrian and/or bicycle paths.

Buffer Area: An area of land retained in its natural state which protects and/or surrounds an *environmentally sensitive feature* or *cultural resource* with the purpose of mitigating any potentially negative impacts to the feature or resource.

Buffering: The technique of providing landscape or other improvements on land set aside or in a *buffer area* used to separate different intensities and types of land use.

Building Envelope: That area on a lot that encompasses all development including but not limited to excavation, cut, fill, grading, buildings, structures, access ways, parking and any area of disturbance.

Bus/Transit Shelter: A roofed structure that is located on or adjacent to the right-of-way of a street, and which is designed and used for the protection and convenience of waiting bus passengers.

Boulevard Strip: See *Landscape Strip*.

C.

Community Circulation System: A network of transit, automobile, bicycle, pedestrian, and equestrian trails and/or rights-of-way that connect origins and destinations.

Complete Streets: A street system that is designed and operated to enable safe, attractive and comfortable access and travel for all users. Pedestrians, bicyclists, transit riders, and motorists of all ages and abilities are able to safely and comfortably move along and across a complete

street and are given equal space, consideration and safety issues. Complete streets also create a sense of place and improve social interaction as they encourage walking, biking and transit as viable transportation options.

Cluster Development/Subdivision: Concentration of development on only a portion of a site, allowing *environmentally sensitive features* and areas to be protected with no loss in the number of lots and maintaining the overall density of the site. It requires transferring density on the same site and the undeveloped land to be permanently retained for open space, habitat, or conservation of *environmentally sensitive features*.

Cultural Resources: An aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture.

D.

Detached Sidewalk: A sidewalk that is separated from the street by a *landscape strip* that is measured from the back of the street curb and runs continuously along the length of the street.

Disturbed Area: The area of natural ground that has been, or is proposed to be, altered through grading, cut and fill, removal of natural vegetation, placement of material and equipment, trenching, or by any means that causes a change in the undisturbed natural surface of the land or natural vegetation.

E.

Environmentally Sensitive Features: Elements in the landscape that play a particularly large role in sustaining the natural environment and ecosystem and supporting wildlife and plant diversity, but at the same time are especially sensitive to degradation such as: *hillside development areas; important habitat; protected native vegetation; significant rock outcroppings; significant stands of vegetation; ridgelines; steep slopes; water features; wildlife corridors* (as further specified in **Chapter 104** of the **LDO**).

F.

Floodplain: Any land area susceptible to being inundated by water from any source. It may or may not include a *floodway*.

Floodway, one hundred-year: The channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge the 100 year flood without substantial increases in flood height.

Fore/Courtyard: a building frontage where the building facade is aligned close to the front property line with a portion of the facade set back. The resulting forecourt and/or interior courtyard are suitable for gardens, restaurant seating, or an entry plaza. A short wall may also be placed at the property line.

G.

Gallery: A private frontage typically used in retail applications where the façade is aligned close to the front property or street line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk.

Gateway: A major or minor thoroughfare entry to the City of Surprise, as designated by the Surprise General Plan, which has been especially designed using unique and/or special landscape, architectural, sign and lighting treatments to project the city's image and inform visitors that they have arrived in Surprise.

Green: A civic space type for unstructured recreation spatially defined by landscaping rather than building frontages.

Greenway: An enhanced open space corridor which may include amenities as well as pathways for bicycles and pedestrians; may also be left in largely natural conditions.

H.

Habitat: The physical and biological environment where an organism lives. Habitat includes such components as cover, food, shelter, water, and breeding sites.

Habitat Connectivity: Physical and biological conditions that join blocks of habitat so that animals can move between them.

Habitat Fragmentation: The division of contiguous tracts of *wildlife habitat* into progressively smaller patches which is typically a result of human encroachment such as roads and development.

Hardscape: Any hardened and/or paved surface, including but not limited to a street, sidewalk, plaza, pathway or other similar surface, where the surface materials often are used to create unique patterns of color, design and texture for purposes of creating visual interest.

Hillside Development Area: Those lands where the natural terrain has an average cross slope of ten percent (10%) or greater. However, a ten percent (10%) or greater slope, created by a natural wash on land that otherwise would not be classified as hillside land shall be exempt from the hillside regulations.

I.

Important Habitat: Habitat that supports federally endangered plant or animal species, Species of Greatest Conservation Need (SGCN) in Arizona, and sensitive plant species (as may be identified on federal and state lists).

Integrated Conservation Design: A development concept that considers site characteristics, natural features, and layout in the larger context of the site and its surrounding parcels. Integrated conservation design is intended to preserve important and unique natural features such as *hillside development areas* and *steep slopes*, *wildlife corridors*, natural habitat, and *cultural resources* that are known and those that may be discovered on the site as well as conservation of community viewsheds, and the required *open space* per the zoning district.

J.; K.; L.

Landscape strip: The landscaped area between sidewalk and curb along a public street (commonly known as boulevard or *park strip*).

Low-Impact Development (LID): A land planning and engineering design approach that uses natural and engineered infiltration and storage techniques to manage stormwater where it is generated; combining conservation practices with distributed storm water source controls and pollution prevention to maintain or restore watershed functions.

M.

Multimodal: Means of traveling within or through a community by a combination that includes automobiles, buses, trolley, rail, bicycles, pedestrian friendly walkways and path and trail systems, and/or any other means in additional typical vehicular traffic.

Mural: An artistic painting or mosaic typically found on a wall or building elevation.

N.

New Urbanism: A design-focused approach to urban planning that advocates integrating housing, workplace, recreation and leisure areas within walkable, town-core, environmentally-sensitive, and sustainable communities; emphasizing transit, human scale, building-forward architecture, with a mix of housing, civic, workplace and retail uses in close proximity and within the neighborhoods, while preserving open lands and achieving other environmental goals.

O.

Open Space: Land and/or water areas, improved or unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment as active and passive recreational areas or for environmental, scenic, or conservation purposes. Not to include parking or roadways.

Open Space, active: Land and water areas specifically designed as an activity-based recreational area that may include boating, water sports, sports fields, golf courses, local and community parks having picnic, playground, recreational and support components, and pedestrian, hiking, bicycle, and equestrian trails.

Open Space, natural: Land and water areas that are retained in their natural state, or restored natural state if previously disturbed, required for the preservation and conservation of plant and animal life, including habitat for wildlife species; and areas required for ecological, cultural and other scientific study purposes for long-term public benefit.

Open Space, passive: Land and water areas that are either partially improved, undeveloped, or in a natural state that are intended for scenic, environmental, conservation, and/or resource protection; and include such resource-based activities as nature study, nature trails, and any other activities requiring a natural condition that cannot easily be duplicated by human actions.

P.

Parking Pods: The smallest parking increment of a larger off-street parking lot, designed as a heavily tree-shaded parking area to accommodate 50 or less cars and separated from other parking clusters by pedestrian walkways.

Paving Enhancement: A material and/or color used in the pavement design of a street, parking area, or pedestrian walkway to provide visual interest.

Pedestrian Friendly: An environment in which conflict between the automobile and pedestrian is minimized or eliminated through the provision of a comprehensive means of vehicular-separated pedestrian travel that is fast, attractive and comfortable for a wide range of age and abilities groups; and by the design of buildings and other uses in a manner that is sensitive to the needs of the pedestrian.

Plaza: A large, paved, pedestrian entry setting for a building that should contain a combination of seating areas, trees, and landscaping and may also include fountains, public art and sculpture works.

Pool, Private: A *swimming pool* that is owned and maintained by individual homeowner for personal use.

Pool, Public: A *swimming pool*, that is open to the public with or without the payment of a fee, including a *swimming pool* that is operated by a county, municipality, political subdivision, school district, university, college, or a commercial establishment whose primary business is the operation of a *swimming pool*.

Pool, Semi-Public: A *swimming pool* operated for the residents of lodgings such as hotels, motels, resorts, apartments, condominiums, townhouse complexes, trailer courts, mobile home parks, or similar establishments. A semi-public swimming pool includes a *swimming pool* that is operated by a neighborhood or community association for the residents of the community and their guests and any a *swimming pool* at a country club, health club, camp, or similar establishment where the primary business of the establishment is not the operation of a *swimming pool* and where the use of the *swimming pool* is included in the fee for the primary use of the establishment. (commonly known as Community Pool)

Pool, Swimming: Any *structure* intended for swimming or recreational bathing that contains water over 18 inches (457 mm) deep at any point, and, other than hot tubs and spas is wider than 8 feet (2400 mm) at any point. This includes in-ground, above ground and on-ground swimming pools and, other than the width, hot tubs and spas.

Protected Native Plants: Those species listed in Chapter 104; Table No. 104-X of the LDO.

Q.; R.

Required Rear Yard Area: That area of the rear yard that is bound by the side and rear lot lines and the rear setback line.

Ridgelines: Prominent topographic features that are used by raptors to orient, nest and/or catch thermals while migrating.

S.

Sensitive Land Areas: Land that encompasses *wildlife habitats* and corridors, wash corridors that replenish local groundwater, archaeological sites, unique plant environments, and scenic vistas.

Significant Rock Outcroppings: Any surface rock formation having an area of five hundred square feet (500 sf) or larger or any surface rock formation having a height greater than ten feet (10) from the surrounding grade.

Significant Stand of Vegetation: A single native or protected tree or cactus (as listed in **Chapter 104** of the **LDO**) that is of a height greater than twenty-five feet (25') or three (3) or more trees or cacti, located within a radius of fifteen feet (15'), each having a height greater than eighteen feet (18').

Significant Vegetation Specimen: A native tree with an eight inch (8") or greater caliper trunk or multitrunked in good health, a saguaro over twenty feet (20') in height and/or multiple arms or crest or other unusual configuration in good health, or other mature federally endangered plant, or Species of Greatest Conservation Need (SGCN) in Arizona, or native plant species.

Sharrows: Specific road markings used to indicate a shared lane for bicycles and automobiles used to reinforce the legitimacy of bicycle traffic within the travel lane, encourage bicyclists to position themselves safely in narrow lanes to comfortably travel side by side within the same traffic lane, advertises the presence of bikeway routes to all user, and provides a wayfinding element along bike routes.

Square: An open space available for unstructured recreation and civic purposes.

Steep Slopes: Unimproved land, parcel, or tract of land, where the existing natural terrain has an average cross-slope of fifteen percent (15%) or greater and where the natural state of such should be left undeveloped and conserved as open space.

Streetscape: The general appearance of a block or group of blocks with respect to the structures, setbacks from public-rights-of-way, open space, landscaping, public art, lighting, signage, paving materials, street furnishings and other elements that contribute to the overall character and image of a City block.

Street Furnishings: All items that are placed within the public right-of-way for both an aesthetic and functional purpose, including, but not necessarily be limited to, benches, bus shelters, trash receptacles, plant containers, kiosk signs, lighting fixtures, tree grates and guards, bicycle racks, bollards, fountains and public art.

T.

Third Place: a private building that includes a space conducive to unstructured social gathering. Third places are usually bars, cafés, coffee shops, and corner stores.

Traffic Calming: A technique or method of reducing traffic speeds and/or neighborhood cut-through traffic volumes that utilizes changes in street alignment, installation of barriers, and other physical measures.

U.

Unsalvageable Plant: A protected native plant that cannot be successfully relocated due to: 1) deteriorated health from disease, infestation, or natural causes; or 2) physical constraints related to plant location, orientation, or general condition which obstruct and/or prevent the application of approved relocation techniques as determined by a landscape professional (ASLA or certified nurseryman).

Unstable Slopes: Land where the natural state of the slopes is unstable due to topography, drainage patterns, soil stability, soil compaction or geotechnical issues, boulders or rock outcroppings, and prior land disturbance.

V.

View Corridor: The area or areas along a street, pedestrian path, hiking trail or other such opening that allow for a clear and unobstructed view of, or one that frames, highlights, or accentuates a prominent object, site, scene, panorama, building, or structure.

W.

Water Features: Includes those features as listed and defined below:

- a. **Floodplains:** The area along a perennial or ephemeral stream or river that fills with water periodically. Floodplains can include riparian areas and sometimes have a distinct vegetative community that included water-loving plants. However, in Maricopa County, many floodplains are simply characterized by dry river or streambeds. (See the **LDO** for Floodplain Management Regulations.)
- b. **Riparian Areas:** The ecosystem located along a perennial or ephemeral wash or river. Usually characterized by water-intensive plants/trees, riparian areas run parallel to streams and rivers.
- c. **Rivers/Streams:** The lowest point within a watershed where water moves downstream. Streams and rivers in Maricopa County can be perennial or ephemeral.
- d. **Springs/Seeps:** Fixed locations where groundwater emerges from the earth perennially or ephemerally. These features usually have a distinct water-loving plant community associated with them which can include mesic grasses, reeds, rushes, sedges, cattails and a variety of shrubs and trees.
- e. **Wetlands:** An area that is saturated by water perennially or seasonally and have a distinct vegetation community associated with water. The term wetlands encompass both the aquatic environmental associated with the pond or lake and the distinct vegetative community around the periphery which can be characterized by mesic grasses, reeds, rushes, sedges and/or cattails.

Wildlife Corridor: Pathways or habitat linkages that connect discrete areas of natural open space otherwise separated or fragmented by topography, changes in vegetation, and other natural factors in combination with urbanization, and which 1) permit animals to move between remaining habitats allowing depleted populations to be replenished and promoting genetic

exchange; 2) provide escape routes from fire, predators, and human disturbances, thus reducing the risk that catastrophic events, such as fire or disease, will result in population or species extinction; 3) serve as travel paths for individual animals as they wander throughout their home ranges in search of food, water, mates, and other needs, or for dispersing juveniles in search of new home ranges.

Wildlife Habitat: Locations where native wildlife has a tendency to congregate due to provision of food, shelter and/or water.

X.; Y.; Z.

DRAFT

APPENDIX B – PUBLIC RIGHT OF WAY & PUBLIC SPACES PLANT LIST

The City of Surprise desires to promote and preserve the Sonoran Desert environment. Therefore the below plant palette for the urban forest is more restrictive than the Arizona Department of Water Resources (DWR) list of low water use drought tolerant plants allowed under the Phoenix Active Management Area. Therefore, the two (2) tables below (**Table No. 1** and **No. 2**) list only those trees, shrubs and plants that the City of Surprise permits within the public rights-of-way and other public spaces unless modifications are approved by the City Manager or designee.

TABLE NO. 1 - MAJOR ARTERIAL STREETS: (STREET TREES)

Botanical/Common Name (Main Tree Type)	Botanical/Common Name (Secondary Tree Type)	For Specific Street
Ulmus parvifolia/Evergreen Elm (100%)	N/A	Dysart Road
Quercus heritage/Heritage Oak (100%)	N/A	Litchfield Road
Cercidium floridum/Blue Palo Verde (100%)	N/A	Bullard Avenue
Pistacia atlantica/Red Push Pistache (50%)	Acacia salicina/Willow Acacia (50%)	Reems Road
Prosopis velutina/Velvet Mesquite (75%)	Olneya tesota/Ironwood (25%)	163 rd Pkwy/Sarival Ave.
		Loop 303
Olea europaea/Swan Hill Olive (50%)	Pistacia atlantica/Red Push Pistache (50%)	Cotton Lane
		Sun Valley Parkway
Quercus heritage/Heritage Oak (50%)	Pistacia atlantica/Red Push Pistache (50%)	Bell Road
Prosopis velutina/Velvet Mesquite (75%)	Olneya tesota/Ironwood (25%)	Greenway Road
Ulmus parvifolia/Evergreen Elm (75%)	Quercus heritage/Heritage Oak (25%)	Waddell Road
Prosopis velutina/Velvet Mesquite (100%)	N/A	Cactus Road
		US 60/Grand Avenue
Cercidium microphyllum/Foothills Palo Verde (75%)	Olneya tesota/Ironwood (25%)	SR 74/Carefree Highway

TABLE NO. 2 - ALL OTHER PUBLIC RIGHT-of-WAY & PUBLIC SPACES

Botanical Name	Common Name	Medians	Landscape strip	Parking Lot	Buffer Areas
TREES: (▲) Denotes tree which are indigenous to the Phx metropolitan area & (*) trees which are native to Arizona (X) Denotes plants that are allowed & (O) trees which are limited to use in medians greater than 14 feet in width					
Acacia aneura	Mulga	X	X	X	X
Acacia farnesiana or smalli	* Sweet Acacia	O			X
Acacia salicina	Willow Acacia	X	X	X	X
Acacia saligna	Blue Leaf Wattle Tree	X	X	X	X
Acacia schaffneri	Twisted Acacia	O			X
Caesalpinia cacalaco	Casalote	X	X	X	X
Celtis reticulata	Western Hackberry	O			X
Cercidium floridum	▲ Blue Palo Verde	O			X
Cercidium microphyllum	▲ Foothills Palo Verde	X			X
Cercidium praecox	Palo Brea	O			X
Chilopsis linearis	* Desert Willow	X	X	X	X
Fraxinus velutina, spp	Arizona Ash & Fantex Ash	X	X	X	X
Lysiloma thornberi	* Desert Fern	O			X
Olneya tesota	▲ Ironwood	O			X
Pistacia atlantica	Red Push Pistache	O	X	X	X
Pistacia Chinensis	Chinese Pistache	O	X	X	X
Pithecellobium, flexicaule	Texas Ebony	O			X
Pithecellobium, mexicana	Mexican Ebony	O			X
Prosopis glandulosa	▲ Honey Mesquite	O			X

TABLE NO. 2 - ALL OTHER PUBLIC RIGHT-of-WAY & PUBLIC SPACES

Botanical Name	Common Name	Medians	Landscape strip	Parking Lot	Buffer Areas
Prosopis velutina	▲ Velvet Mesquite	O			X
Quercus heritage	Heritage Oak	X	X	X	X
Quercus virginiana	Southern Live Oak	X	X	X	X
Schinus terebinthifolius	Brazilian Pepper Tree	O		X	X
Tipuana tipu	Tipu Tree	O		X	X
Ulmus parvifolia	Chinese Evergreen Elm	X	X	X	X
Vitex agnus-castus	Chaste/Monk's Pepper	X			X
SHRUBS: (▲) Denotes plants which are indigenous to the Phx metropolitan area & (*) plants which are native to Arizona					
Abutilon palmeri	Superstition Mallow				X
Acacia constrict	* White Thorn Acacia	X			X
Acacia greggii	▲ Catclaw Acacia	X			X
Anisacanthus thurberi	Mexican Honeysuckle	X		X	X
Atriplex canescens	Fourwing Saltbush				X
Caesalpinia mexicana	Mexican Bird of Paradise	X			X
Caesalpinia pulcherrima	Red Bird of Paradise	X			X
Calliandra californica	Baja Fairy Duster	X		X	X
Calliandra eriophylla	* Fairy Duster	X	X	X	X
Cassia artemisioides	Feathery Cassia	X		X	X
Cassia covessii	* Desert Senna	X			X
Cassia phylodendria	Silver Cassia	X	X	X	X
Cassia wislizeni	* Shrubby Senna	X	X	X	X
Celtis pallida	▲ Desert Hackberry	X			X

TABLE NO. 2 - ALL OTHER PUBLIC RIGHT-of-WAY & PUBLIC SPACES

Botanical Name	Common Name	Medians	Landscape strip	Parking Lot	Buffer Areas
Cordia parviflora	Little Leaf Cordia	X			X
Dalea pulchra	* Bush Dalea/Indigo Bush	X			X
Dodonaea viscosa	* Hop Bush	X			X
Encelia farinosa	▲ Brittle Bush	X	X	X	X
Ephedra trifurca	▲ Mormon Tea	X			X
Ericameria laricifolia	▲ Turpentine Bush	X			X
Hesperaloe parviflora	Pink Yucca	X	X	X	X
Hyptis emoryi	Desert Lavender	X			X
Justicia californica	▲ Chuperosa	X	X	X	X
Larrea tridentate	▲ Creosote Bush	X	X	X	X
Leucophyllum frutescens	Texas Ranger/Sage	X	X	X	X
Leucophyllum laevigatum	Chihuahuan Sage	X	X	X	X
Lycium andersonii	▲ Anderson Lycium				X
Lycium fremontii	▲ Wolfberry Lycium				X
Rhus ovata	* Sugar Bush	X			X
Ruellia peninsularis	Baja Ruellia	X	X	X	X
Salvia clevelandii	Chaparral Sage	X	X	X	X
Simmindsia chinesis	▲ Jojoba	X	X	X	X
Tecoma stans	* Yellow Bells	X		X	X
Zizyphus obtusifolia	▲ Greythorn	X			X

GROUNDCOVERS:

(▲) Denotes plants which are indigenous to the Phx metropolitan area & (*) plants which are native to Arizona

TABLE NO. 2 - ALL OTHER PUBLIC RIGHT-of-WAY & PUBLIC SPACES

Botanical Name	Common Name	Medians	Landscape strip	Parking Lot	Buffer Areas
Ambrosia deltoidea	▲ Triangleleaf Bursage	X	X	X	X
Baileya multiradiata	▲ Desert Marigold	X	X	X	X
Convolvulus cneorum	Bush Morning Glory	X	X	X	X
Dalea greggii	Trailing Indigo Bush	X	X	X	X
Dalea versicolor v. sessilis	* Weeping Dalea	X	X	X	X
Eriogonum fasciculatum	▲ Flattop Buckwheat	X	X	X	X
Eschscholtzia Mexicana	Mexican Gold Poppies	X	X	X	X
Gazania rigens	Trailing Gazania	X	X	X	X
Lupinus species	Lupine	X	X	X	X
Melampodium leucanthum	* Blackfoot Daisy	X	X	X	X
Oenothera berlandieri	Mexican Evening Primrose	X	X	X	X
Penstemon parryi	* Parry's Penstemon	X	X	X	X
Phacelia crenulata	Desert Bluebells	X	X	X	X
Psilostrophe cooperi	Paperflower	X			X
Salvia farinacea	Mealy Cup Sage	X	X	X	X
Salvia greggii	Texas Red Sage	X	X	X	X
Sphaeralcea ambigua	▲ Globe Mallow	X	X	X	X
Tetrandeum acaulis	Angelita Daisy	X	X	X	X
Teucrium chamaedrys "Prostratum"	Creeping Germander	X	X	X	X
Verbena pulchella	Rock Verbena	X	X	X	X
Wedelia trilobata	Yellow Dot	X	X	X	X

TABLE NO. 2 - ALL OTHER PUBLIC RIGHT-of-WAY & PUBLIC SPACES

Botanical Name	Common Name	Medians	Landscape strip	Parking Lot	Buffer Areas
Zauschneria californica	* Hummingbird Trumpet	X	X	X	X
Zinnia grandiflora	* Prairie Zinnia	X	X	X	X
CACTI & SUCCULENTS:					
(▲) Denotes plants which are indigenous to the Phx metropolitan area & (*) plants which are native to Arizona					
Agave parryi	* Parry's Agave	X	X		X
Aloe, species	Aloe species	X	X	X	X
Asclepias subulata	* Desert Milkweed	X	X	X	X
Carnegiea gigantea	▲ Saguaro	X			X
Dasyliirion wheeleri	* Desert Spoon	X			X
Echinocactus grusonii	Golden Barrel	X			X
Ferocactus cylindraceus	* Compass Barrel	X			X
Fouquieria splendens	Ocotillo	X			X
Hesperaloe parviflora	Red Yucca	X	X	X	X
Holocantha emoei	▲ Crucifixion Thorn	X			X
Opuntia basilaris	* Beavertail Prickly Pear	X			X
Opuntia engelmannii	* Engelmann's Prickly Pear	X			X
Opuntia santa-rita	* Purple Prickly Pear	X			X
Yucca baccata	▲ Banana Yucca	X			X
Yucca elata	* Soaptree Yucca	X			X

APPENDIX C – LOW WATER USE DROUGHT TOLERANT PLANT LIST

This list does not include all of the possible low water use drought tolerate plants approved for the Phoenix Active Management Area; rather it lists those plants that the City of Surprise would prefer a homeowner/property association to use within areas they maintain and for private homeowners to use on-site. The use of other indigenous low water use drought tolerant plants may be permitted. However, the use of plants which are known to be invasive to indigenous vegetation shall be prohibited.

It is strongly recommended that homeowners check with their neighborhood's landscape covenants before designing their private landscaping.

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
TREES					
Acacia constrict	White Thorn Acacia	10' X 15'	habitat & stabilization	moderate	medium
Acacia farnesiana	Sweet Acacia	20' X 20'	habitat & screen	moderate	small
Acacia smallii	Desert Sweet Acacia	20' X 20'	habitat & screen	moderate	small
Acacia salicina	Willow Acacia	30' X 15'	habitat & stabilization	low	none
Acacia saligna	Blue Leaf Wattle	20' X 20'	screening & revegetation	seasonal	none
Acacia schaffneri	Twisted Acacia	18' X 20'	specimen/character	seasonal	small
Acacia stenophylla	Shoestring Acacia	30' X 20'	screening	low	none
Brachychiton populneus	Bottle Tree	40' X 30'	specimen & screening	low	none
Caesalpinia cacalaco	Cascalote	15' X 15'	specimen	low	medium
Celtis reticulata	Western Hackberry	25' X 25'	specimen/character	low	none
Cercidium floridia	Blue Palo Verde	30' X 30'	habitat	seasonal	small
C. microphyllum	Foothills Palo Verde	15'X 15'	habitat	seasonal	medium
Cercidium praecox	Palo Brea	25' X 25'	habitat	low	small

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
Chilopsis linearis	Desert Willow	25' X 20'	habitat	seasonal	none
Dalbergia sissoo	Rosewood/Sissoo	40' X 30'	shade & stabilization	low	none
Fraxinus v. Rio Grande	Fan-Tex Ash	40' X 25'	shade	low	none
Jacaranda mimosifolia	Jacaranda	40' X 30'	specimen	seasonal	none
Lysiloma thornberi	Desert Fern	15' X 15'	habitat	high	none
Olneya tesota	Ironwood	25' X 25'	habitat	seasonal	small
Parkinsonia x (hybred)	Desert Museum Palo Verde	25' X 25'	habitat	seasonal	none
Pistacia Chinensis	Chinese Pistache	40' X 35'	shade	seasonal	none
Pistacia atlantica X integerrima	Red Push Pistache	40' X 40'	shade	seasonal	none
Pithecellobium flexicaule	Texas Ebony	20' X 15'	specimen/character	moderate	sharp
Pithecellobium mexicana	Mexican Ebony	30' X 20'	specimen/character	seasonal	sharp
Prosopis glandulosa	Honey Mesquite	25' X 30'	habitat	seasonal	large
Prosopis pubescens	Screwbean Mesquite	20' X 20'	habitat	seasonal	
Prosopis velutina	Velvet Mesquite	25' X 25'	habitat	seasonal	small
Quercus virginiana	Southern Live Oak	40' X 50'	shade	seasonal	none
Schinus molle	California Pepper	30' X 30'	screening & shade	moderate	none
Schinus terebinthifolius	Brazilian Pepper	20' X 25'	shade	low	none
Tipuana tipu	Tipu Tree	30' X 35'	shade	seasonal	none
Ulmus parvifolia	Evergreen Elm	35' X 35'	shade	seasonal	none
Vitex agnus-castus	Monk's Pepper	20' X 20'	habitat	moderate	none

SHRUBS

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
<i>Abutilon palmeri</i>	Superstition Mallow	4' X 3'	accent	low	none
<i>Acacia greggii</i>	Catclaw Acacia	6' X 6'	habitat & revegetate	moderate	sharp
<i>Anisacanthus thurberi</i>	Mexican Honeysuckle	3' X 4'	hummingbirds	low	none
<i>Anisacanthus quadrifidus</i>	Flame Honeysuckle	3' X 4'	hummingbirds & butterflies	low	none
<i>Atriplex canescens</i>	Fourwing Saltbush	5' X 8'	habitat & revegetate	low	none
<i>Caesalpinia gilliesii</i>	Yellow Bird of Paradise	6' X 5'	hummingbirds & butterflies	Low	none
<i>Caesalpinia mexicana</i>	Mex. Bird of Paradise	8' X 8'	hummingbirds	moderate	none
<i>Caesalpinia pulcherrima</i>	Red Bird of Paradise	6' X 6'	hummingbirds & butterflies	low	prickly stems
<i>Calliandra californica</i>	Red Baja Fairy Duster	5' X 5'	hummingbirds & butterflies	Low	none
<i>Calliandra eriophylla</i>	Pink Fairy Duster	3' X 4'	hummingbirds	Low	none
<i>Callistemon citrinus</i>	Lemon Bottlebrush	6' X 8'	specimen	low	none
<i>Cassia artemisioides</i>	Feathery Cassia	4' X 4'	fragrance & screening	seasonal	none
<i>Cassia covesii</i>	Desert Senna	4' X 4'	revegetate	moderate	none
<i>Cassia wislizeni</i>	Shrubby Senna	3' X 4'	specimen	low	none
<i>Celtis pallida</i>	Desert Hackberry	5' X 8'	screening & habitat	low	thorny/sharp
<i>Cordia parviflora</i>	Little Leaf Cordia	6' X 6'	screening	Low	none
<i>Dalea pulchra</i>	Bush Dalea/Indigo Bush	4' X 5'	winter color & butterflies	moderate	none
<i>Dodonaea viscosa</i>	Hop Bush	10' X 8'	screening	low	none
<i>Encelia farinosa</i>	Brittle Bush	3' X 4'	habitat & revegetate	low	none
<i>Ephedra trifurca</i>	Morman Tea	3' X 3'	accent	low	none
<i>Ericameria laricifolia</i>	Turpentine Bush	2' X 3'	revegetate & habitat	low	none

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
Gossypium harknessii	San Marcos Hibiscus	3' X 4'	specimen	low	none
Hyptis emoryi	Desert Lavender	6' X 4'	fragrance & habitat	low	none
Justicia californica	Chuperosa	4' X 4'	hummingbirds	low	none
Larrea tridentate	Creosote Bush	6' X 6'	screening & revegetate	low	none
Leucophyllum frutescens	Texas Ranger/Sage	6' X 6'	hedge/screening	low	none
Leucophyllum laevigatum	Chihuahuan Sage	4' X 5'	fragrant & screening	low	none
Leucophyllum langmaniae	Langman's Sage	5' X 5'	fragrant & screening	low	none
Lycium fremontii	Wolfberry	8' X 8'	habitat & hummingbirds	low	thorny
Nerium oleander	Oleander	6' X 4'	screening	moderate	none
Plumbago scandens	White Plumbago	3' X 3'	screening	low	none
Rhus ovata	Sugar Bush	6' X 6'	screening	low	none
Ruellia peninsularis	Baja Ruellia	3' X 4'	hummingbirds	low	none
Simmondsia chinensis	Jobba	6' X 6'	screening & revegetate	low	none
Sophora secundiflora	Texas Mountain Laurel	8' X 6'	fragrant & screening	low	none
Tecoma stans v. angustata	Arizona Yellow Bells	6' X 6'	hummingbirds	moderate	none
Viguiera deltoidea	Golden Eye	3' X 3'	revegetate	low	none
GROUNDCOVERS, VINES & PERENNIALS					
Acacia redolens	Trailing Acacia	1' X 10'	bank & erosion control	low	none
Ambrosia deltoidea	Triangleleaf Bursage	1' X 2'	natural landscape	low	none
Antigonon leptopus	Queen's Wreath	15' X 15'	vine	seasonal	none
Baileya multiradiata	Desert Marigold	1' X 1'	year round blooms	low	none

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
Bougainvillea spectabilis	Bougainvillea	spreading	accent	high	large
Chrysactinia mexicana	Damianita	2' X 2'	Fragrant & accent	low	none
Convolvulus cneorum	Bush Morning Glory	2' X 3'	attracts pollinators	low	none
Dalea greggii	Trailing Dalea	2' X 8'	hardy cover & habitat	low	none
Gazania rigens	Trailing Gazania	8" X 18"		low	none
Glandularia species	Verbena species	1' X 3'	attracts butterflies	low	none
Hymenoxys acaulis	Angelita Daisy	1' X 1'	accent	low	none
Jasminum mesnyi	Primrose Jasmine	10' X 6'	vine & informal screen	low	none
Lantana spp.	Trailing Lantana	1' X 4'	attracts butterflies	low	none
Melampodium leucanthum	Blackfoot Daisy	1' X 2'	fragrant & habitat	low	none
Merremia aurea	Yuca Vine	10' X 10'	vine	seasonal	none
Myoporum parvifolium	Myoporum	8" X 6'	slope & erosion control	Low	none
Oenothera berlandieri	Mex. Evening Primrose		fragrant & habitat	low	none
Oenothera stubbei	Saltillo Primrose	18" X 4'	erosion control & habitat	low	none
Penstemon spp.	Penstemon varieties	2' X 2'	attracts hummingbirds	low	none
Phacelia crenulata	Desert Bluebells	1' X 1'	revegetate & habitat	low	none
Phacelia campanulana	California Bluebells	1' X 1'	revegetate & habitat	low	none
Podranea ricasoliana	Pink Trumpet Vine	spreading	vine	seasonal	none
Psilostrophe cooperi	Paperflower	1' X 2'	habitat	low	none
Ratibida columnaris	Mexican Hat	2' X 1'	cut flower	low	none

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
Rosmarinus officinalis	Trailing Rosemary	2' X 4'	attracts pollinators	low	none
Ruellia peninsularis	Ruellia	3' X 3'	attracts butterflies	low	none
Salvia clevelandii	Chaparral Sage	4' X 4'	attracts hummingbirds	low	none
Salvia farinacea	Mealy Cup Sage	2' X 2'	attracts hummingbirds	low	none
Senna covesii	Desert Senna	18" X 18"	summer blooms	low	none
Sphaeralcea ambigua	Globe Mallow	3' X 3'	flowers & seeds	low	none
Teucrium chamaedrys	Creeping Germander	6" X 3'	fragrance	low	none
Wedelia trilobata	Yellow Dot	18" X 6'	accent	low	none
Zauschneria californica	Hummingbird Trumpet	1' X 2'	attracts hummingbirds	low	none
Zinnia acerosa	Desert Zinnia	6" X 12"		low	none
Zinna grandiflora	Prairie Zinnia	1' X 1'	attracts butterflies	low	none

FLOWERS and GRASSES (TURF)

All turfs are considered high water use and therefore should be restricted in their use. Prefer limiting use to sport fields, small play areas and private backyards.

Bouteloua curtipendula	Sideoats Grama	2' X 2'	ornamental grass & habitat	Low	none
Eschscholzia mexicana	Mexican Gold Poppy	1' X 1'	wildflower (reseeds)	low	none
Gaillardia pulchella	Blanket Flower	18" X 18"	summer blooms	low	none
Linum spp.	Red Flax & Blue Flax	2' X 2'	wildflower	low	none
Lupinus arizonicus	Lupine	3' X 3'	habitat & wildflowers	low	none
Muhlenbergia rigens	Deer Grass	4' X 4'	ornamental grass	low	none
Orthocarpus purpurascens	Owl's Clover	6" X 6"	wildflower	low	none

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
CACTUS and SUCCULENTS and ACCENT PLANTS					
Agave, various species				low	varies
Aloe, various species				low	varies
Asclepias subulata	Desert Milkweed	3' X 3'	attracts butterflies	low	none
Brahea armata	Mexican Blue Palm	25' X 10'	specimen/containers	low	small
Carnegiea gigantea	Saguaro	20' X 10'	habitat	low	long
Dasyliirion longissimum	Grass Tree	5' X 5'	accent plant	low	none
Dasyliirion wheeleri	Desert Spoon	4' X 4'	accent plant	low	sawtooth
Echinocactus grusonii	Golden Barrel	2' X 2'	accent plant	low	long
Echinocereus engelmannii	Hedgehog Cactus	1' X 2'		low	long
Ferocactus acanthodes	Compass Barrel	2' X 2'	naturalistic landscapes	low	long
Fouquieria splendens	Ocotillo	12' X 10'	attracts hummingbirds	low	medium
Hesperaloe funifera	Giant Hesperaloe	5' X 5'	attracts butterflies	low	none
Hesperaloe parviflora	Red Yucca	3' X 5'	attracts hummingbirds	low	none
Opuntia, various species	Prickly Pear		food source	low	spiny
O. ficus-indica	Indian Fig	12' X 18'	sculptural accent	low	none
O. basilaris	Beavertail Prickly Pear	1' X 3'	habitat	low	small
O. engelmannii	Desert Prickly Pear	5' X 8'	habitat	low	medium
O. santa-rita	Purple Prickly Pear	4' X 5'	habitat	low	small
Phoenix dactylifera	Date Palm	60' X 25'	accent & fruit	seasonal	sharp fronds
Washingtonia robusta	Mexican Fan Palm	75' X 10'	accent	seasonal	none

TABLE NO. 1 –PREFERRED LOW WATER USE PLANT LIST FOR PRIVATE PROPERTY

Botanical Name	Common Name	Height X Spread	Function	Litter	Thorns
Yucca, various species					
Y. baccata	Banana Yucca	3' X 5'	effective security plant	low	sharp tips
Y. brevifolia herbertii	Joshua Tree	15' 10'	accent	low	sharp tips
Y. elata	Soaptree Yucca	10' X 4'	accent	low	sharp tips

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Overview Comparison Table SUDC vs LDO												
Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)		Change in Land Uses		Dwelling Unit Ratios		Change in Required Open Space		Change in Setbacks	Max Height	
Symbol	District Name	Symbol	District Name	Added	Removed	SUDC	LDO	SUDC	LDO		SUDC	LDO
RR or RE	Residential Ranch or Residential Estate	RR	Rural Residential	Manufactured Homes Community Garden Fairground/Stadium (CUP) Library Places of Worship RV Park (CUP) Utility Service Yard (CUP) Feed and Tack (CUP) Plant Nursery (Growing Facility & Wholesale) (CUP) Aquafer Recharge (CUP)	Animal Hospital	max 1 du / ac	min 1 du / ac	None	min 10% for new subdivisions	No change	40'	40'
RL	Residential Low Density	R-1	Residential Low Density	Community Garden Places of Worship	Athletic or Fitness Club (less than 5000sf)	2-5 du / ac	min 4,950 sf / du	Min of 20% for new RL subdivisions	min of 10-20% new subdivisions (dependent on density)	Increase: garage face setbacks Decrease: front, rear, and side setbacks	30'	35'
RM	Residential Medium Density	R-2	Residential Medium Density	Community Garden Places of Worship	Athletic or Fitness Club (less than 5000sf)	6-12 du / ac	min 4,00 sf / du	Min of 20% for new RM subdivisions	min of 20-25% new subdivisions (dependent of density)	Increase: garage face and side setbacks Decrease: front and rear	35'	35'
RH	Residential High Density	R-3	Residential High Density	Places of Worship	Assisted Living Home Live/Work Dwelling (CUP) Model Home Complex Athletic or Fitness Club	15-21 du / ac	min 8 du / ac	30-45% of rec space / du (dependend on character pattern standards)	150sf/du of open space	No change	35-72' (6 stories max)	45-60'
SHD-RO	Surprise Heritage District-Residential Overlay	SHD-RO	Surprise Heritage District-Residential Overlay	Community Facility Community Garden Places of Assembly (CUP) Private Club Repair Service Est. (AUP) Service Call Est. (CUP)		max 8 du / ac	min 5000 sf / du			No change		30-35'
SHD-CO	Surprise Heritage District-Commercial Overlay	SHD-CO	Surprise Heritage District-Commercial Overlay	Dormitory (CUP) Animal Grooming Bar/Nightclub (CUP) Catering Services Community Facility Community Garden Entertainment Est. – Indoor Funeral Home, Mortuary (CUP added) Microbrewery, Distillery, & Winery (CUP) Park and Ride (CUP removed) Places of Assembly (CUP removed) Plant Nursery Repair Service Est. Service Call Est. Showroom/Sales Office Minor Vehicle Repair(CUP)		max 10 du / ac	min 4000 sf / du	Unlisted in SUDC	Open space based on either DU in multi-family projects or in setbacks of non-residential procects	No change		35-45'

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Overview Comparison Table SUDC vs LDO												
Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)		Change in Land Uses		Dwelling Unit Ratios		Change in Required Open Space		Change in Setbacks	Max Height	
Symbol	District Name	Symbol	District Name	Added	Removed	SUDC	LDO	SUDC	LDO		SUDC	LDO
MU	Mixed Use	MU-1	Mixed Use Medium Density		Assisted Living Home Funeral Home, Mortuary	TBD at Rezone	min 5,500 sf / du		Open space based on either DU in multi-family projects or in setbacks of non-residential procects	Unlisted in SUDC Now defined in LDO		45'
		MU-2	Mixed Used High Density	Assisted Living Center Entertainment Est. – Indoor Microbrewery, Distillery, & Winery (CUP) Nursing Care Institution Park and Ride Personal Services Places of Assembly Places of Worship Repair Service Est. Restaurant, Convenience/Take Out Retail Shopping (CUP removed) Service Call Est. Showroom/Sales Office	Hotels, Timeshares	TBD at Rezone	2,000-5,500 sf / du		Open space based on either DU in multi-family projects or in setbacks of non-residential procects	Unlisted in SUDC Now defined in LDO		50-60'
C-RS	Resort Commercial	MU-3	Mixed Use Resort	Entertainment Est. – Indoor Entertainment Est.-Outdoor (CUP removed) Microbrewery, Distillery, & Winery (CUP) Personal Services Places of Assembly Repair Service Restaurant, Convenience/Take Out Repair Service Est. Retail Shopping (CUP removed) Service Call Est. Showroom/Sales Office Equestrian Center		TBD at Rezone	8-20 du / ac		30% net area	Unlisted in SUDC Now defined in LDO		30-50'
CN	Neighborhood Commercial	C-1	Neighborhood Commercial	Dormitory (CUP) Animal Grooming Athletic or Fitness Club (Commercial) Bank (CUP removed) Bar/Nightclub (CUP) Catering Services Day Care (CUP Removed) Entertainment Est. – Indoor Feed and Tack Galleries, Museums Personal Services Places of Assembly Places of Worship Private Club Repair Service Est. Restaurant, Convenience/Take Out Retail Shopping Service Call Est. Showroom/Sales Office Vehicle Fueling Stations	Live/Work Dwelling (CUP) Model Home Complex					Redifne setback in relation to ROW or residential property lines	30'	35'
CC	Community Commercial	C-2	Community Commercial	Dormitory (CUP) Animal Grooming Bar/Nightclub (CUP) Catering Services Day Care (CUP Removed) Entertainment Est. – Indoor Feed and Tack Nursing Care Institution Parking Lot/Structure (CUP) Personal Services Places of Assembly Places of Worship Repair Service Est. Self-Storage (CUP) Service Call Est. Showroom/Sales Office Vehicle Rental Facilities Vehicle Washing	Live/Work Dwelling (CUP) Model Home Complex Golf Course					Redifne setback in relation to ROW or residential property lines	35'	40'

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Overview Comparison Table SUDC vs LDO												
Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)		Change in Land Uses		Dwelling Unit Ratios		Change in Required Open Space		Change in Setbacks	Max Height	
Symbol	District Name	Symbol	District Name	Added	Removed	SUDC	LDO	SUDC	LDO		SUDC	LDO
CR	Regional Commercial	C-3	Regional Commercial	Dormitory (CUP) Bar/Nightclub (CUP) Catering Services Day Care (CUP Removed) Entertainment Est. – Indoor Entertainment Est. Outdoor (CUP removed) Feed and Tack Overnight Surgical Park and Ride (CUP removed) Parking Lot/Structure (CUP) Places of Assembly Places of Worship RV Park (CUP) Repair Service Est. Service Call Est. Showroom/Sales Office Vehicle Rental Facilities OHV, Motorcycle, Boats Sales(CUP) Personal Vehicle Sales(CUP) Fleet-Based Services Wholesale Shopping Est	Live/Work Dwelling (CUP) Model Home Complex Animal Grooming Community Facility Golf Course Zoos, Exotic Animal Keeping					Redifne setback in relation to ROW or residential property lines	35-45'	45'
BP	Business Park	BP	Business Park	Dormitory (CUP) Medical Hospital or Overnight Surgical Personal Services Places of Assembly Restaurant, Convenience/Take Out Repair Service Est. Retail Shopping (CUP removed) School-Uni. or College Service Call Est. Showroom/Sales Office Business Incubator Vehicle Fueling Stations OHV, Motorcycle, Boat Sales(CUP) Data Center Food Manufacturing & Processing (CUP) Freight Depot (CUP) Research Facility Wholesale Shopping Est	Places of Worship Contractor Yard					Unlisted in SUDC Now defined in LDO	Unlisted in SUDC	45'

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Overview Comparison Table SUDC vs LDO												
Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)		Change in Land Uses		Dwelling Unit Ratios		Change in Required Open Space		Change in Setbacks	Max Height	
Symbol	District Name	Symbol	District Name	Added	Removed	SUDC	LDO	SUDC	LDO		SUDC	LDO
IP	Industrial Performance	I-1	Light Industrial	Dormitory (CUP) Animal Boarding Facility Catering Services Entertainment Est.-Outdoor (CUP removed) Parking Lot/Structure (CUP) Places of Assembly Repair Service Est. Retail Shopping (CUP removed) RV Storage (CUP removed) Service Call Est. Showroom/Sales Office Business Incubator Vehicle Rental Facilities Commercial Vehicle Sales (CUP removed) OHV, Motorcycle Sales (CUP removed) Personal Vehicle Sales (CUP removed) Auction – Vehicle (CUP removed) Data Center Fleet-Based Services Food Manufacturing & Processing Freight Depot (CUP) Research Facility Manufactured Home Sales (CUP removed) Plant Nursery (Growing Facility & Wholesale) Truck Stop (CUP removed)	Animal Grooming Archery Range—Outdoor Places of Worship Wrecker Service					Redifne setback in relation to ROW or residential property lines	40'	40'
IG	Industrial General	I-2	General Industrial	Catering Services Parking Lot/Structure (CUP) Repair Service Est. Retail Shopping (CUP removed) RV Storage (CUP removed) Service Call Est. Showroom/Sales Office Utility Service Yard Vehicle Rental Facilities Commercial Vehicle Sales (CUP removed) OHV, Motorcycle Sales (CUP removed) Personal Vehicle Sales (CUP removed) Minor Vehicle Repair Fleet-Based Services Food Manufacturing & Processing Manufactured Home Sales (CUP removed) Research Facility Plant Nursery (Growing Facility & Wholesale) Vehicle Towing & Impound Lot (CUP removed) Aquafer Recharge Reclamation or Wastewater Facility Wholesale Shopping Est	Archery Range—Outdoor "Potentially Incompatible Use"					Redifne setback in relation to ROW or residential property lines	85'	85' *Extra setbacks when adjacent to residential
ILM	Industrial Land Mineral Extraction	I-3	Heavy Industrial	Aquafer Recharge Contractor Yard Reclamation or Wastewater Facility	Archery Range—Outdoor Junkyard or Salvage Yard "Potentially Incompatible Use"					Redifne setback in relation to ROW or residential property lines	40'	40'

PART II – The City of Surprise LAND DEVELOPMENT ORDINANCE (LDO)

Overview Comparison Table SUDC vs LDO												
Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)		Change in Land Uses		Dwelling Unit Ratios		Change in Required Open Space		Change in Setbacks	Max Height	
Symbol	District Name	Symbol	District Name	Added	Removed	SUDC	LDO	SUDC	LDO		SUDC	LDO
OS	Open Space	OS-1	Open Space Conservation	Aquafer Recharge (CUP)						Unlisted in SUDC Now defined in LDO		15'
		OS-2	Open Space Recreation	Community Facility Community Garden Golf Course Aquafer Recharge (CUP) Zoos, Exotic Animal Keeping (CUP)						Unlisted in SUDC Now defined in LDO		35'
PF	Public Facilities	PF	Public Facilities	Bus Terminal Community Garden Park and Ride Parking Lot/Structure (CUP) Places of Assembly School-Uni. or College Utility Service Yard Aquafer Recharge Reclamation or Wastewater Facility						Unlisted in SUDC Now defined in LDO		

Citizen Participation Report

Development Code Update

Case FS18-296

Project Summary:

The City of Surprise requests a Text Amendment to the Surprise Municipal Code to replace the SUDC and other development standards with the Land Development Ordinances (LDO) and Planning and Engineering Design Standards (PEDS)

Advertising:

Because of the COVID-19 health emergency, the Citizen Review meetings were held online via two WebEx meetings on September 22 and 29, 2020.

Attendance:

There was a single attendee at each meeting to discuss the merits of the proposal. There were no concerns expressed.

Stakeholder Outreach:

Staff maintained a list of over 650 stakeholder that included all disciplines of the development community: homebuilders, architects, engineers, landscape architects, planners, neighboring cities, other government agencies, school districts, utility companies, etc.

During the first few months of this year, Staff presented many of the draft chapters for discussion at stakeholder meetings, Planning and Zoning Commission meetings, and City Council Work Sessions. Since April 2020, after the stay-at-home order in April of 2020 was in place, staff continued to revise the drafts based on the previous meetings held, and other feedback received such as phone calls and emailed suggestions.

Hybrid stakeholder meetings resumed on a bi-monthly basis between August-November 2020. Each meeting discussed topics that were important to the stakeholder. Based off the stakeholder feedback received, Staff then presented options at multiple work sessions with the Planning and Zoning Commission and City Council, requesting further feedback and direction.

Stakeholder meetings held in 2020:

January 7
February 11
February 25
March 10
August 24

Stakeholder meetings held in 2020-continued:

August 31
September 14
September 28
October 12
October 26
November 9

Planning and Zoning Meetings in 2020

March 3
March 19
September 3
September 17
October 1
October 15
November 5

City Council Work Sessions in 2020

March 17
September 15
October 6
October 20
November 2
November 17
December 1

Planning and Zoning Public Hearing in 2020

November 19

GAMMAGE & BURNHAM, PLC

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October 28, 2020

Via email

Joshua J. Mike, AICP

Planner II

City of Surprise – Community Development

16000 N. Civic Center Plaza

Surprise, AZ 85374

Joshua:

Thank you for speaking with me earlier this week at the virtual stakeholder meeting regarding our ongoing comments with respect to certain provisions within the current draft of the City of Surprise Land Development Ordinance (“LDO”). As requested, we have prepared this written list of concerns, which includes our proposed revisions to the language of the LDO.

This list of suggestions has been prepared on behalf of our client, Harvard Investments (“Harvard”), a real estate investment and development company headquartered in Arizona. Harvard is the owner and developer of several master planned communities in the City of Surprise including Sunrise Ranch and Desert Oasis in the northwest area of the City. Harvard is also the co-owner and manager of the approximately 4,900-acre property, known as Lake Pleasant 5000, which is a future master planned community currently located in unincorporated Maricopa County but within the planning area of the City of Surprise. The Lake Pleasant 5000 property is located north of Highway 74. Harvard has significant long-term interests in the City’s current update to the LDO – particularly with regard to the impact it would have on future master planned communities.

The City’s planning staff has done a tremendous job navigating the challenging and complex process to update the LDO. We sincerely appreciate the extensive stakeholder outreach that has been conducted and the open door policy maintained by City staff. Through this process, we believe that a majority of stakeholder comments have been addressed. That said, up to this point, a majority of stakeholder comments from the homebuilding community have focused on the City’s traditional residential zoning districts. There has been limited stakeholder input on the LDO’s Traditional Neighborhood Development (TND) zoning district, which is the LDO’s zoning tool for large master planned communities – and the one that is of significant interest to Harvard. We have therefore prepared this short list of remaining concerns primarily related to the TND zoning district, which we believe need to be addressed in order for the TND district to be viable for developers of large master planned communities.

1. Diversity of Lot Sizes.

Section 1206-4.2.C.3 of the LDO contains the requirement that all TND developments provide a mixture of three (3) distinctly different lot sizes and lot widths within each residential development

parcel, including that these varied lot sizes must be provided along the same street. The stated goal is to avoid homogeneous subdivisions with repetitive housing types. Our belief is that this provision, as written, is overly prescriptive and will discourage use of the TND zoning district because it creates an unworkable mandate that directly contradicts the patterns and practices of the homebuilding industry, and directly impacts housing affordability. The City's goal for diversity, however, can be achieved in other ways that also respect that established practices and practicalities of the homebuilding industry. Our concerns, and suggested revisions, are outlined below.

The City's LDO mandates that the TND district can only be used for a project that exceeds 320 acres and, as noted above, that "every residential development parcel shall provide a minimum of three (3) distinctly different lot sizes..." The LDO defines a "development parcel" as:

Development Parcel: A portion of land within an overall master site plan or master planned development that includes one (1) or more lots with a specific net residential density, characteristic, and/or zoning district; excluding a parcel or lot outside of a master planned development.

Per this definition, a "development parcel" seems intended to accommodate a specific product type at a specific density. This conforms to our common understanding as well. The TND district, however, provides that each "development parcel" needs to have three (3) distinctly different lot sizes, which is defined as meaning that lot widths must vary by at least 20 feet and lot sizes must vary by a minimum 2,000 sf. At the most basic level, the TND requirement seems to directly contradict the definition of a development parcel. However, when you turn to the larger issue of implementation of the TND diversity requirement, coupled with the additional mandate that each street must contain these varying lot sizes, the result is a very impractical provision.

The City's stated goal is to avoid homogenous neighborhoods. The impact of this provision, however, goes far beyond that. The mandated variation in lot sizes will result in individual neighborhoods, and streets, that must be designed to accommodate wide variations in character, density, product type, price points, and buyer demographics. As an example, a developer would need to provide a minimum of 40', 60' and 80' lots within the same development parcel and along the same street to meet the TND district requirement. This, in turn, would result in lot sizes ranging from 4,500 square feet (for a typical 40' x 115' lot) to 10,000 square feet (for a typical 80' x 125' lot) all within the same development parcel. These are lot sizes and product types with very different characteristics and densities all forced to live within the same space. There is no established precedent within the land planning practices for master planned communities for this type of forced micro-diversity. The homebuilding community is a market driven industry where significant resources are devoted to understanding and serving customers according to market demands and buyer preferences. The buyer for a home on a 40' wide lot is markedly different from the buyer for a home on an 80' lot. This includes different expectations with regard to architecture, materials, character of the neighborhood and types of amenities needed to serve those homes. Each of these elements also speaks to housing affordability. Is the City's goal to force social diversity within its communities, or is the goal to achieve architectural and character diversity within neighborhoods – to avoid what historically may have been viewed as the 'sameness' of suburban communities? We believe it is the latter.

There are other, more technical, considerations as well. Different lot widths are also typically accompanied by different lot depths. While a 115' lot depth might be typical for 40 or 50' wide lots, a 125 or 130' depth will be more common for larger 75 or 80' lots. It is difficult to efficiently intermix these lot sizes within a single development parcel, and there is simply no way to intermix these lot sizes on a single street without "oversizing" the smaller lots. This will result in increased costs for the homebuyers of smaller lots since they will have no choice but to buy "up" into a deeper lot with more acreage. This cuts directly against housing affordability. Add to that the fact that mixing lot sizes at the micro level will have significant impacts on the practicalities of marketing, sales and construction of these neighborhoods. Homebuyer choices and sales opportunities are constrained. In a typical scenario, when a development parcel is designated for a specific product line, homebuyers have the ability to choose any lot within that development parcel along with choosing the floor plan, elevation and color scheme for their specific home. By forcing multiple product lines and buyer demographics within a single development parcel, the process of designing, planning and selling within the community, as well as construction sequencing, becomes infinitely more complicated and limited. The City's desire for housing diversity should not outweigh these practical limitations – particularly when diversity can be achieved in other ways. Ultimately, the challenges of this requirement in the TND district will cause homebuilders and master planned community developers to turn to the City's other zoning district options to create a viable zoning framework.

If the City's goal is to avoid homogenous and repetitive street scenes, then the TND provisions should be written to ensure that a variety of housing product lines (with different lot sizes, lot widths and densities) are developed within the overall master planned community to address macro level concerns. This should be coupled with architectural design guidelines that require diversity of floor plans, elevations, color schemes and orientation of homes to address the micro level. This combination of provisions will ensure diversity within the overall community as well as within individual development parcels and along streetscapes. The TND provisions should be structured to provide limitations on how much any one lot size can dominate the community. These strategic changes to the structure of the TND ordinance will foster the desired diversity, but in a manner that works within the patterns and practices, and practical limitations, of the homebuilding industry.

Our recommendation is that the TND district be revised to provide for the variation of lot sizes *as between* development parcels, coupled with requirements for a minimum level of variation of lot sizes within the overall community.

Below is our proposed change to the language of Section 106-4.2.C.3 of the LDO:

106-4.2 Establishment of TND Zoning district

C. Required Mixture of Land Uses.

3. **TND DEVELOPMENTS SHALL PROVIDE** ~~Residential neighborhoods shall be laid out providing~~ different housing types and varying lot sizes ~~interspersed on the same street within the same subdivision,~~ to prevent creating homogenous subdivisions filled with repetitive housing types. Every **TND DEVELOPMENT** ~~residential development parcel~~ shall provide a minimum of three (3) distinctly

different LOT CATEGORIES (AS DEFINED PER TABLE 106-4B) THAT MEET THE FOLLOWING CRITERIA ~~lot sizes; providing:~~

- a. A minimum of ~~two~~ ONE thousand FIVE HUNDRED square foot (~~2,000~~ sf1,500) differential in *lot* area in combination with;
- b. A *lot* width differential of at least ~~twenty (20)~~ TEN (10) feet; and
- c. No one (1) LOT CATEGORY ~~lot-size~~ shall comprise more than sixty percent (60%) of the total number of residential *lots* within a TND DEVELOPMENT ~~single-development parcel~~ AND EACH OF THE THREE (3) LOT CATEGORIES MUST INDIVIDUALLY COMPRISE A MINIMUM OF 20% OF THE TOTAL NUMBER OF RESIDENTIAL LOTS WITHIN A TND DEVELOPMENT.
- d. ALTERNATIVES TO THESE CRITERIA MAY BE APPROVED AS PART OF THE TND PLAN OF DEVELOPMENT IF THE PROPOSED ALTERNATIVES MEET THE INTENT OF THESE DIVERSITY CRITERIA.

2. Mixture of Land Uses.

Section 106-4.2.C.1 of the LDO includes the requirement that every TND development provide a mixture of land uses that include residential, commercial, mixed use, and open space based on the approved number of development units in the TND development.

The LDO currently requires TND developments to provide a minimum amount of land area designated for commercial, mixed-use and open space based on the number of approved development units in accordance with the specific ratios in Table 106-4a. In its current version, the minimum amount of acreage that the LDO requires for each land use is a firm requirement. While an overriding goal of most master-planned communities is to provide a mixture of land uses, a mandate such as the requirement noted above does not provide any flexibility for the unique circumstances of an individual master planned community. Individual characteristics of a master planned community, including its topography, design and location, are important considerations that need to be taken in to account when determining the amount of commercial, mixed-use and open space land areas that should be provided within a master planned community.

Our suggestion is to modify this requirement to change the required mix of land uses to “targets” rather than fixed requirements and to allow the specific ratio to be established through the zoning process. The specific ratios in the LDO would be presumed for every master planned community, but with flexibility such that a developer can suggest alternative ratios and provide a justification as to why those alternative ratios are appropriate for a specific project in lieu of the city’s presumptions. This modification would allow the City to approve an alternate mix of land uses on a case-by-case basis. Such a modification would provide important flexibility while establishing a presumption that must be overcome by the developer and justified through the rezoning process.

Specifically, below is our proposed change to the language Section 106-4.2.C.1 of the LDO:

106-4.2 Establishment of TND Zoning district

C. Required Mixture of Land Uses.

1. All TND developments will be required to provide a mixture of land uses that include residential, commercial, *mixed use*, and *open space*. **Table 106-4a** below identifies the specific ratios for the TARGET MIX OF land uses based on the approved number of *dwelling units* in the overall TND project. AN ALTERNATE MIX OF LAND USES MAY BE APPROVED BY THE CITY COUNCIL BASED ON THE INDIVIDUAL CHARACTERISTICS OF THE TND DEVELOPMENT, INCLUDING ITS TOPOGRAPHY, LOCATION, OVERALL DESIGN AND QUALITY, THE INTERFACE OF ITS VARIOUS COMPONENTS AND THE INTEGRATION OF THE PROJECT INTO THE OVERALL COMMUNITY.

3. Development standards for lots in TND-R and R-2.

Under the current draft of the LDO, the minimum lot width that is permitted in any zoning district, including the TND-R and R-2 zoning districts, is 40 feet. A minimum lot width of 40 feet does not accommodate some of the more unique and innovative high density residential product types that are platted on individual lots – including townhomes or cluster developments that include four or more dwelling units on a single lot. Based on our experiences in other jurisdictions, these product types are often platted on lots that may have a width as narrow as 30 feet and a depth of 70 feet, and may include unique features such as shared access drives or access provided for each lot via a rear-loaded alley. The LDO's current minimum lot width does not accommodate these type of high density residential product types, which have become very desirable in today's market and an important element for housing diversity within a master planned community setting.

Our suggestion is to modify the development standards in the R-2 and TND-R zoning districts to create a new lot category that accommodate these types of high-density residential product types.

Specifically, our proposed changes to the LDO are as follows:

Table 106-2d – Residential Medium Density (R-2) Zoning District

- Add a new lot category intended for higher density residential products platted on individual lots with the following development standards:
 - o Lot Area (sf): 2,000-3,499
 - o Min. Lot Width (sf): 35
 - o Min. Front Setback (ft) : 5
 - o Max Front Setback (ft): N/A
 - o Min. Side Setback (ft): 5/5
 - o Min. Rear Setback (ft): 5
 - o Max. Bldg. Height (ft): 30
 - o Lot Coverage: 70%

- o Footnote: Add footnote that this lot category can only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley.

Table 106-4b – Development Standards for TND-R Parcels

- Add a new lot category intended for higher density residential products platted on individual lots with the following development standards:
 - o Lot Area (sf): 2,000-3,499
 - o Min. Lot Width (sf): 35
 - o Min. Front Setback (ft) : 5
 - o Max Front Setback (ft): N/A
 - o Min. Side Setback (ft): 5/5
 - o Min. Rear Setback (ft): 5
 - o Max. Bldg. Height (ft): 30
 - o Lot Coverage: 70%
 - o Footnote: Add footnote that this lot category can only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley.

As indicated above, we believe the development standards in both the R-2 and TND-R zoning districts should accommodate the high density residential product types that are platted on individual lots. That said, unlike the conventional residential zoning districts, the LDO does not permit a PUD to modify the development standards in TND-R — which, without a new lot category, is the tool we anticipate homebuilders will likely utilize to accommodate this type of higher density residential product in R-2. Therefore, it is especially important that a new lot category be added to the TND-R district in order for the TND to be a more market-relevant zoning district that can accommodate these innovative, higher density residential products.

Thank you for the opportunity to provide these comments and proposed revisions to the City's LDO update. We look forward to continuing to work with City staff on these revisions as this process draws to a close.

Sincerely,
GAMMAGE & BURNHAM



By
Michael Maerowitz

October 30, 2020

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Joshua Mike, AICP
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City of Surprise
16000 North Civic Center Plaza
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TM HOMES OF ARIZONA, INC.
ROC #179178 B

Re: City of Surprise LDO Code Updates

Dear Joshua:

City staff has done a great job creating a transparent and open dialog with stakeholders during discussions associated with the Land Development Ordinance ("LDO") Code Updates. Thank you for your time speaking with me individually this week and the follow-up with an email. We much appreciate the City of Surprise holding the stakeholder meetings this year and sincerely appreciate the extensive outreach that has transpired during this challenging and complex process.

There are still some concerns we have regarding this topic. The following is a summary:

- (1) Side Setbacks: we understand City and P&Z desire to retain the 5' & 7' and 5' & 8' setbacks. Contrastingly, we have consistently shared that price sensitive buyers trying to seek approval for a mortgage are not willing to pay for this additional side yard space. Therefore, 5' & 5' setbacks are necessary for providing a certain amount of affordable housing within a project. City staff has stated 5' & 5' setbacks are one of the development standards that can be amended through the PUD process. However, we understood the process of updating the LDO was to try and limit the number of PUD/PAD's submitted to the City. Therefore, we believe the City code should allow for 5' & 5' side setbacks for lot sizes 50' wide or less.
- (2) Narrow Lots: Currently, the draft LDO limits the number of narrow lots on a plat to 50%. Narrow lots are currently defined as less than 50' wide. The City will also require "mitigation measures" to address some of the City's issues with narrow lots such as solid waste pickup, on-street parking, and "garage dominance." We do not consider a 45' or 50' wide lot as a "narrow/small lot". We believe the City should reconsider a revised definition of "narrow lot" to be any lot that is 40' wide or smaller as we believe it is the 40' wide or less lots that are causing the issues with trash and concerns with garage dominance.

(3) Traditional Neighborhood Zoning Districts: This zoning district is intended to facilitate master planned communities. We understand the City is proposing three different lot sizes which requires a lot differential of at least 20% within a development parcel. If this requirement is within an individual subdivision or within the same street, this practice would make it difficult for production builders to create construction efficiencies. Additionally, the definition of a development parcel needs to be further defined since a strict interpretation of this code is problematic and should only be used as a means for builders themselves to differentiate based on their unique market demographic and not be mandated by the City. It is important to keep in mind that most development parcels are typically a single 20 to 40-acre parcel and comprised of a single product type. We would like to further ensure the City understands that builders conduct significant market research to ensure product fits the needs of specific consumer groups. This product research influences the required widths and depths for each series of lot types. For instance, a product we would put on a 45' wide lot has been designed to fit on a typical 115' deep lot. However, an 80' wide product is designed to sit on a deeper lot around 125' or 130' depending on required setbacks. Therefore, if forced to put varying products on the same street, the smaller product would cost more since it would have to be on a deeper lot. The practice currently proposed by the City directly impacts affordability of smaller product and the marketability of an entire subdivision; therefore, we do not advise P&Z or Council approve this into the LDO.

We understand the City's goal is to avoid homogenous neighborhoods and we are aligned with this vision. However, as land prices and development costs steadily climb, affordability is a real problem we face in the Phoenix MSA. When making code updates, we believe the City should keep in mind the marketability effects of implementing specific code regulations which complicate the development process. We believe the City may be trying to implement codes to satisfy all buyer groups and this is just not possible. Additionally, builders must consider many design elements such as, community pools and amenities that impact the financial viability of communities. We respectfully understand the City's desire for builders to create the best communities for the future residents and their families. Our suggestions are united with this mission and we appreciate your time considering our comments.

Thank you for the opportunity to work through these important matters. We look forward to continuing to work with City staff through this process.

Sincerely,



Angela Carmitchel
Director of Planning and Development



November 16, 2020

Sent Via Email

Chairman Bash and Commissioners
Planning and Zoning Commission
City of Surprise
16000 N Civic Center Plaza
Surprise AZ 85374

RE: Land Development Ordinance – Agenda Item #2

Dear Chairman Bash and Commissioners:

On behalf of the Home Builders Association of Central Arizona (“HBACA”), thank you very much for the opportunity to participate in the City’s Land Development Ordinance (“LDO”) and Planning and Engineering Design Standards (“PEDS”) update. Specifically, we thank Chris Boyd, Joshua Mike, and the Community Development team for an open, transparent, and collaborative process. The collaboration between City staff and the stakeholders resulted in significant improvements to the draft LDO and PEDS.

Throughout this process, our comments and suggested revisions were focused on achieving four goals.

- Provide builders and developers with flexibility to respond to rapidly changing market conditions, evolving consumer preferences, and unique land and development challenges.
- Ensure a transparent, predictable, and efficient approval process.
- Craft development standards and regulations that reflect the home building and residential development practices and business models in Arizona.
- Maintain housing affordability for working families in Surprise and the enhanced quality of life that comes with homeownership.

While significant progress was made in achieving these goals, the alternative language suggested by the HBACA and other stakeholders and reflected in the Staff report are still needed to ensure that the LDO meets these goals.

Alternative Language #1 – Reduce side setbacks to 5' & 5'

This reduced development standard is vital to maintaining housing affordability for working families in Surprise, such as our teachers, firefighters, police officers, and active-duty military. Home prices are quickly climbing in Surprise and may become unaffordable for families with median household incomes soon.¹

According to the National Association of Home Builder's ("NAHB") Priced Out Study, a mere \$1,000 increase in the median home price makes that home unaffordable for 2,490 households in the Phoenix market.² To put this in perspective, in the United States, only six other markets price out more households with a \$1,000 increase in the median-price of a home.³ This is because the Phoenix market currently has a relatively high number of households that qualify for the median priced home, but those households are very sensitive to even slight price increases. Increasing the side setbacks by two to three feet adds significantly more than \$1,000 to the cost of a home.⁴ As described by NAHB economist Robert Dietz, "Reducing home buyers' spending on land, rather than housing, is one method to improve housing affordability."⁵

Builders build products that buyers want. If buyers demand larger side yards, these setback limitations would not force builders and developers to create lots that they would not otherwise produce.⁶ The fact that this is a significant discussion topic, and the City's frequent requests for 5' & 5' setbacks illustrates the distortion to the market resulting from an increase in this development standard. Stakeholders have provided examples of subdivisions in Surprise where builders are offering 5' & 5' setbacks in addition to larger setbacks which provides for greater housing diversity. These narrow lots with narrow setbacks are popular among new home buyers because of the overall affordability, less need for landscaping maintenance and upkeep, and improvements in water conservation. This is why many municipalities throughout the Valley are increasing opportunities for builders to offer these types of products. The ability of builders to accommodate a variety of buyer profiles in Surprise is essential.

¹ See, e.g., City of Phoenix Housing Department, *Housing Phoenix*, at 12 June 2020 (illustrating six hypothetical households and their max housing prices) (available at https://www.phoenix.gov/housingsite/Documents/Final_Housing_Phx_Plan.pdf) (attached as Exhibit A).

² Na Zhao, Ph.D, *NAHB Priced-Out Estimates for 2020*, January 2, 2020 (available at https://www.nahbclassic.org/fileUpload_details.aspx?contentTypeID=3&contentID=271366&subContentID=737399&channelID=311).

³ Id.

⁴ Our members estimate the added three feet will add approximately \$10,000 to the cost of a home in Surprise.

⁵ Robert Dietz, *Can Smaller Lots Help Affordability?*, Builder Magazine, May 8, 2019 (available at https://www.builderonline.com/money/affordability/can-smaller-lots-help-affordability_o).

⁶ See, e.g., M. Nolan Gray & Salim Furth, *Do Minimum-Lot-Size Regulations Limit Housing Supply in Texas?*, Mercatus Research, Mercatus Center at George Mason University, May 2019. (Concluding that clustering lot sizes evidences that builders are limited by lot size regulations and would otherwise build smaller lots to meet market conditions.).

Alternative Language #2 – Reducing Narrow Lots from 50' to 48'

This revision will help facilitate a transparent, predictable, and efficient approval process. It also reflects the practical reality that the most common home product is a 35' wide product. By putting a 35' wide product on a lot with a 5' & 8' side setback, the resulting lot width is 48'. This change will allow builders to utilize their 35' wide products without having to seek a deviation from the development standards throughout an entire subdivision. Importantly, we have demonstrated to the City that this can be done in a manner that does not restrict or inhibit on-street parking and trash collection any more than with 50' wide lots.⁷

Alternative Language #3 – Additional R-2 Zoning District for Lots 2,000 to 3,499 sq.ft.

This amendment provides yet another avenue for builders and developers to respond to rapidly changing market conditions, evolving consumer preferences, and unique land and development challenges. Therefore, we support its inclusion in the proposed LDO.

Alternative Language #4 – TND Zoning District: Mixture of Land Uses

Table 106-4a identifies a very prescriptive ratio for the target mix of land uses within a TND Zoning District. This revised language simply allows for the City Council to approve an alternative land use mix. This is key to a successful TND project because it will provide builders and developers the opportunity to tailor a project to rapidly changing market conditions. As drafted, the alternative language allows the City Council to modify these ratios where the modification is supported by the individual circumstances of a specific project. This is a reasonable request.

Alternative Language #5 – TND Zoning District: Residential Lot Diversity

This alternative language presents revisions to achieving residential lot diversity within a TND Zoning District. These revisions are critical because the current draft does not reflect the practical realities of residential development and the orderly disposition of land from developer to home builder. For example, varying lot sizes that are “interspersed on the same *street* within the same subdivision” is unworkable for builders because lots with varying lot widths and varying home products also have varying lot depths.

Even requiring this diversity within the same parcel creates significant challenges and renders this requirement infeasible for builders. In addition, the variation in lot sizes needed to achieve diversity will not facilitate the orderly sale of land from developer to builder. Therefore, we support the suggestion to measure lot diversity across the entire community rather than per parcel.

⁷ See, HilgartWilson, *City of Surprise Parking Comparison* (attached as Exhibit B).

Finally, the City Council's ability to approve deviations from these standards is needed to ensure that builders and developers can continue to evolve their designs and projects to ever changing market conditions and unique land constraints.

Alternative Language #6 – TND Zoning District: Additional Zoning District for Lots 2,000 to 3,499 sq.ft.

The residential districts in the TND Zoning District should match the residential districts in other parts of the LDO. Therefore, if the City adopts Alternative Language #3, it should adopt this language as well.

Similarly, builders and developers should have the ability to deviate from the TND development standards in the same fashion they can in the residential districts. The TND section should additionally be amended to allow for this deviation.

Additional Considerations – Section 108-2.12 Gated Communities

In addition to the alternative language provided, there are needed revisions to Section 108-2.12. This section limits the use of gated communities to less than 40 acres unless a minimum of thirty (30%) percent of the gross land area is set aside as improved open space. This is a significant requirement. Gated communities are an important component to a diverse housing stock. There is a segment of buyers that value a gated community and are willing to pay for the additional cost. Our understanding is that the current Surprise Unified Development Code ("SUDC") allows for deviations or alternative approaches to this requirement, but the LDO does not. We request that the LDO be modified to allow for alternative approaches to providing gated communities in both the residential zoning districts and the TND zoning districts.

The connectivity requirements also need to be clarified. Section 108-2.12(B) requires that the community not "impeded connectivity of *streets*, improved *open space*, multi-use pathways or other *public improvements*" and these connections "shall remain open and accessible at all times." Does this require the gates to remain open at all times? Does this require the pedestrian gates to sidewalks remain open at all times? Keeping connections to a trail system open is a reasonable expectation, but the explicit purpose of gates is to limit access to other types of connections.

Additional Considerations – Clarify the Use of Terms

Throughout the proposed LDO and during the duration of the stakeholder process, there is confusion about the use of the terms: "subdivision", "plats", and "parcels." Since these are the evaluation tools for lot sizes and lot diversity, their use should be clarified to ensure a consistent set of expectations. Where the term "plat" is used, is that intended to cover a pre-plat, a master plat, or a final subdivision plat?

Additional Considerations – Using the PUD to Modify Narrow Lot Limitations

At previous stakeholder meetings, some stakeholders expressed concern that, as currently drafted, the footnotes in Tables 106-2c and 106-2d (Residential Development Standards) would not permit the PUD to modify the types and number of mitigation measures needed to plat narrow lots. Our understanding is that City Staff is willing to work with builders and developers to meet those mitigation measures. However, if there are concerns that the language does not match the intent, the City should make clarifying revisions to ensure that the intended flexibility is granted.

Additional Considerations – PEDS Amenities

Through the collaboration between the City and stakeholders, there were significant improvements made to the amenity requirements in the PEDS. There is one additional revision that is necessary. In section 2.2.B, there is an equation that is used to calculate the size of land used for a large amenity. That equation is dwelling units x 3.8 persons per dwelling unit x 100 square feet.

Aside from the LDO update, the City is also in the process of developing a transportation impact fee. In preparation for determining the land use assumptions and infrastructure improvements plan that will become the basis of a transportation impact fee, the City and its consultant prepared a table of Residential Factors.⁸ This table includes the City's persons per housing unit. In that table, the Single-Family persons per housing unit is 2.51 not the 3.8 that is used in the PEDS.

This number is calculated using data from the United States Census Bureau for the City's population, households, and housing units. If the City is going to use persons per housing unit as a factor in calculating land for amenities, the City should use the 2.51 from the transportation impact fee study. This is a more accurate and current reflection of Surprise and is the basis for other land use regulations such as impact fees.

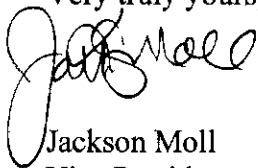
⁸ Attached as Exhibit C.

Chairman Bash and Commissioners
November 16, 2020
Page 6

Conclusion

On behalf of all our members, thank you very much for the opportunity to provide additional feedback on the updated LDO. Thank you again to staff for all its work and willingness to engage with the industry. We look forward to continuing to work with the City to resolve these remaining issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jackson Moll", written over the typed name.

Jackson Moll
Vice President of Municipal Affairs
Home Builders Association of Central Arizona
Registered Lobbyist with the City of Surprise

CC: Joshua Mike, Planner II, City of Surprise Community Development
Chris Boyd, Director, City of Surprise Community Development

**EXHIBIT A – *HOUSING*
PHOENIX EXCERPT**



Housing Needs Assessment and Gap Analysis

AFFORDABILITY AND INCOME

Phoenix's residents have made our city what it is today! As we work to ensure that prosperity is enjoyed by all Phoenicians, we need to ensure there are affordable housing opportunities for residents at all income levels, at all stages of life, in all our communities.

This means providing affordable housing opportunities for our firefighters, police officers, teachers, sanitation workers, construction workers, young professionals, small business owners and other working families - those who rescue us in times of need, keep our streets clean and safe, educate our children, and stock our grocery stores, among other critical functions. It means providing housing opportunities for our service industry and healthcare workers who fuel our economy and care for us and our loved ones. It means providing housing opportunities for our veterans who have served our country and fought for our freedom. It means providing housing opportunities for young adults and young families, who are our future, as well as existing residents who have fueled our economic growth. It also means enabling our seniors and legacy residents to remain in the city that they helped build.

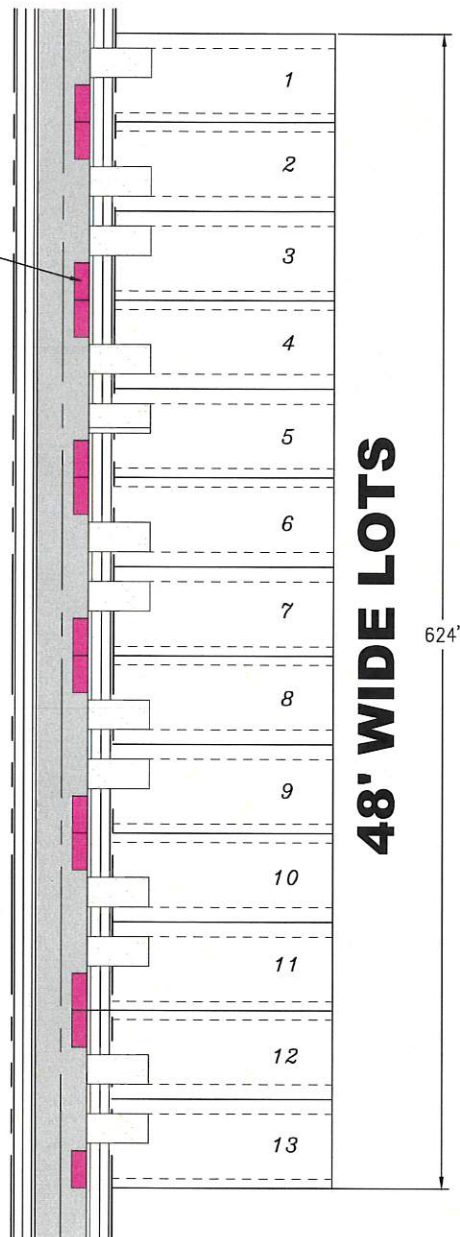
Affordable housing is about providing meaningful access to opportunities for our residents who are vital to our city. But affordability means different things to different people. Our goal is to provide a variety of housing options for a full spectrum of residents so that all who desire to call Phoenix home can afford to live here. The image below provides a visual of households that fall within extremely low, very low, low income, median income, and moderate-income categories. This visual presents household situations and the maximum affordable rent and maximum affordable mortgage for each household.

Currently, the average rent for a one-bedroom apartment in our community is approximately \$1,100 per month, which is affordable to households earning at or above \$53,000 annually. Our community's average rent is not affordable to residents earning minimum wage, service industry workers and many other essential workers. As a whole, 45% of households earn less than \$53,000 and cannot afford this average rent amount. According to Zillow, the current median home price in phoenix is \$248,000. The only income level that can afford to purchase a median price home, are families that make 100% of Area Median Income, which is \$73,000 for a family of 4.

Household Type						
	Retiree on Fixed Income	Service Industry Worker	Sanitation Worker	Single Parent with Two Children	Family of 4 People	Young Married Couple
Number in Household	1	1	1	3	4	2
Estimated Household Income	\$15,000	\$26,000	\$31,000	\$53,000	\$73,000	\$70,000
% of Area Median Income (At or Below)	30%	50%	60%	80%	100%	120%
Max Rent They Can Afford	\$375	\$650	\$775	\$1,325	\$1,825	\$1,750
Max Home Price	\$49,000	\$65,000	\$95,000	\$171,000	\$250,000	\$220,000

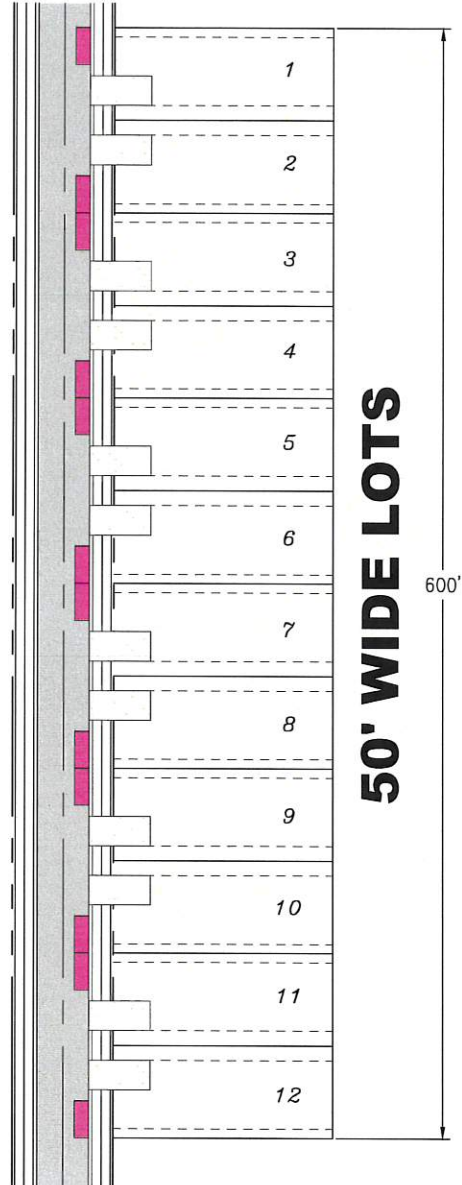
**EXHIBIT B –
HILGARTWILSON
PARKING COMPARISON**

TYPICAL 20'
ON-STREET
PARKING



48' WIDE LOTS

624'



50' WIDE LOTS

600'

TYPICAL 48' WIDE LOT



TYPICAL 50' WIDE LOT



PROJ.NO.:

DATE: NOV 2020

SCALE: 1"=100'

DRAWN BY: HW

CHECKED BY: HW

CITY OF SURPRISE

PARKING COMPARISON

HILGARTWILSON
2141 E. HIGHLAND AVE., STE. 250
PHOENIX, AZ 85016
P: 602.490.0535 / F: 602.368.2436

**EXHIBIT C – SURPRISE
TRANSPORTATION
IMPACT FEE
PRESENTATION**

Transportation Development Impact Fee – Stakeholder Kickoff Meeting

Surprise, Arizona

September 24, 2020

Bethesda, MD | 301.320.6900

TischlerBise.com

Residential Factors

The analysis will use persons per housing unit to convert housing units to population.

Housing Type	Persons	Households	Persons per Household	Housing Units	Persons per Housing Unit	Housing Mix	Vacancy Rate
Single-Family ¹	121,890	42,542	2.87	48,483	2.51	86.5%	12.25%
Multi-Family ²	7,061	3,620	1.95	4,376	1.61	7.8%	17.28%
Mobile Home	3,583	1,933	1.85	3,162	1.13	5.6%	38.87%
Total	132,534	48,095	2.76	56,021	2.37	100.0%	14.15%

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, Tables B25024, B25032, B25033.

1. Includes detached and attached (i.e. townhouses) units.

2. Includes dwellings in structures with two or more units.



November 12, 2020

Josh Mike, AICP Planner II
City of Surprise Community Development
16000 N. Civic Center Plaza
Surprise, AZ 85374
Joshua.mike@surpriseaz.gov

Re: Comments on City of Surprise Draft LDO and PEDS

Mr. Mike:

PulteGroup (“Pulte”), is a nationwide home builder with extensive development experience in the Phoenix metro area, including Surprise. We are seeing robust sales activity at our Desert Oasis project near 163rd Avenue and Jomax Road, and we are seeking to build on this success with another application in process for a nearby project along 163rd Avenue.

The Phoenix metro area is widely regarded as one of the hottest new home markets in the nation, and Surprise is certainly no exception. There is significant demand for new homes for first-time, move-up and active adult buyers all over the valley as young families that are already living in these areas look to move-up and first-time millennial and out-of-state move-up and active adult buyers look to move-in. The west valley and Surprise are well positioned to meet these demands; however, if these consumers have diverse needs that can only be met with diverse product that can be organized into distinct neighborhoods; other cities in the metro area already allow for this. With high demand and low mortgage rates, home prices are a primary consideration among these buyers. Millennials are poised to significantly increase first-time home buying activity in the next 2-5 years with a preference for narrower lots that require less maintenance at a price they can afford in communities with intriguing amenities that offer great access and excellent schools. Pulte has developed a wide variety of housing product to meet the needs of these consumers by conducting extensive research to gain key insights over the years but land, development, and entitlement costs remain critical aspects of delivering affordable, high-quality homes to new residents who can grow the community in Surprise.

Pulte hopes to continue to play a significant role in the City’s development, and our representatives have been participating in the update process for Surprise’s Land Development Ordinance (“LDO”) and Planning and Engineering Design Standards (“PEDS”) for nearly a year. We appreciate the City’s outreach to the development community and believe the collaborative process has yielded positive results on a number of big picture conceptual items. As the LDO and

PEDS updates are now scheduled for hearings before the Planning & Zoning Commission and City Council, we are providing more specific written comments for refining some of the details in this Code update. We also understand staff has prepared “Alternative Language” for some LDO provisions to present to Planning Commissioners and City Councilmembers with substitute language proposed by the development community. Pulte supports the Alternative Language, and we provide additional discussion below on its importance related to lot width, setbacks, and the Traditional Neighborhood District’s (“TND”) residential development standards. Please include our comments in the material provided to the Planning and Zoning Commission prior to the November 19 hearing. We would be happy to discuss any of these matters with you further.

I. Planning Unit Development (“PUD”) Overlay: LDO Section 106-9.1

Throughout the LDO public outreach, we have encouraged the inclusion of a robust PUD overlay tool. It is simply not possible to draft a code that accounts for every possible problem and solution in advance, and the PUD tool provides the necessary flexibility for home builders to adapt their plans to each unique piece of land and market conditions. It also preserves City Council’s ability to approve any deviations from the Code and work with the applicant through the political process. We appreciate that a PUD overlay has been added to the current draft. We have several requested modifications regarding the applicability of the PUD overlay to ensure it can be used to modify residential development standards within the TND District, gated community requirements, and narrow lot subdivision requirements, all of which are discussed in more detail below.

We also encourage the addition of a minor PUD amendment process to permit certain changes to be processed by staff without a full rezoning process. The minor amendment process could be limited to only apply to a low percentage change in a standard or a certain portion of a subdivision or if staff determines that the community will remain in substantial conformance with the approved PUD. Around the valley, it is not uncommon to see large tracts that were entitled in the early- or mid-2000s and have remained vacant. Often, these entitlements do not meet current market conditions, but minor entitlement modifications on all or part of the property can bring it up to current standards. The time and expense required to make such minor alterations is one of our considerations when siting new communities, and a minor PUD amendment process can make the difference in deciding to move forward with a project.

II. Lot Width and Side Setbacks: LDO Sections 106-2.3, 106-2.4, and 108-2.5.G; Tables 106-2c and 106-2d

We understand that the draft LDO and PEDS provisions regarding lot size have been crafted with great care after considerable discussion in stakeholder meetings. Lot width is an important driver of cost, because it impacts the length of utilities and roadway construction. Land and development costs can exceed \$2,000 per linear foot of roadway frontage. These costs are ultimately borne by the buyer and can impact project viability with this market’s emphasis on home prices. To ensure we can continue providing quality communities for new home buyers in Surprise, we support flexibility in the LDO to develop narrow lots with 5’/5’ side setbacks and

support the Alternative Language to that effect. We understand, however, that Planning Commissioners and City Councilmembers have provided staff direction to maintain 5’/8’ side setbacks on 45’ lots and 5’/7’ setbacks on 40’ lots with an option to deviate to 5’/5’ through a PUD. Because of the current market dynamic, we expect these standards will result in a significant number of PUD requests for side setbacks so that home builders can provide a marketable product.

We appreciate that the LDO allows for narrower lots than the SUDC. In the current draft LDO, footnotes in the development standards tables for the R-1 and R-2 zoning districts cap the number of “narrow” lots at 75% of a subdivision and also reference specific mitigation requirements that will apply at the plat stage, which are outlined in Section 108-2.5.G. Regarding the mix of narrow lots within a “subdivision,” we request clarification that for master planned communities this mix will be measured throughout the community rather than on a per parcel basis. It is a standard approach for larger communities to separate different lot sizes into different parcels while maintaining an overall mix.

We support the Alternative Language to change the definition of narrow lots in Sections 106-2.3, 106-2.4, and 108-2.5.G to less than 48’, instead of less than 50’. Home builders’ products are typically provided in increments of 5’: 30’, 35’, 40’ product. Under the LDO’s 5’/8’ side setbacks, 50’ lots are unlikely to develop. Instead, 48’ lots would be standard for 35’ product and 5’/8’ side setbacks. The 48’ lots would achieve the City’s goals for trash pick-up – which can be more efficient for narrow lots due to less distance between homes – and street parking just as effectively as 50’ lots, and the 48’ lots provide 4 percent savings on linear frontage.

We also request modifications to Table 108-2a to reduce the number of mitigating designs needed for up to 50% and up to 75% narrow lots as shown below in strikethrough. While we understand the need to address concerns regarding potential conflicts for narrow lots subdivisions, we believe these modifications will meet those goals and avoid regulation that could make projects financially infeasible.

Proposed Revisions to LDO Table 108-2a

Table 108-2a- Narrow Lots Subdivision	
Allowed lots less than 50’ wide per subdivision Plat	Mitigation Designs
Up to 10%	No more two such <i>lots</i> shall <i>abut</i> one another
Up to 25%	Any 1 design
Up to 50%	2-3 mitigating designs
Up to 75%	3-4 mitigating designs or rear loaded alley on block with less than 50’ wide

Finally, we request clarification that the narrow lot mitigation criteria can be modified through a PUD. It is important that developers and home builders have certainty early in the development process and can work with City staff, Planning Commission, and City Council on an approach to narrow lots so that yield and development costs can be determined rather than wait until the plat stage. As drafted, the LDO’s PUD tool can modify the standards found in Section

106 (Zoning), but not in Section 108 (Land Division and Subdivision). Here, Section 106 includes footnotes in the development standards tables for the R-1 and R-2 districts, but that mitigation criteria themselves are included in Section 108. We understand that the narrow lot footnotes in the R-1 and R-2 development standards tables are intended to permit the PUD tool to apply to the narrow lot subdivision requirements. To avoid confusion in subsequent application of the LDO, we request that the footnotes be revised to add language to the effect of “or as set forth in a PUD overlay.”

III. Amenities: PEDS Section 2.2.B

We appreciate the City’s effort to revise the SUDC’s current community pool requirement and to work with stakeholders to revise earlier drafts of the PEDS to permit a more flexible approach to planning amenities that will allow home builders to deliver high quality amenity packages tailored to their specific projects. While we agree with this general approach, we request a minor modification to the formula for the size of a Community amenity in PEDS Section 2.2.B.4.d in order to better align the scale of projects with amenity requirements. This provision sets the size of Community amenities for certain large projects and narrow lot projects at 3.8 person per dwelling unit and 100 sf per person. This formula would result in a 2.18 acre Community amenity for a project with 250 homes, 4.36 acres for 500 homes, 6.54 acres for 750 homes, and on up. We propose the formula should either be decreased overall or capped at 5 acres. While we understand larger projects require a more significant amenity outlay, there can be a point of diminishing returns for the size of a large project’s central amenity, and the focus on a single extra-large amenity for larger projects could detract from the benefits of more dispersed amenities throughout the site.

IV. Gated Communities and Private Streets: LDO Section 108-2.12

Gated communities with private streets appeal to a segment of the current home buying market and are needed to ensure a mix of housing options are available in Surprise. These projects provide a sense of prestige, privacy, and safety that is important to some home buyers and can be developed in appropriate locations that do not impede major transportation routes or designated trails. These gated communities are typically maintained by the homeowner associations and therefore lessen the long-term maintenance burden for the City. The current draft of the LDO’s requirements for gated communities (Section 108-2.12) is similar to the SUDC’s provision. We request that the term “multi-use pathways” in Section 108-2.12.B be replaced with “General Plan designated trails” in order to clarify that the pedestrian connections protected by this provision are designated trails, not sidewalks, which is an important distinction.

We are concerned that the proposed gated community provision does not allow for alternatives to meet some of the requirements specific to gated communities. In particular, the requirement that gated communities of over 40 acres provide a minimum 30% gross improved open space is much more stringent than the requirement for non-gated communities. Focusing on the quality of amenities, gathering places, and other project features may be more effective at providing a benefit to residents than the requirement based solely on quantity. The SUDC allows

for modification to this standard through a PUD process, but the LDO's current PUD provision does not apply to gated community requirements as currently drafted. We encourage a lower open space requirement for gated communities and additional flexibility, either through the PUD overlay or a separate process to provide equivalent alternatives.

Also, LDO Section 108-2.4.C.4.a requires private streets to be “constructed to City specifications and the PEDS.” As drafted, it is unclear whether any deviation is permitted. Flexibility may be needed for private street design to meet the unique needs of a gated community, and deviation from public street standards should be permitted when approved by appropriate staff. Under the LDO, a waiver/deviation process is available for **public** street design (see LDO Section 107-1.2); however, it is unclear this provision would apply to **private** streets. Language should be added to LDO Section 108-2.4.C.4 to clarify that private street design is subject to the deviation and waiver provision in Section 107-1.2 or some other alternative process.

V. Traditional Neighborhood Development (“TND”) District: LDO Section 106.4

The TND district is intended to accommodate master planned communities with a mix of uses on 320 acres or more. As currently drafted, the LDO does not permit deviation from TND standards through a PUD tool. See LDO Sections 106-9.1.B, 106-4.4.B. We propose that the PUD overlay tool be made applicable to LDO Section 106-4.4 so that development standards for residential lots within the TND district may be modified to the same extent as other residential lots. The current draft's rigid approach to the TND district's development standards could discourage home builders from building within the TND district, which in turn could limit the overall development of new mixed use master planned communities in Surprise.

We support the Alternative Language regarding the TND district's three lot size requirement. As drafted, the LDO would require a minimum of three lot sizes *per residential parcel* within the TND district. See Section 106-4.2.C.3. Master planned community developers often bring in multiple home builders to develop different lot sizes on different parcels to create an overall mix within the broader master planned community. The current *per parcel* requirement would not permit this approach and should be revised to apply the three lot size requirement *across the entire master planned community* consistent with the Alternative Language.

In addition, we encourage revisions to the TND section to permit gated communities where appropriate. See Section 106-4.1.C.6. While we recognize the need for connectivity in master planned communities, there is market demand for gated residential projects, and these should be accommodated where appropriate within the TND district, as approved by City Council on a case-by-case basis.

Finally, Table 106-4b provides confusing side setback standards where one side and an aggregate are called out. Earlier drafts of the LDO included the same approach to side setbacks throughout residential districts, but these were revised in response to stakeholder feedback for the R-1 and R-2 residential districts. The TND side setbacks should be described in the same manner, and we believe staff is aware of this issue and is addressing it.

VI. Half-Streets: LDO Section 108-2.4.C.6

Constructing and improving roadways within ROW adjacent to residential development projects is common and expected as part of orderly land planning, and it is often achieved through construction of adjacent half-streets. Under LDO Section 108-2.4.C.6, however, full street improvements are required unless a development agreement is approved by City Council for half-street construction. This approach would be overly burdensome, create disproportionate incentives among developers, and disrupt regional planning. Any waiver required to construct a half-street should be granted by the City Engineer through an administrative process, not through a development agreement approved by City Council.

Developers typically do not have rights to the entire ROW required for full street construction. As such, this provision would put a developer in the untenable position of having to grant the City a concession through a development agreement in exchange for building a half-street even though the developer does not control the property needed to build a full street. In addition, a full-street requirement creates disincentives for a developer to be the first to build in an area, because the initial developer will bear the full cost of roadway construction, while an adjacent landowner can wait and build a project later with a windfall benefit from the first developer's road construction efforts. Although repayment agreements may be executed in these situations, they require up front costs from the initial developer and may expire before repayment under Chapter 42 of the City Code. Finally, construction of full roadway improvements in this manner would require planning for ingress/egress and underground utility and service connections without the benefit of knowing how adjacent property will develop, which contradicts prudent land planning principles. We request this provision be revised to remove these burdensome street improvement requirements.

VII. Urban Growth Principles: LDO Section 104-1.4-B

The urban growth principles in LDO Section 104-1.4 set forth a vision for growth and connectivity for Surprise. Section 104-1.4-B, however, uses "shall" language as applied to certain goals. While we understand that future planning should adhere to the City's urban growth principles where feasible, this overly prescriptive language could thwart future residential projects, in particular those that cannot meet goals related to multimodal travel and public transit due to their location. We request that the "shall" language be replaced with a more permissive approach, such as "should consider" or, at least, that provisions relating to transit connections should include "if applicable" language.

VIII. Conclusion

Thank you for your consideration of our comments and work on the LDO and PEDS. We appreciate the collaboration thus far with stakeholders on big picture concepts, but we believe further modifications as set forth above are needed to ensure continued opportunities for home builders to meet market demand in Surprise.

Sincerely,



Greg Abrams
PulteGroup, Inc
Arizona Division
Its, Vice President

ORDINANCE # 2020-38

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, REPEALING CHAPTERS 101-122 OF THE SUPRISE MUNICIPAL CODE, DECLARING A PUBLIC RECORD, AND ADOPTING PART II - LAND DEVELOPMENT ORDINANCE, CHAPTERS 101-111; INCLUDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING CONFLICTING ORDINANCES.

WHEREAS, the City of Surprise has determined that it would be beneficial to amend and update the City's development regulations to improve the permitted land uses and aesthetics of the community, promote public safety, and provide increased clarity for development standards;

WHEREAS, the City of Surprise has conducted a series of meetings of the City of Surprise Planning and Zoning Commission and City Council where the proposed revisions to the Land Development Ordinances were presented to the public and during which interested citizens and others were provided an opportunity to provide public input;

WHEREAS, the City received numerous written comments and input from citizens and other stakeholders from the development industry before, during, and after these public meetings;

WHEREAS, this Ordinance was properly noticed for citizen review meetings and public hearings and the necessary hearings and opportunity for public input were completed;

WHEREAS, the proposed changes are deemed to implement the goals and policies of the Surprise General Plan 2035 and are an improvement to the Surprise Municipal Code;

WHEREAS, the proposed changes are compliant with applicable case and statutory law as they pertain entitlements and development regulations;

WHEREAS, on December 15, 2020, during a properly noticed Public Hearing, the City Council considered the November 19, 2020, Surprise Planning and Zoning Commission's recommendation for approval of the proposed Land Development Ordinances Chapter 101-111; and

WHEREAS, upon consideration and discussion, City Council has approved the document entitled, "Part II-Land Development Ordinances" attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. *Repeal of existing text.* Chapter 101-122 of the Surprise Municipal Code is hereby repealed in its entirety

Section 2. *Adoption of new Land Development Ordinances.* New Chapter 101-111, as recommended for approval by the Planning and Zoning Commission on November 19, 2020, further revised by staff upon recommendation by the Planning and Zoning Commission, and approved by the City Council at the December 15, 2020 Regular Council Meeting, attached as, **Exhibit A** is incorporated into this Ordinance and is hereby adopted in its entirety.

Section 3. *Publication and Codification.* This ordinance shall be published in the manner prescribed by law and is hereby codified.

Section 4. *Repeal of Conflicting Ordinances.* All ordinances, resolutions or codes in conflict with the provisions of this Ordinance or Code adopted by this Ordinance are repealed.

Section 5. *Severability.* If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of these amendments to the municipal code adopted herein is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be interpreted and applied to affect the validity of the remaining portions thereof.

Section 6. *Declaration of Public Record.* The attached **Exhibit A** to this Ordinance, as adopted by the City Council in its entirety, is hereby declared to be public record, and three copies shall be maintained on file with the City Clerk for public inspection. A copy may also be accessed and viewed on the Official Website of the City of Surprise (www.surpriseaz.gov) at the City Clerk's webpage under Municipal Code at "Adopted Ordinances Not Yet Codified" as Ordinance No. 2020-38.

Section 7. *Effective Date.* This ordinance will become effective at the time and manner prescribed by law.

SIGNATURES ON THE FOLLOWING PAGE

PASSED AND ADOPTED this _____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

Exhibit A

Land Development Ordinances for the City of Surprise, Arizona



Presentation: Updating the Development Code

**City Council
Public Hearing
December 15, 2020**

Today's Discussion

- What is the Code Update?
- What is the Surprise Unified Development Code (SUDC)?
- Current Planned Area Developments (PAD)
- Future of Surprise
- New Land Development Ordinances (LDO)
- Reorganizing Planning and Engineering Design Standards (PEDS)

What is the Code Update?

The Code Update is an effort by the City of Surprise to update and simplify its Land Development Ordinances and Planning and Engineering Design Standards.

- It will modernize the city's regulations and standards to create a clear and visionary toolbox for Surprise's future
- Implements the vision of the General Plan
- Changes to the overall code must follow 3 principles:
 1. **Easy to Read**
 - Clear and transparent for individuals, property owners, and developers
 2. **Easy to Administer**
 - Straightforward interpretation for staff when reviewing projects
 3. **Easy to Enforce**
 - Well-defined regulations for enforcement officers/inspectors to evaluate

What is the SUDC?

- Chapter 122: Surprise Unified Development Code (SUDC)
 - Adopted in 2009
 - Effectively acts as the Zoning Code
 - Doesn't incorporate all aspects of development regulations
 - Regulations focus large subdivision scale development
 - Difficult to apply for the individual land owner
 - Setbacks unique to geography; applied differently across City

Current Zoning

Residential Zoning

- RR, RL, RM, RH, SHD-RO

Commercial

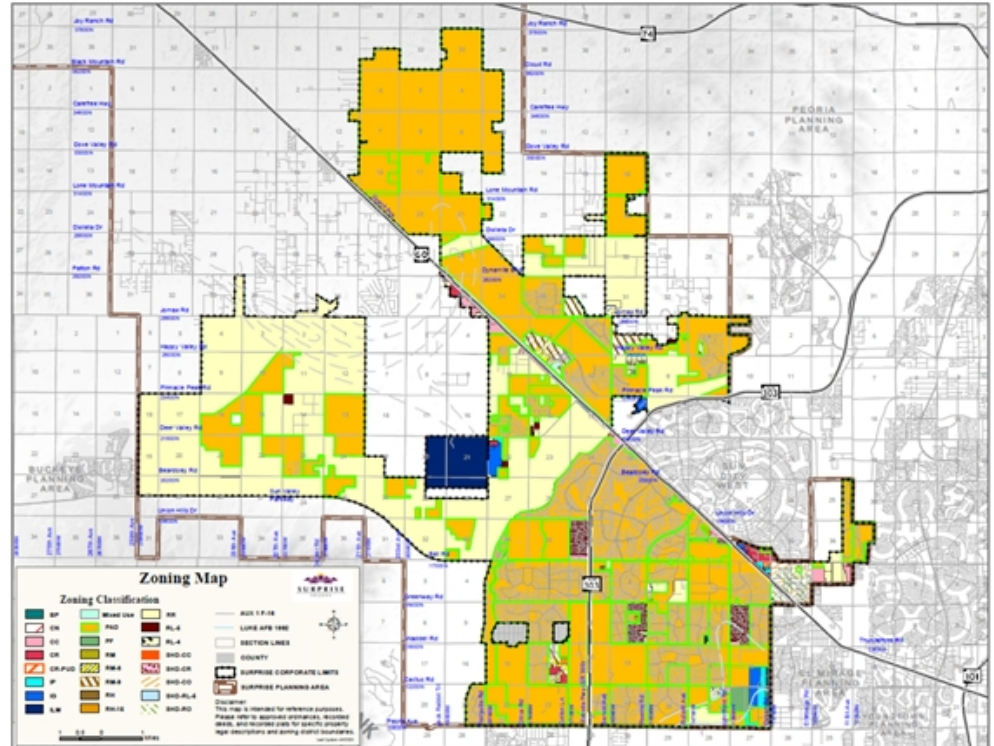
- CC, CN, CR, SHD-CO

Employment

- BP, IP, IG, ILM

Mixed Use or Master Plans

- MU, C-RS, PAD



Proposed Zoning

Residential Zoning

- RR, R-1, R-2, R-3, SHD-RO

Commercial

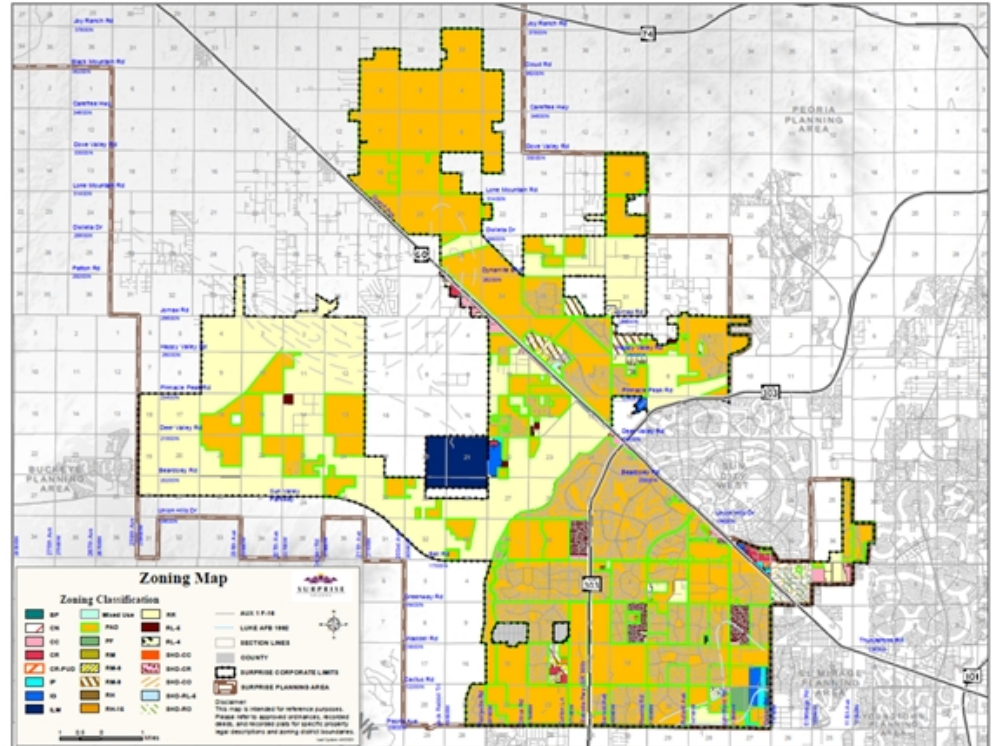
- CO, C-1, C-2, C-3, SHD-CO

Employment

- BP, I-1, I-2, I-3

Mixed Use or Master Plans

- MU-1, MU-2, MU-3, TND



Current PADs

Planned Area Developments (PAD)

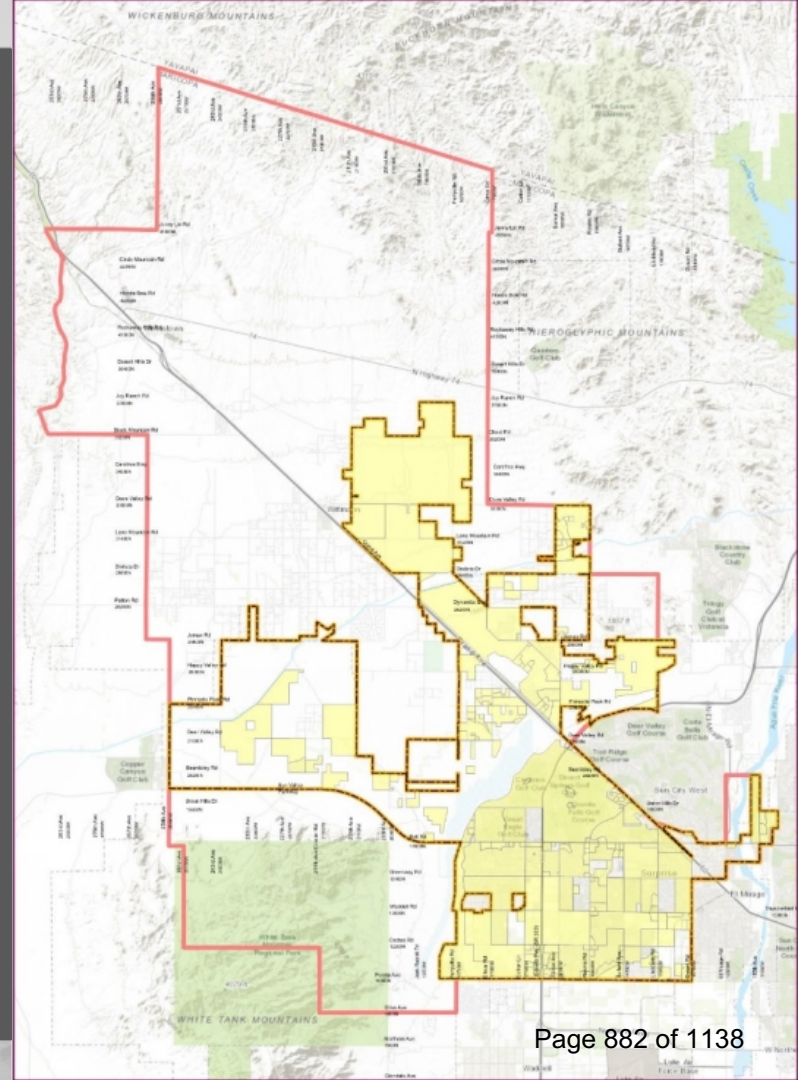
- Alternative to conventional zoning and development regulations
- Allowed under previous zoning code; 1986 Code and Title 17

Over 70 current PADs

- Contain most of existing subdivisions and commercial centers

Update won't change existing entitlements

- Specific regulations, standards, and entitlements remain
- References to current code will comply with update



Current PADs

Planned Area Developments (PAD)

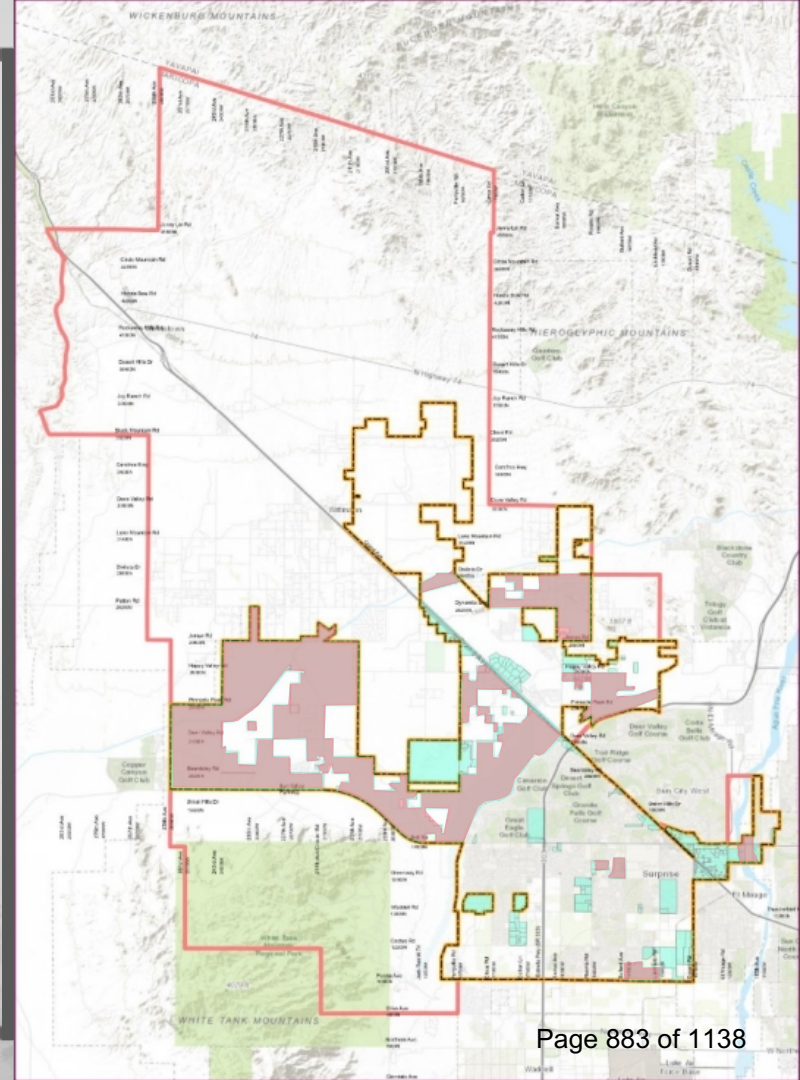
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- Contain most of existing subdivisions and commercial centers

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- Specific regulations, standards, and entitlements remain
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Current PADs

Planned Area Developments (PAD)

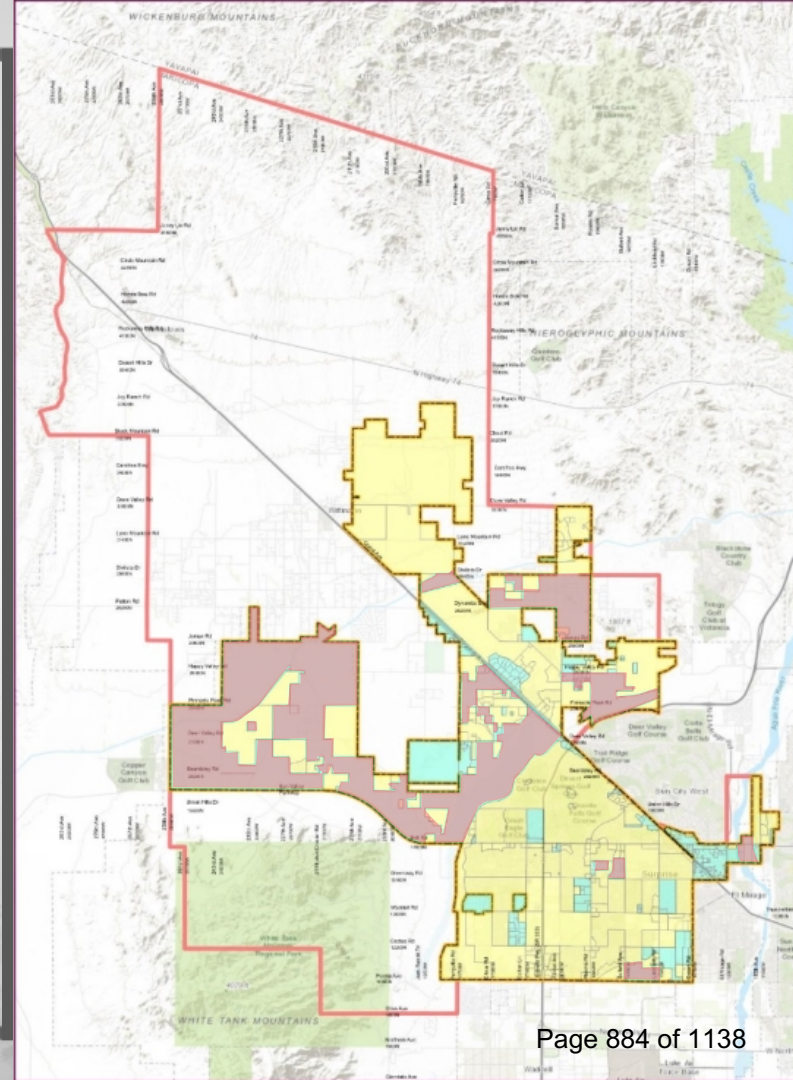
- Alternative to conventional zoning and development regulations
- Allowed under previous zoning code; 1986 Code and Title 17

Over 70 current PADs

- Contain most of existing subdivisions and commercial centers

Update won't change existing entitlements

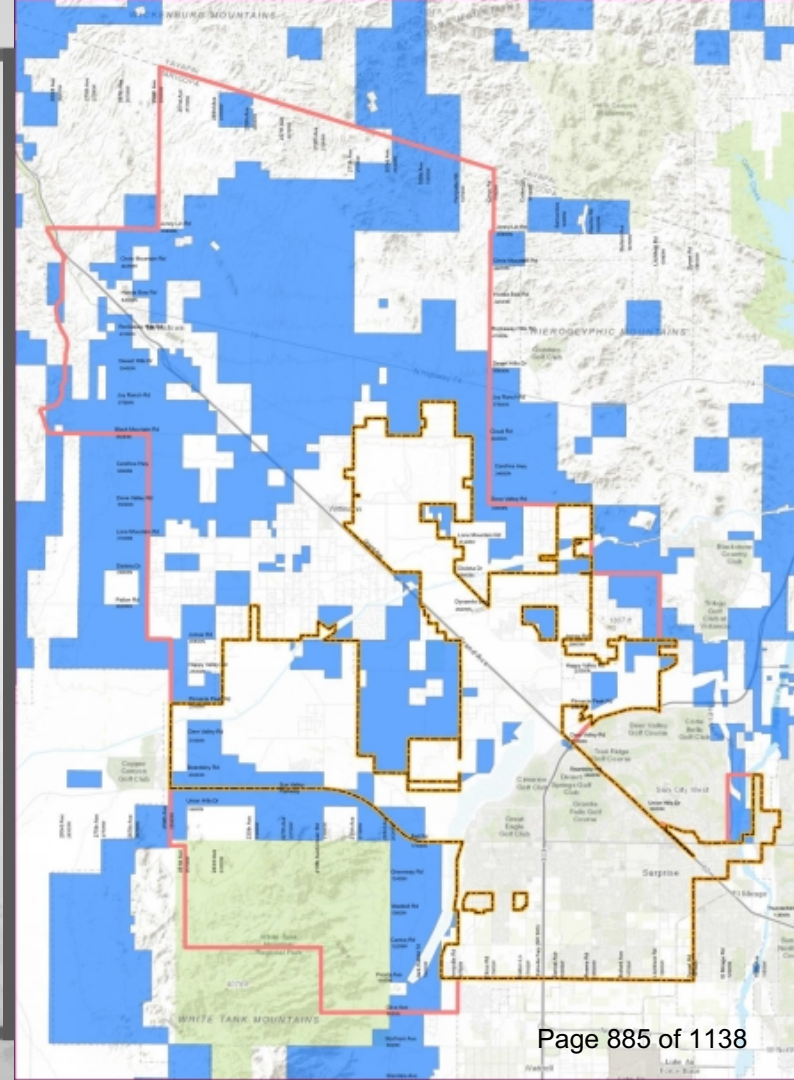
- Specific regulations, standards, and entitlements remain
- References to current code will comply with update



Future of Surprise

Land Use and Consumption

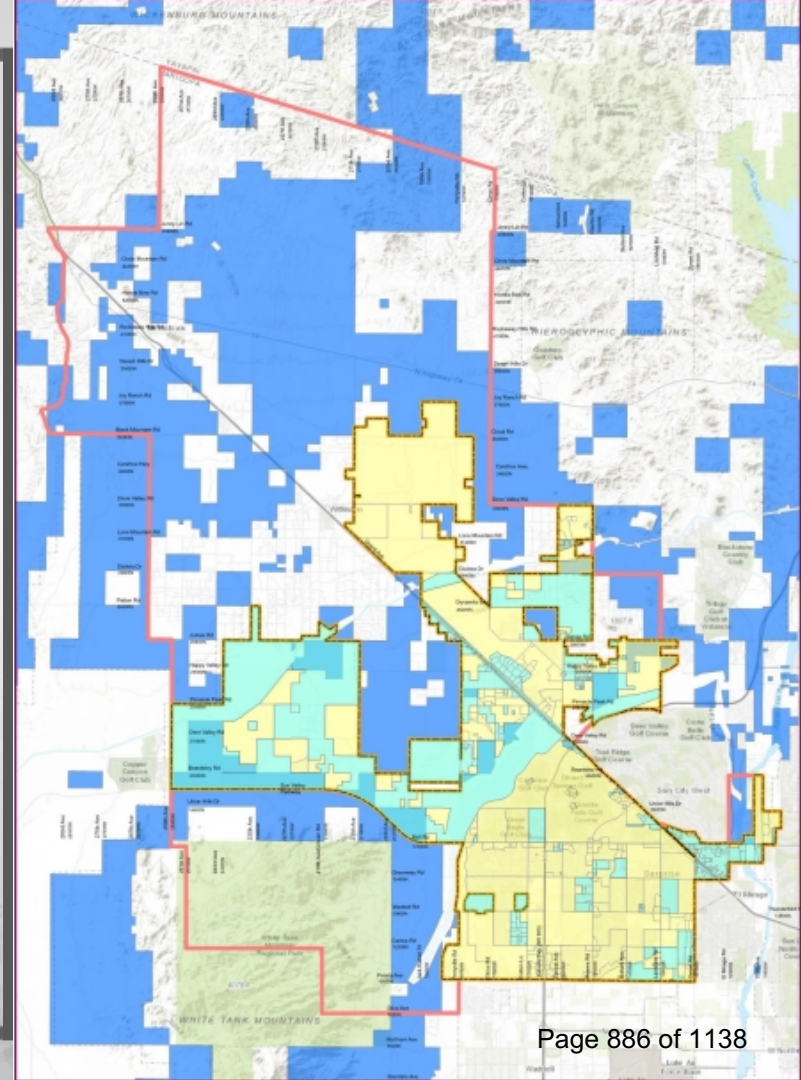
- Planning Area – 303 Square Miles
- Incorporated Area – 107.85 Square Miles
- 28,500 Acres of Vacant Land in Incorporated Area



Future of Surprise

Land Use and Consumption

- Planning Area – 303 Square Miles
- Incorporated Area – 107.85 Square Miles
- 28,500 Acres of Vacant Land in Incorporated Area



The New LDO

- Land Development Ordinances (LDO)
 - Part II of the Municipal Code
- Removing the title SUDC as a “clean break”
 - Can be its own version in City records
 - Similar to “1986 Code” and “Title 17”
- Comprehensive changes to the whole development code
 - To be referenced to as the LDO
 - Reorganizing table of contents
 - Raise standards for site, open space, architectural design

The New LDO

Table of Contents: Current

Ch 101: General/Administrative Provisions
(reserved, no text)

Ch 105: Buildings and Building Regulations
(current text references building codes)

Ch 106: Development Impact Fees (definitions,
regulations, applicability, etc)

Ch 109: Misc Provisions (mainly Infill Incentive
District)

Ch 113: Signs (being revised separately)

Ch 117: Stormwater Management (definitions,
regulations, applicability, etc.)

Ch 122: SUDC (all other development regs)

Table of Contents: Potential

Ch 101: General/Administrative Provisions

Ch 102: Review and Approval

Ch 103: Enforcement

Ch 104: Fundamental Development Req.

Ch 105: Buildings and Building Regulations

Ch 106: Zoning Code

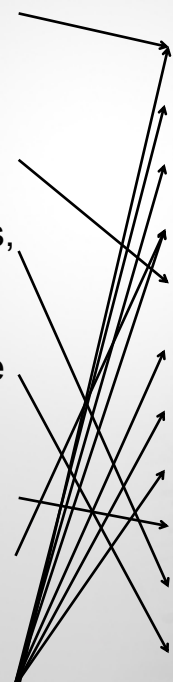
Ch 107: Design Requirements

Ch 108: Land Division

Ch 109: Signs

Ch 110: Development Impact Fees

Ch 111: Infill Incentive District



Review Process & Applications

Procedure Types

Type 1. Interpretative and administrative applications

- Does not require public outreach process, public meeting, or public hearing
- Community Development Director.

Table 102-2a

- Level of public outreach required
- Decision-making authority
- Appeal authority

Table 102-2a: Application Type, Procedure, and Decision Authority Summary

	Public Outreach				Community Development Director	Planning and Zoning Commission	City Council	Board of Adjustment
	Agenda Posting	Notice Letter & Newspaper	Neighborhood Meeting	Site Posting				
Type 1 Applications								
Zoning Interpretation					D			A
Site Plan Amendment (minor)					D	A		
Minor land division / Parcel assemblage					D		A	
Administrative Use Permits					D			A
Temporary Use Permits					D	A		
Home Product Review					D	A		
Corrective Plat					D		A	
PEDS Deviation/Waiver					D	A		
Slope Category Analysis Waiver					D	A		
Administrative Waiver/Extension					D	A		
Key: X = Required (1) = 1st Class Letter not required R = Reviews and recommends action to decision-making body D = Decision-making body A = Appeal authority								

Review Process & Applications

Procedure Types

Type 2. Requires a public meeting

- Limited public outreach of posting the meeting agenda
- Planning and Zoning Commission OR City Council

Table 102-2a

- Level of public outreach required
- Decision-making authority
- Appeal authority

Table 102-2a: Application Type, Procedure, and Decision Authority Summary

	Public Outreach				Community Development Director	Planning and Zoning Commission	City Council	Board of Adjustment
	Agenda Posting	Notice Letter & Newspaper	Neighborhood Meeting	Site Posting				
Type 2 Applications								
Site Plan Review	X				R	D	A	
Site Plan Amendment (major)	X				R	D	A	
Protected Development Rights Plans	X				R	R	D	
Preliminary / Final Plats	X				R		D	
Original Townsite Incentive	X				R		D	
Development Agreement	X				R		D	
Hillside Cut & Fill Waiver	X			X	R	D		
Key: X = Required (1) = 1 st Class Letter not required R = Reviews and recommends action to decision-making body D = Decision-making body A = Appeal authority								

Review Process & Applications

Procedure Types

Type 3. Generally legislative in nature requiring a public hearing

- Agenda Posting, Newspaper Publication, Letter by 1st Class Mail, and Site Posting
- Subject to the Application Type
 - Planning and Zoning Commission, Board of Adjustment, or City Council

Table 102-2a

- Level of public outreach required
- Decision-making authority
- Appeal authority

Table 102-2a: Application Type, Procedure, and Decision Authority Summary

	Public Outreach				Community Development Director	Planning and Zoning Commission	City Council	Board of Adjustment
	Agenda Posting	Notice Letter & Newspaper	Neighborhood Meeting	Site Posting				
Type 3 Applications								
General Plan Amendments	X	X	X	X	R	R	D	
Specific Area Plan Requests	X	X	X	X	R	R	D	
Rezoning Requests	X	X	X	X	R	R	D	
LDO Text Amendments	X	X ⁽¹⁾	X		R	R	D	
Conditional Use Permits	X	X	X	X	R	D	A	
Comprehensive Sign Program	X	X	X	X	R	R	D	
Variances Requests	X	X		X	R			D
Annexation	X	X	X	X	R		D	
Key:					R = Reviews and recommends action to decision-making body			
X = Required					D = Decision-making body			
(1) = 1 st Class Letter not required					A = Appeal authority			

SUDC vs LDO

Compare Development Codes

- Change in Land Uses
 - Some are being consolidated
 - Easier interpretation by the City
 - More flexibility for future ideas
- New uses being added
 - General terms to allow flexibility
 - Repair Service Establishment
 - Service Call Establishment
 - Outdoor uses moved to the accessory use matrix
 - Dining
 - Sales and display
 - Storage areas

SUDC	LDO
Convention Facilities	Places of Assembly
Bingo Parlor, Bowling Alley, Dance Hall, Pool Hall, Dinner Theatre, Movie Theater, Video Games/Arcade, Skating Rink, Axe Throwing	Entertainment Establishment – Indoor
Skateboard Track—Outdoor Commercial, Go-Cart Track, Driver Training Theater—Outdoor including Drive-In and Amphitheaters	Entertainment Establishment-Outdoor
Alcohol—Beverage Retail Sales Ammunition and Firearms Sales Home Improvement Center (Typically home, lawn, and garden supplies, brick, lumber, and other similar building materials) Pawn Shop/Resale Stores Retail—Industrial (Retail 10% or less of Gross Floor Area) Retail—Industrial (Retail 20% or less of Gross Floor Area) Retail—Office Retail—Residential/Office—Residential/Retail—Office—Residential	Retail Shopping Establishment
Ambulance Service Taxi/Limo Service—Parking and Dispatch Moving Company	Fleet-Based Services
Biotechnical—Manufacturing, Processing Cabinet or Carpenter Shop, Millwork and Wood Products Computer and Electronic—Manufacturing Metal Products—Manufacturing and Fabrication	Manufacturing

SUDC vs LDO

Compare Development Codes

- New symbols
- Permitted Land Uses
 - Shows only the changes
 - Other permitted use still allowed (full use matrix available online)
 - Removed uses are incompatible with zoning district
 - Uses previously defined by size will be regulated by zoning district
- Conditional Use Permits (CUP)
 - review of design and configuration to ensure the appropriateness
 - not burden or conflict with the established uses

Surprise Unified Development Code (SUDC)		Land Development Ordinance (LDO)		Change in Land Uses	
Symbol	District Name	Symbol	District Name	Added	Removed
RR RE	Residential Ranch or Residential Estate	RR	Rural Residential	Manufactured Homes Community Garden Fairground/Stadium (CUP) Places of Worship RV Park (CUP) Utility Service Yard (CUP) Feed and Tack (CUP) Plant Nursery (CUP) (Growing Facility & Wholesale) Aquafer Recharge (CUP)	Animal Hospital
RL	Residential Low Density	R-1	Residential Low Density	Community Garden Places of Worship	Athletic or Fitness Club (less than 5000sf)
RM	Residential Medium Density	R-2	Residential Medium Density	Community Garden Places of Worship	Athletic or Fitness Club (less than 5000sf)
RH	Residential High Density	R-3	Residential High Density	Places of Worship	Assisted Living Home Work-Live Athletic or Fitness Club

SUDC vs LDO

Compare Development Codes

- New symbols
- Permitted Land Uses
 - Shows only the changes
 - Other permitted use still allowed (full use matrix available online)
 - Removed uses are incompatible with zoning district
 - Uses previously defined by size will be regulated by zoning district
- Conditional Use Permits (CUP)
 - review of design and configuration to ensure the appropriateness
 - not burden or conflict with the established uses

LDO	Dwelling Unit Ratios		Change in Required Open Space	
Symbol	SUDC	LDO	SUDC	LDO
RR	max 1 du/ac	min 1 du/ac	None	min 10% for new subdivisions
R-1	2-5 du/ac	min 4,950 sf/du	Min of 20% for new RL subdivisions	min of 10-20% new subdivisions (dependent on density)
R-2	6-12 du/ac	min 4,00 sf/du	Min of 20% for new RM subdivisions	min of 20-25% new subdivisions (dependent of density)
R-3	15-21 du/ac	min 8 du/ac	30-45% of rec space/du (dependent on character pattern standards)	150sf/du of open space

SUDC vs LDO

Compare Development Codes

- New symbols
- Permitted Land Uses
 - Shows only the changes
 - Other permitted use still allowed (full use matrix available online)
 - Removed uses are incompatible with zoning district
 - Uses previously defined by size will be regulated by zoning district
- Conditional Use Permits (CUP)
 - review of design and configuration to ensure the appropriateness
 - not burden or conflict with the established uses

LDO	Change in Setbacks	Max Height	
Symbol		SUDC	LDO
RR	No change	40	40'
R-1	Increase: garage face setbacks Decrease: front, rear, and side setbacks	30	30'
R-2	Increase: garage face and side setbacks Decrease: front and rear	35	35'
R-3	No change	35-72' (6 stories max)	45-60'

Parking Standards

Notable Standards to Discuss

Land Use	SUDC Parking	LDO Parking
Accessory Dwelling Unit	1 per ADU plus spaces for primary residence	1 per ADU plus spaces for primary residence
Multi-family Dwelling	Studio=1.5/unit 1B=1.5/unit 2B=2.0/unit 3+B=2.5/unit	Studio-1B=1/unit, 2+B=2.0/unit plus 1 per 250 sf of office and community facilities uses, and 0.2 spaces per DU dedicated to visitor parking
Single-Family Dwelling Unit	2 per DU	2 per DU

Multi-family parking requirements

- Proposing a simplified minimum calculation
- Added a visitor parking calculation
- Require that visitor parking is dedicated as visitor parking

Reorganizing Planning and Engineering Design Standards (PEDS)

Code Regulations vs Design Standards:

- Chapter 107: Design Requirements (LDO)
 - Calculation based regulations; parking, landscaping, outdoor lighting
 - References developers to the PEDS for design standards
- Planning and Engineering Design Standards (PEDS)
 - Will be referenced in the development code update for enforceability
 - Stand-alone document outside of the LDO
 - Planning Standards = Visual form requirements (volume 1)
 - Engineering Standards = Structural/dimensional requirements (volume 2)

Reorganizing Planning and Engineering Design Standards (PEDS)

- Upgrading the design and aesthetic standards
 - Preferred approaches, potential for alternative solutions may be proposed
 - Guiding Tool: Surprise General Plan 2035, previous Surprise Guidelines and also other valley “best practices”

- Volume 1: Planning Standards

CHAPTER 1: Standard Requirements for all Land Uses

CHAPTER 2: Neighborhood Land Uses

CHAPTER 3: Commerce, Office and Mixed Use Land Uses

CHAPTER 4: Business Park and Industrial Land Uses

CHAPTER 5: Environmentally Sensitive Lands Standards

Outreach and Stakeholders

Citizen Outreach:

2 meetings were held online via two WebEx meetings on September 22 and 29, 2020.

Stakeholder Outreach:

Staff maintained a list of over 650 stakeholder that included all disciplines of the development community.

- During the first few months of this year, Staff presented many of the draft chapters for discussion.
- Since April 2020, after the stay-at-home order, staff continued to revise the drafts based off feedback received.
- Hybrid stakeholder meetings resumed on a bi-monthly basis between August-November 2020.
- Based off the stakeholder feedback received, Staff then presented options at multiple P&Z and Council work sessions.

Stakeholder meetings held in 2020:

January 7

February 11 & 25

March 10

August 24 & 31

October 12, 26

November 9

Side Setbacks

Alternative Language #1 (not recommended by P&Z)

This section of alternative language means to reduce the minimum side setback standards for traditional single-family residential lot in R-1 and R-2 zoning. This change would reduce the minimum side setbacks to 5' and 5' on either side of a home.

Table 106-2c - Residential Low Density (R-1) Zoning district

Lot Category A

Min Side Setback: 5' & 5' 8'

Table 106-2d - Residential Medium Density (R-2) Zoning district

Lot Category A

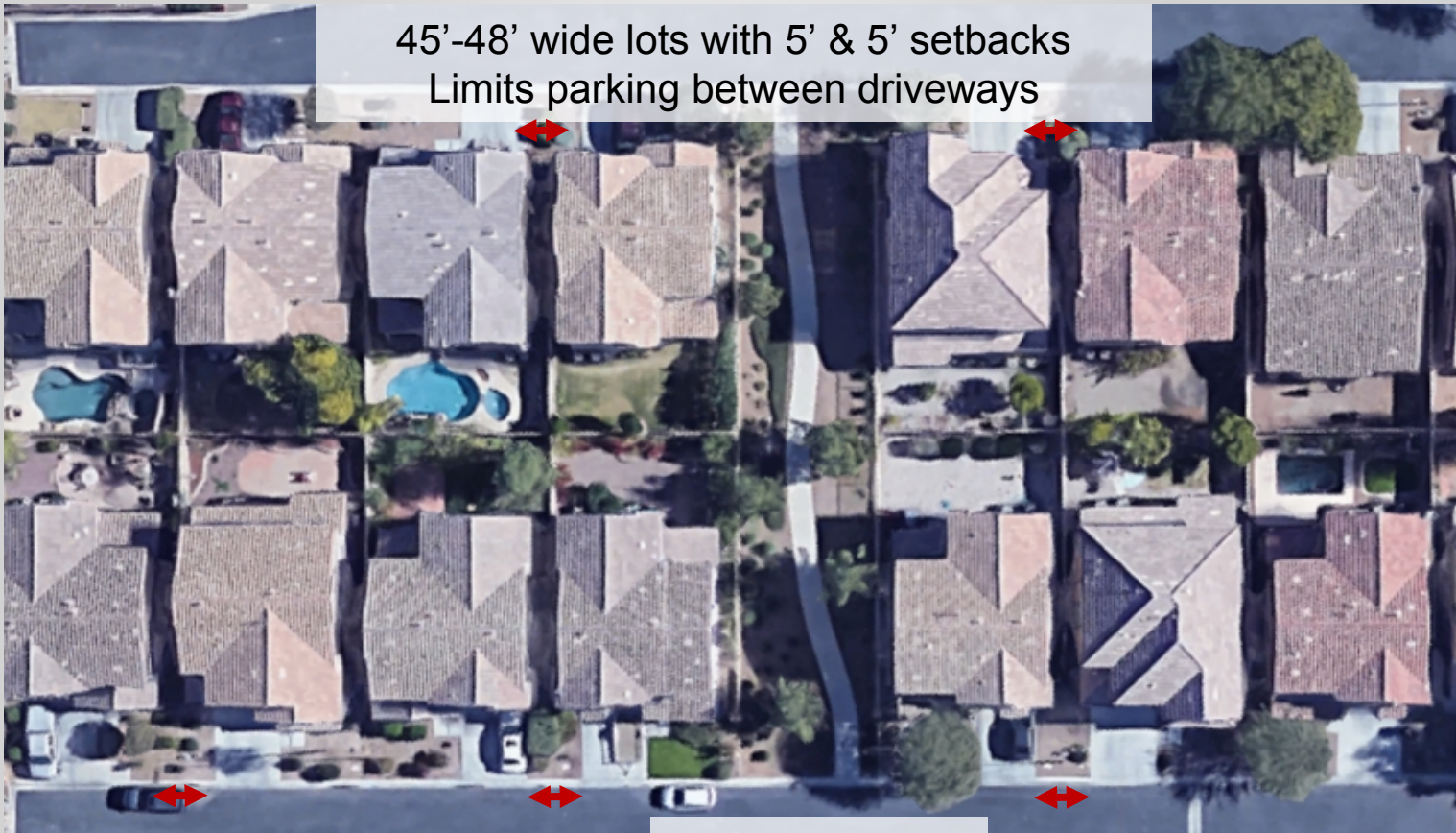
Min Side Setback: 5' & 5' 7'

Lot Category B

Min Side Setback: 5' & 5' 8'

Side Setbacks

45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



avg 13' separation

Side Setbacks



Side Setbacks

45'-48' wide lots
5' & 5' setbacks



Side Setbacks



Narrow Lot Subdivisions

Alternative Language #2 (recommended by P&Z)

This section of alternative language means to reduce the threshold of lot widths that the LDO considers a narrow lot and therefore requires mitigating designs in a subdivision plat. This group of changes includes notes in the development standards tables for R-1 and R-2 zoning districts and the Lot Planning section of the Land Division Chapter.

Table 106-2c, Table 106-2d, Table 106-4b - R-1, R-2, TND-R Zoning districts

Subdivisions shall contain no more than seventy-five percent (75%) of lots less than **forty-eight feet** **(48')** ~~fifty-feet (50')~~ wide and will include mitigating designs outline in Chapter 108 of this ordinance.

Narrow Lot Subdivisions

Alternative Language #2 (recommended by P&Z)

Table 108-2a Narrow Lot Subdivisions Mitigating Designs

Table 108-2a – Narrow Lots Subdivision	
Allowed lots less than 50' 48' wide per Subdivision Plat	Mitigating designs
Up to 10%	No more two such <i>lots</i> shall <i>abut</i> one another
Up to 25%	Any 1 design
Up to 50%	3 mitigating designs
Up to 75%	4 mitigating designs or rear loaded alley on blocks with lots less than 50' wide
Up to 100% of lots 48'-50' wide	Matching/mirrored driveways with dedicated solid waste pickup locations

Narrow Lot Subdivisions

Alternative Language #2 (recommended by P&Z)

Section 108-2.5.G Narrow Lot Subdivisions

1. Rear loaded alleys
2. Evenly distribute narrow lots among lots that are ~~fifty~~ **forty-eight** feet (~~50'~~ **48'**) wide or greater,
3. Public off-street parking areas within one-eighth mile (1/8 mi) of every narrow lot.
4. Dedicated solid waste pickup locations with curb markings, preferably between the smaller separation of matching/mirrored driveways
5. Incorporate lot diversity within a plat with at least twenty-five percent (25%) of lots that exceed the minimum lot width by five feet (5')
6. Other designs may be proposed that vary from the strict provisions of this section in such a manner that intent is maintained with such modification.

Narrow Lot Subdivisions

45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



avg 10-13' separation

Narrow Lot Subdivisions

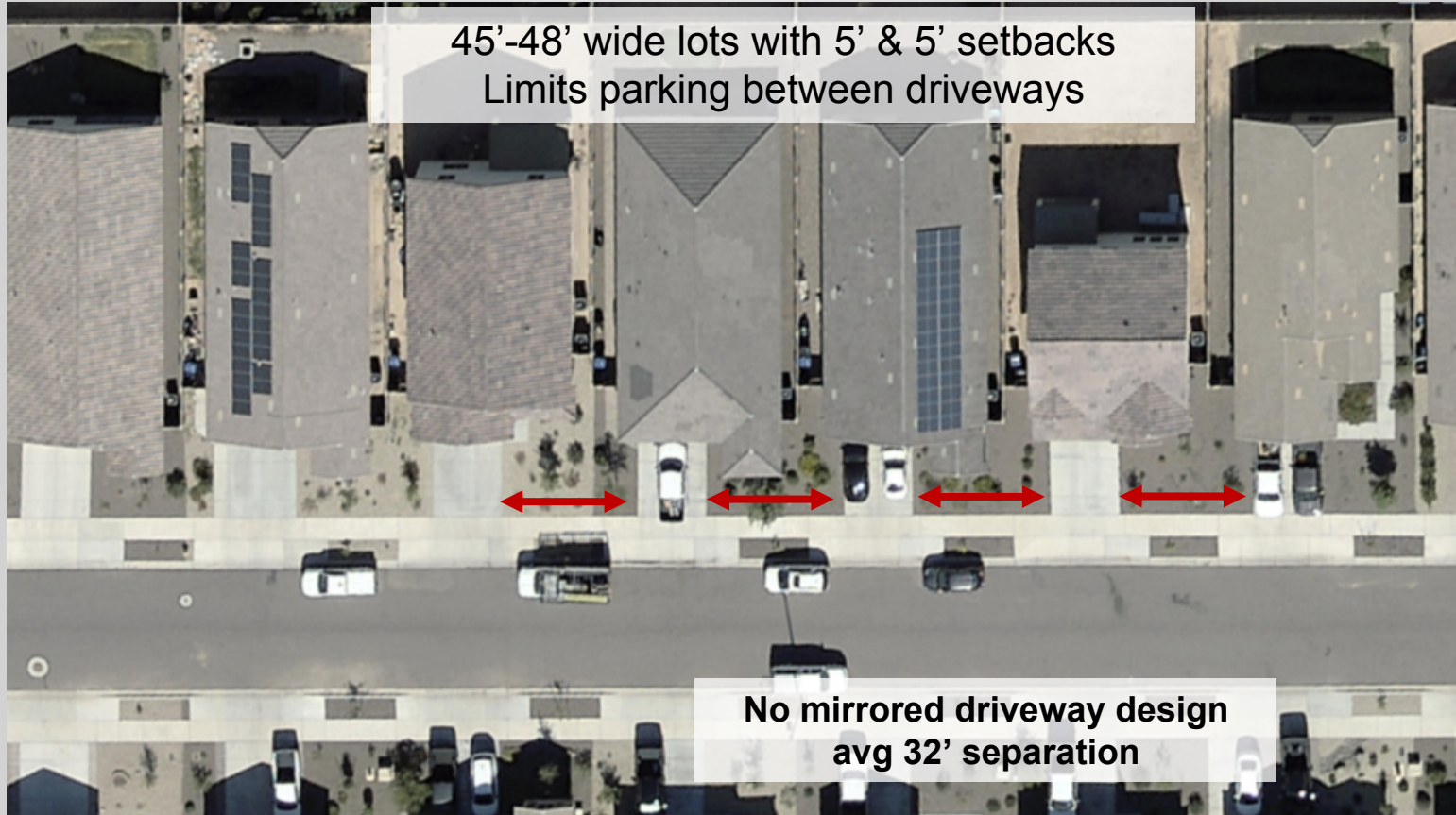
45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



avg 10-13' separation

Narrow Lot Subdivisions

45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



No mirrored driveway design
avg 32' separation

Narrow Lot Subdivisions

45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



No mirrored driveway design
avg 32' separation

Narrow Lot Subdivisions

45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



No mirrored driveway design
avg 32' separation

Narrow Lot Subdivisions

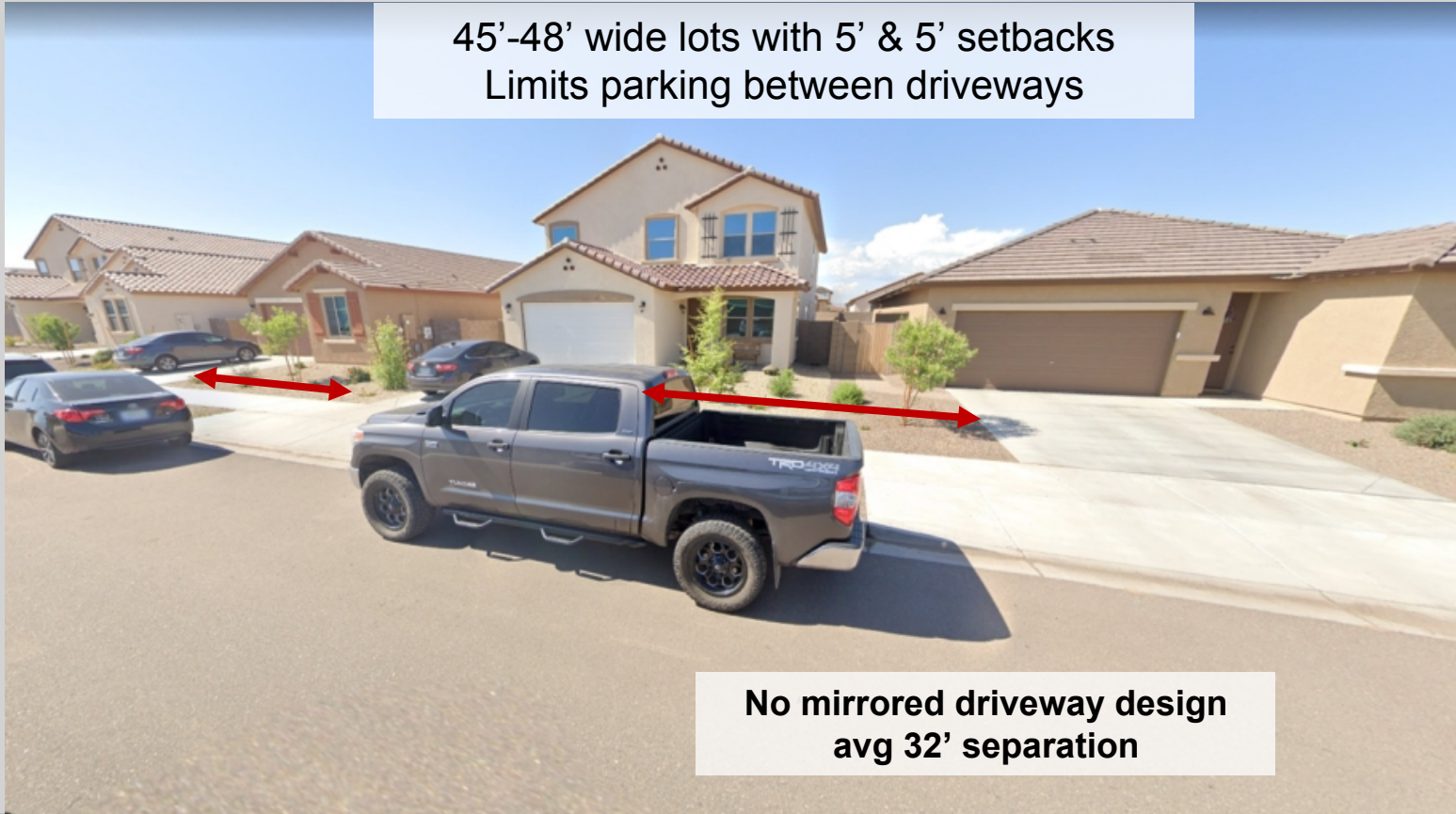
45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



No mirrored driveway design
avg 32' separation

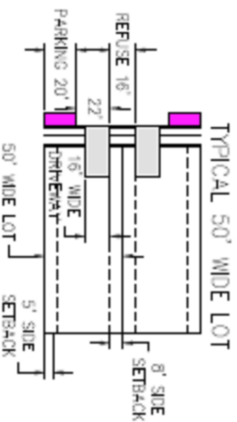
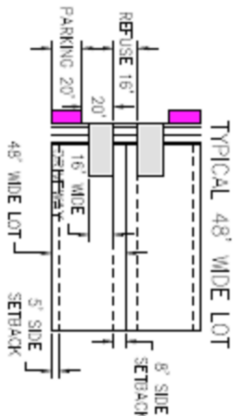
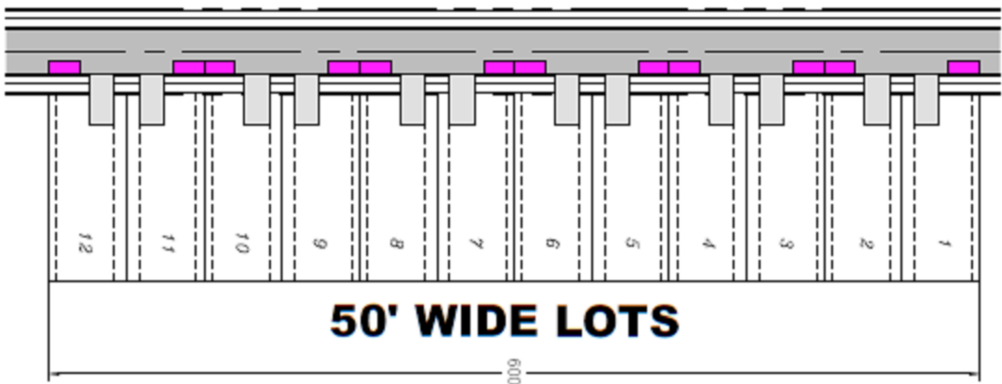
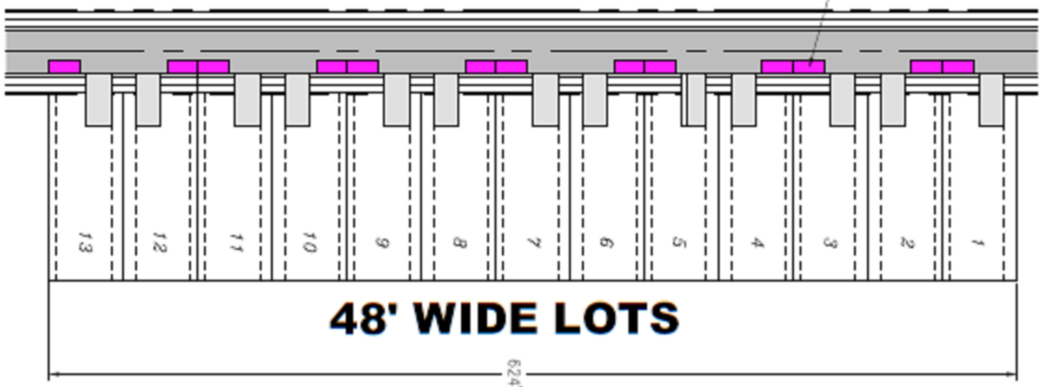
Narrow Lot Subdivisions

45'-48' wide lots with 5' & 5' setbacks
Limits parking between driveways



No mirrored driveway design
avg 32' separation

Narrow Lot Subdivisions



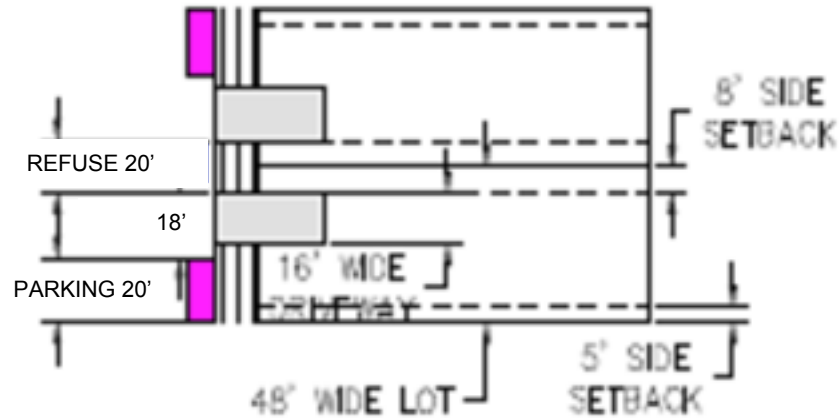
CITY OF SURPRISE	
NOV 2020	1"=100'
BY: HW	PARKING COMPARISON
BY: HW	
DATE: 11/10/20	

HILGARTY
2141 E. HIGHLAND
PHOENIX, AZ
P-602.490.0535 / F

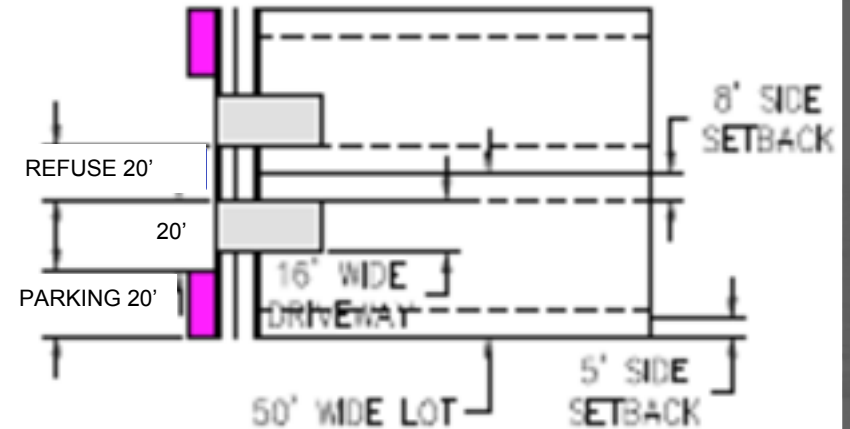
U:\8888 Projects\003 PRO ECT\5000 FT BLOCK PARKING COMPARISON\5000 FT BLOCK PARKING COMPARISON

Narrow Lot Subdivisions

TYPICAL 48' WIDE LOT



TYPICAL 50' WIDE LOT



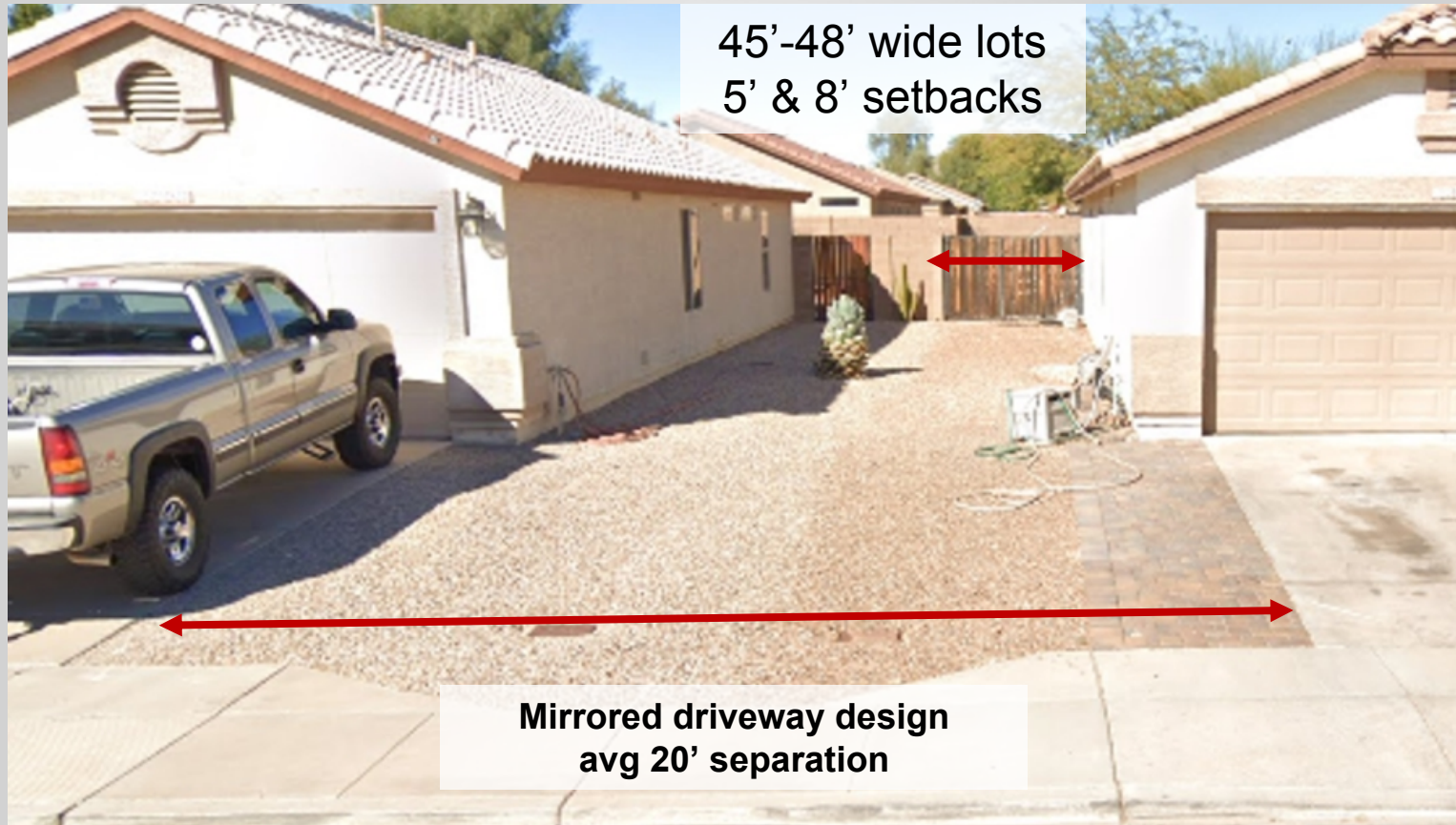
Narrow Lot Subdivisions



Narrow Lot Subdivisions



Narrow Lot Subdivisions



Additional Small Lot Category

Alternative Language #3 (recommended by P&Z)

This section of alternative language means to add a new lot category intended for higher density single-family residential products platted on individual lots in R-2 zoning districts. This change includes a new smaller lot category added in the development standards tables for R-2 zoning districts.

Table 106-2d - Residential Low Density (R-2) Zoning district

Lot Area (sf): 2,000-3,499

Min. Lot Width (sf): 35

Min. Front Setback (ft) : 5

Min. Side Setback (ft): **5/5** *specific request for small side setbacks on these lots

Min. Rear Setback (ft): 5

Max. Bldg. Height (ft): 30

Lot Coverage: 70%

Footnote: Add footnote that this lot category can only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley.

TND Mixture of Land Uses

Alternative Language #4 (recommended by P&Z)

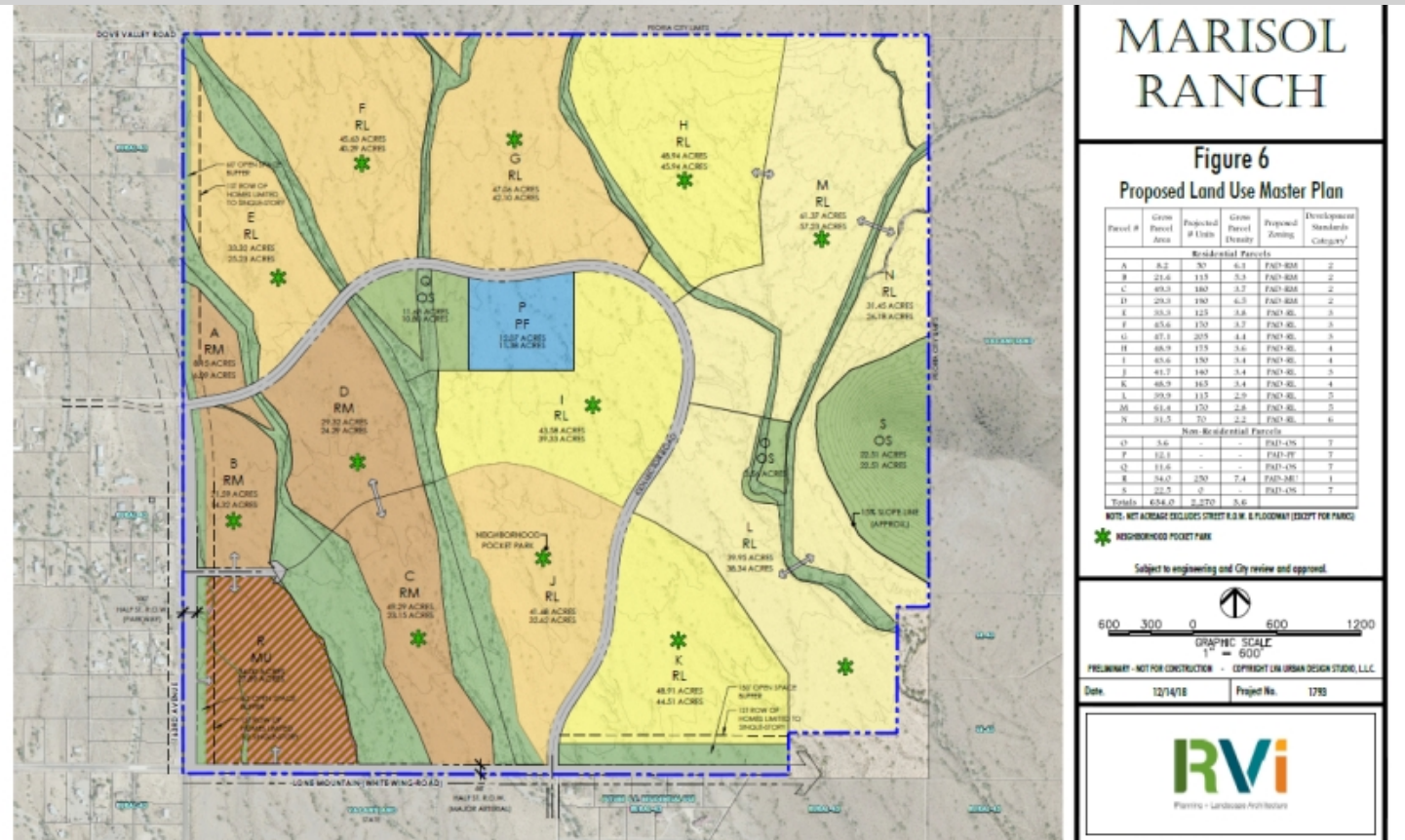
This section of alternative language means to add flexibility in how TND zoning districts are entitled during a rezoning process. The current proposal has a rigid requirement to include a mixture of land dedicated to commercial, residential, mixed use, and open space.

106-4.2 Establishment of TND Zoning district

C. Required Mixture of Land Uses.

1. All TND developments will be required to provide a mixture of land *uses* that include residential, commercial, *mixed use*, and *open space*. Table 106-4a below identifies the specific ratios for the **TARGET MIX OF** land *uses* based on the approved number of *dwelling units* in the overall TND project. **AN ALTERNATE MIX OF THESE LAND USES MAY BE APPROVED BY THE CITY COUNCIL BASED ON THE INDIVIDUAL CHARACTERISTICS OF THE TND DEVELOPMENT, INCLUDING ITS TOPOGRAPHY, LOCATION, OVERALL DESIGN AND QUALITY, THE INTERFACE OF ITS VARIOUS COMPONENTS AND THE INTEGRATION OF THE PROJECT INTO THE OVERALL COMMUNITY.**

TND Mixture of Land Uses



TND Lot Diversity

Alternative Language #5 (recommended by P&Z)

This section of alternative language means to reduce the level of lot diversity within a TND zoning district. The current proposal has a strict requirement to include a mixture of lot sizes within a Development Parcel. The language listed below intends to broaden the focus of lot diversity across the entirety of a TND project.

106-4.2 Establishment of TND Zoning district

C. Required Mixture of Land Uses.

3. **TND DEVELOPMENTS SHALL PROVIDE** ~~Residential neighborhoods shall be laid out providing~~ different housing types and varying lot sizes ~~interspersed on the same street within the same subdivision,~~ to prevent creating homogenous subdivisions filled with repetitive housing types. Every **TND DEVELOPMENT** ~~residential development parcel~~ shall provide a minimum of three (3) distinctly different **LOT CATEGORIES (AS DEFINED PER TABLE 106-4B) THAT MEET THE FOLLOWING CRITERIA** ~~lot sizes; providing:~~

- a. A minimum of ~~two~~ **ONE** thousand **FIVE HUNDRED** square foot (~~2,000-sf~~ **1,500 sf**) differential in lot area in combination with;
- B A lot width differential of at least ~~twenty percent (20%)~~ **TEN (10) FEET**; and
- c. No one (1) **LOT CATEGORY** ~~lot size~~ shall comprise more than sixty percent (60%) of the total number of residential lots within a **TND DEVELOPMENT** ~~single development parcel~~ **AND EACH OF THE THREE (3) LOT CATEGORIES MUST INDIVIDUALLY COMPRISE A MINIMUM OF TWENTY PERCENT (20%) OF THE TOTAL NUMBER OF RESIDENTIAL LOTS WITHIN A TND DEVELOPMENT.**
- d. **ALTERNATIVES TO THESE CRITERIA MAY BE APPROVED AS PART OF THE TND PLAN OF DEVELOPMENT IF THE PROPOSED ALTERNATIVES MEET THE INTENT OF THESE LOT DIVERSITY CRITERIA.**

TND Lot Diversity

Alternative Language #5 (recommended by P&Z)

Table 106-4B TND-R Parcels

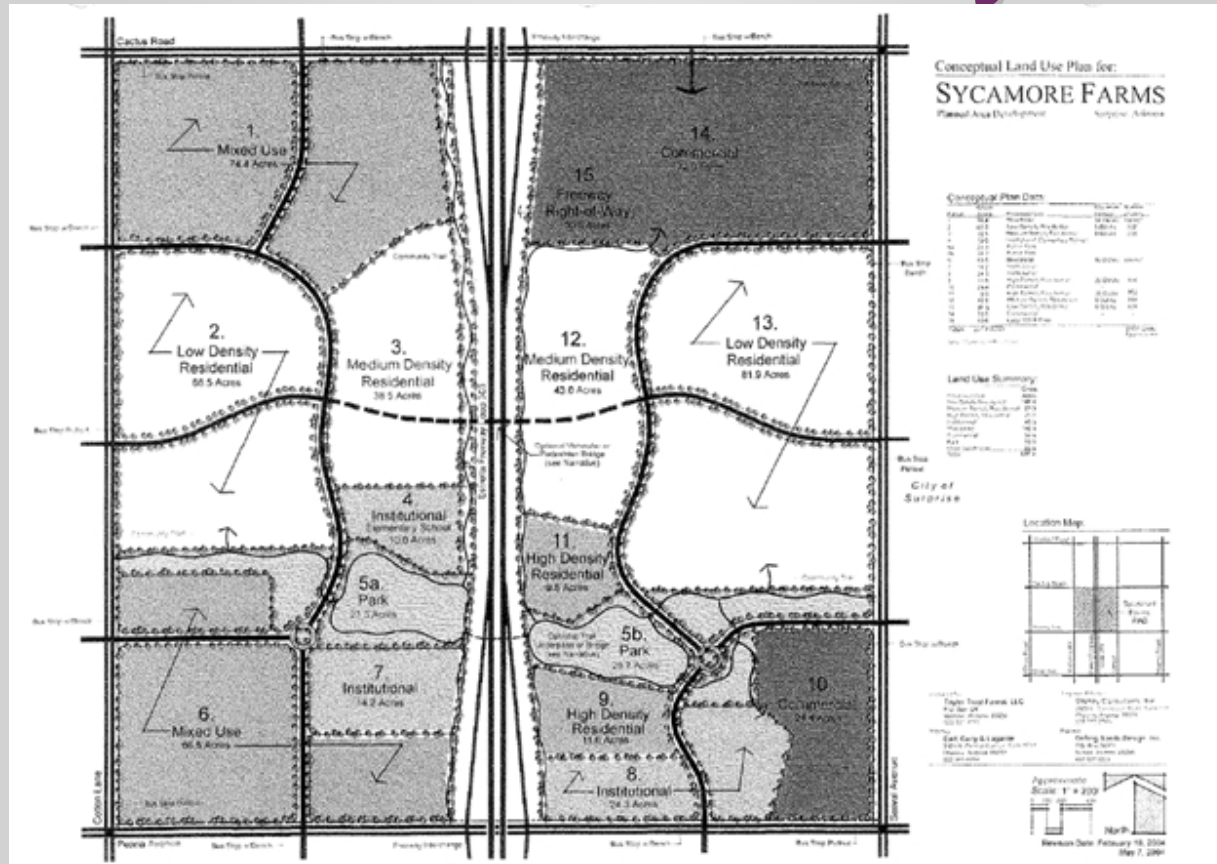
Table 106-4b – Development Standards for TND-R Parcels

Lot Categories	A ⁸	B ¹	C ¹	D ¹	E ¹	F ⁷	G ⁷
Min. Lot Area (square feet)	3,000 - 4,999	5,000 - 7,999	8,000 - 11,999	12,000 - 17,999	18,000 and over	Multi-family 16,000	Commercial & MU 16,000
Min Lot Width (sf)	40	50	70	80	90	N/A	N/A
Min. Front setback (ft)	10 ^{2,5}	12 ^{2,5}	15 ^{2,5}	25	30 ⁵	15	15
Max. Front setback (ft)	N/A	N/A	N/A	N/A	N/A	25	25
Min. Side setback (ft)	5 ³ & 7	5 ³ & 8	5 ³ & 10	10	10 & 15	10	10
Min. Rear setback (ft)	10	15 ⁶	20 ⁶	25	30	20	15
Max. Bldg. Height (ft)	30	30	30	30	30	45 ⁷	35 ⁷
Lot coverage %	60%	50%	50%	50%	40%	60%	60%

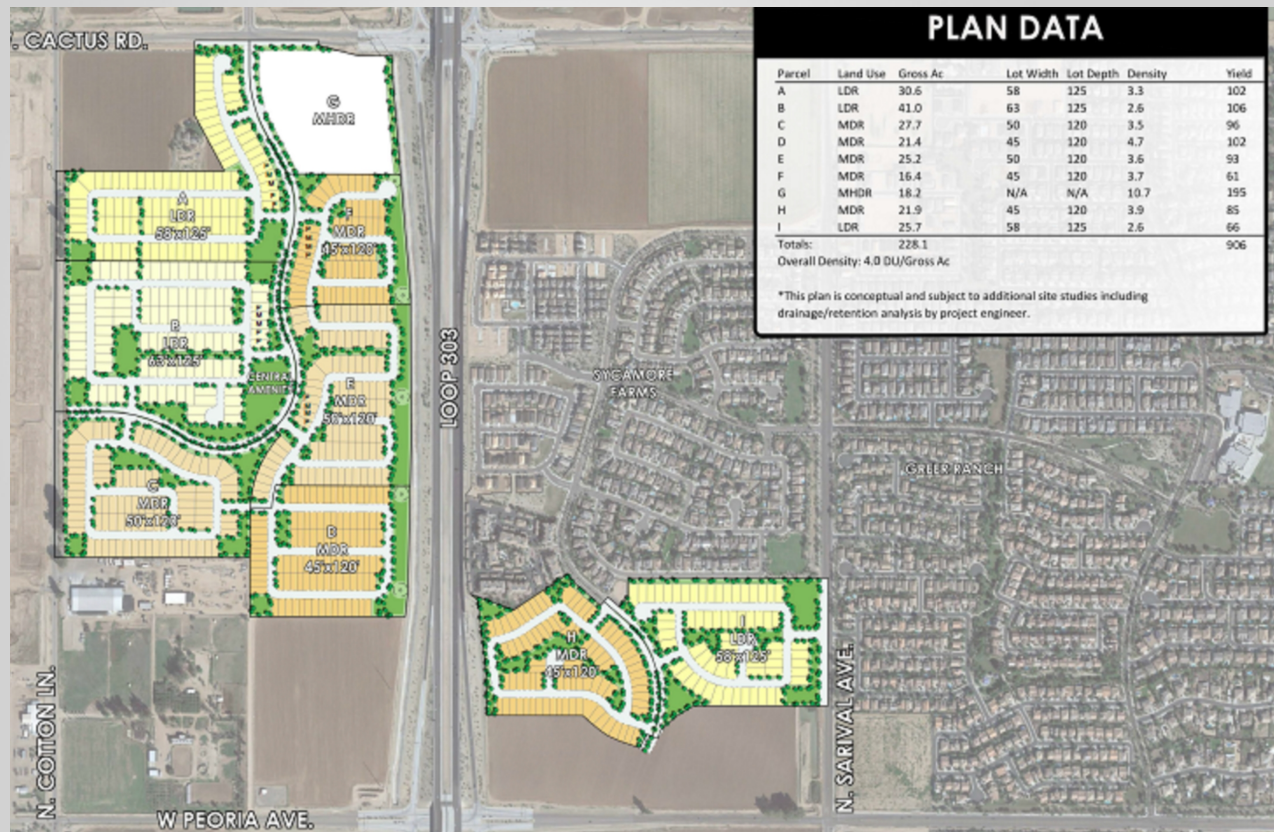
Notes:

1. Minimum lot area of four thousand square feet per *dwelling unit* (4,000 sf/du); except lots in column A are permitted one (1) *dwelling unit*.
2. *Garage* face and embellishments shall be *setback* a minimum of twenty feet (20') measured from any opposing property line; except rear *alley* loaded *garages*, which shall be *setback* six feet (6') from *alley* edge line.
3. May be reduced to zero feet (0') *setback* for *single-family dwellings* as *attached building* and separated by *common wall* along property line. End units must maintain total combined *setback*.
4. A covered front porch may encroach closer to the *street* by up to eight feet (8').
5. A covered front porch may encroach into the *setback* by up to five feet (5').
6. The *height* of any *structure*, or portions thereof, shall not exceed thirty feet (30') in *height* measured at the *setback* line when *adjacent* to *Single-family* or *Two-family* lots. The *height* of the *structure* may increase at a ratio of one-foot (1') vertical for every one-foot *setback* horizontally (1':1'), as measured relative to the property line, to the maximum allowed *height*.
7. Minimum lot area of twenty-five hundred square feet per *dwelling unit* (2,500 sf/du).
8. TND projects shall contain no more than seventy-five percent (75%) of lots less than fifty feet (50') wide and will include mitigating designs outline in Chapter 108 of this ordinance.

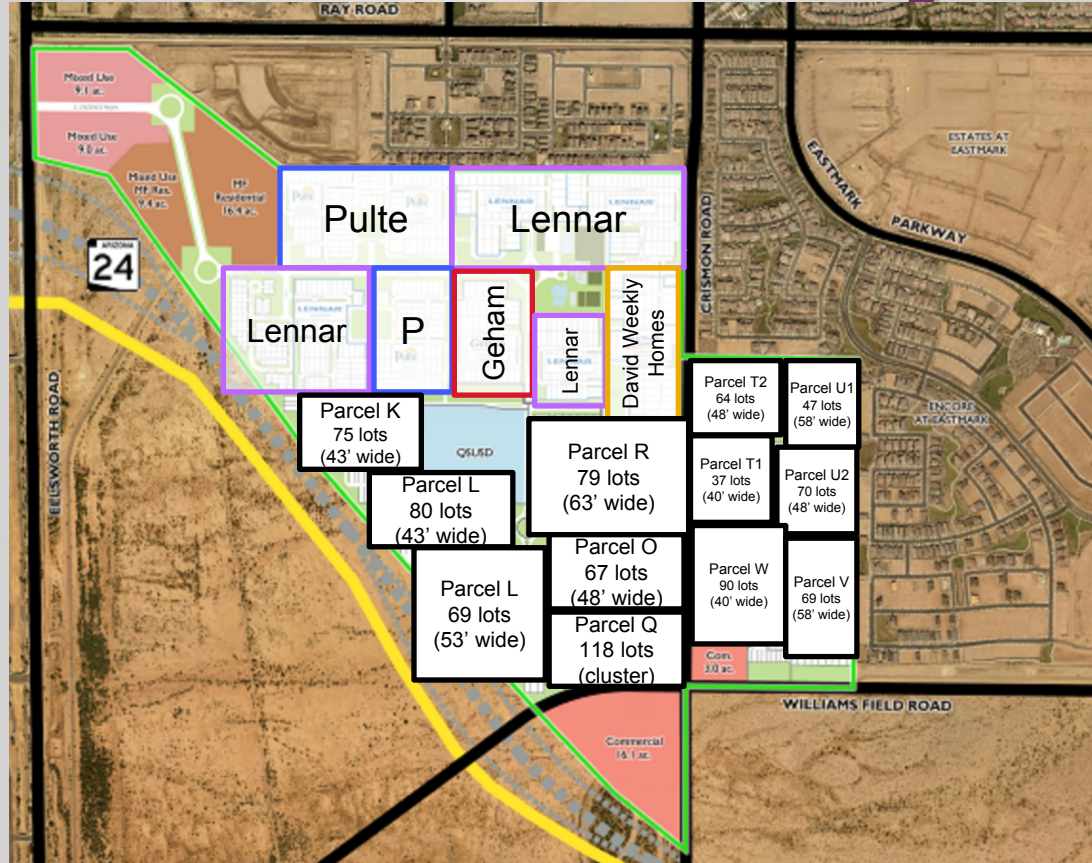
TND Lot Diversity



TND Lot Diversity



TND Lot Diversity



Additional Small Lot Category

Alternative Language #6 (recommended by P&Z)

This section of alternative language means to add a new lot category intended for higher density single-family residential products platted on individual lots in TND-R zoning districts. This change includes a new smaller lot category added in the development standards tables for TND-R zoning districts.

Table 106-4b - Development Standards for TND-R Parcels

Lot Area (sf): 2,000-3,499

Min. Lot Width (sf): 35

Min. Front Setback (ft) : 5

Min. Side Setback (ft): **5/5** *specific requires for small side setbacks on these lots

Min. Rear Setback (ft): 5

Max. Bldg. Height (ft): 30

Lot Coverage: 70%

Footnote: Add footnote that this lot category can only be used for a residential development with access for each dwelling unit provided by a common shared drive or rear-loaded alley.

Gated Communities in TND Projects

Alternative Language #7 (recommended by P&Z)

This section of alternative language is a result of discussions during the Planning and Zoning Commission Public Hearing regarding flexible housing options within a master planned community. It means to remove the regulation that prohibits the gated community within future TND zoning districts.

106-4.1 General

C. General Provisions.

6. ~~Gated developments and~~ Age qualified/restricted communities are prohibited within all TND projects.

Deviations to TND Standards Table

Alternative Language #8 (recommended by P&Z)

This section of alternative language is a result of discussions during the Planning and Zoning Commission Public Hearing regarding providing flexibility similar to the PUD overlay, which does not apply to TND zoning districts. It means to permit deviations to the development standards in when future TND zoning districts are approved during rezoning applications.

106-4.4 Development Standards

- B. **DEVIATIONS TO THE DEVELOPMENT STANDARDS IN THIS SECTION FOR ANY TND ZONING DISTRICT SHALL BE CONSIDERED PART OF A REZONING APPLICATION AND WILL BE BASED ON THE INDIVIDUAL CHARACTERISTICS OF THE TND DEVELOPMENT, INCLUDING ITS TOPOGRAPHY, LOCATION, OVERALL DESIGN AND QUALITY, THE INTERFACE OF ITS VARIOUS COMPONENTS AND THE INTEGRATION OF THE PROJECT INTO THE OVERALL COMMUNITY**
- ~~These development standards shall be the same for any and all TND Zoning districts approved by the City and shall be applied consistently throughout the City wherever the TND Zoning district has been approved. - Deviations or refinements to these specific Development Standards will not be permitted or considered by the city, except through the Variance process pursuant to Chapter 102 of this Ordinance.~~

Gated Community Standards

Alternative Language #9 (recommended by P&Z)

This section of alternative language is a result of discussions during the Planning and Zoning Commission Public Hearing regarding the development standards for the Gated Communities. This section of alternative language means to move development standards for Gated Communities from Chapter 108-Land Division to Chapter 106-Zoning as a Use Specific Standard, thereby permitting project specific deviations with a PUD overlay.

106-10.20 ~~108-2.12~~

Gated Communities

Next Step

Public Meetings and Hearings:

- Going back to Virtual Participation Only

City Council Work Session:

- December 1, 2020 at 4:00pm

City Council Public Hearing:

- December 15, 2020 at 6:00pm



QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020

Contact Person: Andrea Davis, DIRECTOR -
FINANCE

Submitting Department: Finance

District: Citywide

Staff Recommendations: None

Consent: Yes	Regular: No	Public Hearing: No	Report/Discussion: No
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Agenda Wording:

Consideration and action pertaining to approval of a Fiscal Year 2021 budget amendment by 1) amending the public safety pension funding policy and transferring 13 million dollars from the General Fund to the Public Safety Pension Fund (Resolution # 2020-160); 2) reallocating appropriations from General Contingency of \$6,570,700 to the General Capital Fund and \$1,561,700 Police and Fire Development Impact Fee Funds for Community projects and the Public Evidence and Readiness Center (Resolution # 2020-164); and 3) amending the comprehensive financial management policies pertaining to General Fund reserve (Resolution # 2020-165).

Motion:

There are three separate resolutions for consideration. Council may move to adopt one, all, or any combination of the three resolutions.

I move to approve Resolution _____.

Background:

Due to COVID-19, the estimated revenue and expenditures for FY2020 were reduced. The actual amount for revenue collections was higher than estimated. Higher revenues coupled with the expenditure reduction in FY2020 generated a significant increase to General Fund FY21 fund balance.

The following improvements have been identified as top priorities for the city. Funding for project P12010 in the amount of \$2,000,000 for future land acquisition. Funding for project P61570 in the amount of \$500,000 for a well relocation at 175th Avenue and Waddell. Funding project P54160 in the amount of \$3,000,000 for park improvements, P54170 in the amount of \$500,000 for design and improvements at Countryside Park. Funding for project P54110 in the amount of \$570,700 to complete the relocation of the youth baseball field in the Original Town Site. Additional funding for project P31030 in the amount of \$1,561,700 to expand the scope of the Public Safety Evidence & Readiness Center. Art will also be appropriated for the community park project and the completion of the youth baseball field relocation.

Revise the PSPRS Pension policy to: establish a Public Safety Pension Reserve dedicated for the PSPRS unfunded liability and during year-end close, or at such other time as economically feasible as determined by the Finance Director and approved by Council, the amount of budget in excess of actual expenditures for the police

and fire departments - personnel, supplies and service categories (operating expenses), within the General Fund, will be transferred into the Public Safety Pension Reserve. Transfer \$13,000,000 of the one-time savings from FY2020 to the PSPRS pension reserve

The Comprehensive Financial Management Policies would also be amended to increase the reserves from two months to "at least" two months of budgeted personnel, supplies, and services for the General Fund, Ground Ambulance Fund, and Highway User Revenue Fund.

Objective Analysis:

The land purchase would allow for future growth. Relocating the well would allow for 175th Avenue to be realigned and allow for improved traffic flow . Improving the Community Park and creating sport fields and a park at Countryside would increase recreational programs and services to our residents. Completing the youth baseball field at the Original Town Site will complete the project to include lights and parking. Amending the Public Safety Pension Funding Policy will allow the city to provide funding for a portion of the unfunded liability but maintain control of the funds. Modifying the Comprehensive Financial Management Policies will ensure that the city has strong financial reserves.

Policy Compliant:

This item is compliant with the Comprehensive Financial Management Policies, City of Surprise Municipal Code Article X relating to Art, and the Public Safety Pension Funding Policy.

Financial Impact:

With the establishment of the P12010 land acquisition project the department will code all FY21 invoices associated with completion of the project up to the approved amount of \$2,000,000.

With the establishment of the P61570 well relocation project the department will code all FY21 invoices associated with completion of the project up to the approved amount of \$500,000.

With the establishment of the P54160 Park Improvements project the department will code all FY21 invoices associated with completion of the project up to the approved amount of \$3,000,000.

With the establishment of the P54170 Countryside Park project the department will code all FY21 design invoices associated with completion of the project up to the approved amount of \$500,000.

With the approval of this item, additional funding for P54110 Completion of Gaines Youth Ballfield project the department will code all FY21 invoices associated with completion of the project up to the approved amount of \$570,700.

With the approval of this item, additional funding for P31030 Public Safety Evidence & Readiness Center project the department will code all FY21 invoices associated with completion of the project up to the approved amount of \$1,561,700.

With the approval of this item a cash transfer of \$13,000,000 will be made from the General Fund 1010

to the Public Safety Pension Fund 1520.

With the approval of this item, a cash transfer of \$47,700 will be made from the General Fund 1010 to the Municipal Art Fund 1170.

Budget Impact:

These items were not included as part of the FY2021 budget. Approval of these items will amend the budget to reallocate appropriations in the amount of \$8,132,400 from the General Contingency to General Capital Projects, Police Development Impact Fee and Fire Development Impact Fee Funds to establish new projects or to increase funding for existing projects that align with the City's Strategic Goals.

The approval of this budget amendment will establish P12010 land acquisition project, and this project will receive appropriations of \$2,000,000.

The approval of this budget amendment will establish P61570 well relocation project, and this project will receive appropriations of \$500,000.

The approval of this budget amendment will establish P54160 Surprise Community Park Improvements project, and this project will receive appropriations of \$3,000,000.

The approval of this budget amendment will establish P54170 Countryside Park project, and this project will receive appropriations of \$500,000.

The approval of this budget amendment will increase appropriations for P54110 Completion of Gaines Youth Ballfield project in the amount of \$570,700.

The approval of this budget amendment will increase appropriations for P31030 Public Safety Evidence & Readiness Center project in the amount of \$1,561,700.

These allocations, with the exception of the \$13,000,000 general fund to pension fund cash transfer, do not represent an actual transfer of funds, but only a transfer of spending authority.

FTE Impact:

This budget amendment does not include any funding for FTE and does not impact the FTE count for the city. The approval of the Countryside Park and completion of the youth ballfield in the Original Town Site will likely lead to a request for additional FTE to program these facilities in the future.

ATTACHMENTS:

1. 1. Resolution 2020-160 - Midyear Budget Amendment -PSPRS (002)
 2. 2. Resolution 2020-164 - Midyear Budget Amendment Projects (002)
 3. 3. Resolution 2020-165 - Midyear Budget Amendment Gen Fund Reserve (003)
 4. 4. Finance SOP- Pension Funding final redline 12042020
 5. 5. FY2021 Financial Policies redline 12102020 (002)
-

RESOLUTION # 2020-160

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE PUBLIC SAFETY PENSION FUNDING POLICY TO ESTABLISH AND FUND A PORTION OF THE PUBLIC SAFETY PENSION; AND TRANSFER \$13,000,000 FROM THE GENERAL FUND TO THE PUBLIC SAFETY PENSION FUND.

WHEREAS, the annual update to the Public Safety Pension Funding Policy was adopted by Council Resolution #2020-50 on May 19, 2020;

WHEREAS, the City wishes to amend the Public Safety Pension Funding Policy in order to comply with the City's statutory requirements by establishing and partially funding, in the amount of \$13,000,000, the Public Safety Pension Fund, an internal account created to address the City's unfunded liability;

WHEREAS, the City of Surprise Administrative Policies requires the approval of the Mayor and Council for amendments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. That the statements, schedules, and actions set forth in the attached *Exhibit A* and incorporated by reference are adopted, thereby amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2020 through June 30, 2021.

Section 2. The Public Safety Pension Policy is hereby amended as set forth in *Exhibit B* attached hereto and incorporated by reference herein.

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2020-160

Exhibit A

1. Cash Transfer – A cash transfer will occur.
 - a. An actual cash transfer of \$13,000,000 from the General Fund to the Public Safety Pension Fund.

Transfer from Fund	Transfer to Fund	Current Budgeted Transfer	Increase/ (Decrease)	Amended Budgeted Transfer
General Fund	Public Safety Pension Fund	\$0	\$13,000,000	\$13,000,000

RESOLUTION # 2020-160

EXHIBIT B

Public Safety Pension Policy

RESOLUTION # 2020-164

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2021 BUDGET BY REALLOCATING APPROPRIATIONS OF \$6,570,700 FROM GENERAL CONTINGENCY TO THE GENERAL CAPITAL PROJECTS FUND FOR PARK IMPROVEMENT PROJECTS; AND ALLOCATING POLICE AND FIRE DEVELOPMENT IMPACT FEE FUNDS IN THE AMOUNT OF \$1,561,700 FOR THE PUBLIC SAFETY EVIDENCE & READINESS CENTER; AND AMENDING THE CONTRACT AWARDING AUTHORITY LIST.

WHEREAS, funding is required in project P12010 in the amount of \$2,000,000 for future land acquisition for city services and amenities;

WHEREAS, funding is required in project P61570 in the amount of \$500,000 for a well relocation at 175th Avenue and Waddell;

WHEREAS, funding is required in project P54160 in the amount of \$3,000,000 for design, construction, and improvements at the Surprise Community Park;

WHEREAS, funding is required in project P54170 in the amount of \$500,000 for design, construction, and improvements at Countryside Park;

WHEREAS, funding is required in project P54110 in the amount of \$570,700 in order to expedite the relocation of the youth baseball field at Gaines Park located in the Original Town Site;

WHEREAS, additional funding is required in project P31030 in the amount of \$1,561,700 to expand the scope of the Public Safety Evidence & Readiness Center;

WHEREAS, Article X of the City of Surprise Municipal Code requires the appropriation of one and one-third percent of eligible capital project funds to be appropriated for public art;

WHEREAS, the FY2021 budget was adopted including funding in general contingency to cover potential additional projects such as those set forth herein;

WHEREAS, if necessary, additional funding to complete the aforementioned projects will be considered in the FY2022 budget planning process;

WHEREAS, the City wishes to transfer money from the General Fund to the General Capital Fund to fund the projects mentioned prior in the amount of \$6,570,700;

WHEREAS, the FY2021 budget, including the FY2021 Contract Awarding Authority List, was adopted by Council Resolution #2020-63 on June 2, 2020;

WHEREAS, the City of Surprise Procurement Code §2-338 (d) requires the authority of the Mayor and Council when the cost to the city is greater than \$50,000.

WHEREAS, the actions set forth herein will necessitate a budget amendment; and

WHEREAS, the City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. That the statements, schedules, and actions set forth in the attached *Exhibit A* and incorporated by reference are adopted, thereby amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2020 through June 30, 2021.

Section 2. That the statements and schedules attached as *Exhibit B* and incorporated by reference are adopted, the Fiscal Year 2021 Contract Awarding Authority List of the City of Surprise, Arizona for the fiscal year July 1, 2020 through June 30, 2021.

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2020-164

Exhibit A

1. Appropriation - The allocation below represents a reallocation of appropriation in the amount of \$6,570,700 from the General Contingency Fund to the General Capital Project Fund and \$1,561,700 from the Police and Fire/EMS Development Fee 2020 Funds to establish new projects or add funding to existing projects that align with the City's strategic goals. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
General Capital Projects Fund	City Manager Office	#P12010 Land for Future Amenities/Services	E	-	2,000,000	2,000,000
General Capital Projects Fund	Public Works	#P61570 175th/Waddell Well Relocation	E	-	500,000	500,000
General Capital Projects Fund	Parks and Recreation	#P54160 Park Enhancements	E	-	3,000,000	3,000,000
General Capital Projects Fund	Parks and Recreation	#P54170 Countryside Park	E	-	500,000	500,000
General Capital Projects Fund	Parks and Recreation	#P54110 Gaines Park Baseball Field	E	-	570,700	570,700
Police Dev Fee	Police	#P31030 Public Safety Evidence & Readiness	E	-	1,063,400	1,063,400
Fire/EMS Dev Fee 2020	Fire - Medical	#P31030 Public Safety Evidence & Readiness	E	-	498,300	498,300
General Contingency	General Operations	Contingency	E	17,760,300	(8,132,400)	9,627,900
Expense Total				17,760,300	-	17,760,300

2. Cash Transfer – Two cash transfers will occur.
 - a. An actual cash transfer of \$6,570,000 from the General Fund to the General Capital Fund.
 - b. An actual cash transfer of \$47,700 from the General Fund to the Municipal Art Fund for projects #P54160 Park Enhancements (\$40,000) and #P54110 Gaines Park Baseball Field (\$7,700).

Transfer from Fund	Transfer to Fund	Current Budgeted Transfer	Increase/ (Decrease)	Amended Budgeted Transfer
General Fund	Municipal Art Fund	\$0	\$47,700	\$47,700
General Fund	General Capital Fund	\$1,635,700	\$6,570,700	\$8,206,400

RESOLUTION # 2020-164
Exhibit B

1. Contract Awarding Authority List – Council approved the Fiscal Year 2021 Contract Awarding Authority List (CAAL) as part of the FY2021 Budget Adoption in June 2020. The line items identified in the list were based on the budget appropriations at the time of adoption. With the proposed increase to the budget appropriations, various CAAL line items had to be added and/or changed to reflect the proposed increase in budget.

Reference #	Description	Current Amount	Increase/ (Decrease)	Amended Amount
21204	175th Ave. Well Relocation	\$0	\$500,000	\$500,000
21045	Park Enhancements	\$0	\$3,000,000	\$3,000,000
21046	Countryside Park	\$0	\$500,000	\$500,000
21038	Land acquisition	\$0	\$2,000,000	\$2,000,000
21462	Gaines Park Baseball Field	\$2,000,000	\$570,700	\$2,570,700
21162	PSERC Facility	\$9,368,900	\$1,600,000	\$10,968,900

RESOLUTION # 2020-165

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY
OF SURPRISE, ARIZONA, AMENDING THE COMPREHENSIVE
FINANCIAL MANAGEMENT POLICIES.**

WHEREAS, the Comprehensive Financial Management Policies were adopted by Council Resolution #2020-53 on May 19, 2020;

WHEREAS, the City wishes to amend the Comprehensive Financial Management Policies in order to amend the language in regards to the General Fund reserve;

WHEREAS, the City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. The Comprehensive Financial Management Policies are hereby amended as set forth in *Exhibit A* attached hereto and incorporated by reference herein.

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2020-165

EXHIBIT A

Comprehensive Financial Management Policies

	Standard Operating Procedure PUBLIC SAFETY PENSION FUNDING	
PROCESS: Funding Ratio Goals for the City’s Public Safety Pension Funds		
POLICY REFERENCE: Arizona Revised Statutes (A.R.S.) § 38-863.01		
ISSUE DATE: June 4, 2019 Resolution 2019-49	LAST AMENDED DATE: July 1, 2020 Resolution 2020-50	EFFECTIVE DATE: December 15, 2020 Resolution 2020-xx50
FINANCE DIRECTOR APPROVAL:		

GENERALLY

Qualifying City of Surprise police and fire-medical employees participate in the Public Safety Personnel Retirement System (PSPRS). PSPRS is administered as an agent multiple-employer pension plan and health insurance premium benefit known as an OPEB. An agent multiple-employer plan has two main functions: 1) to comingle assets of all plans under its administration, thus achieving economy of scale for more cost efficient investments, and invest those assets for the benefit of all members under its administration and 2) serve as the statewide uniform administrator for the distribution of benefits.

Under an agent multiple-employer plan, each agency participating in the plan has an individual trust fund reflecting that agencies' assets and liabilities. Under this plan, all contributions are deposited to and distributions are made from that fund's assets, each fund has its own funded ratio and contribution rate, and each fund has a unique annual actuarial valuation. The City of Surprise has two trust funds, one for police employees and one for fire-medical employees.

PURPOSE

The intent of this document is to demonstrate the Surprise City Council's commitment to clearly communicate pension funding objectives, prudently manage the City's financial resources, and comply with new statutory requirements of Laws 2018, Chapter 112. This document will be reviewed and approved by City Council on an annual basis.

DEFINITIONS

Unfunded Actuarial Accrued Liability (UAAL) – the difference between trust assets and the estimated future cost of pensions earned by employees. This UAAL results from actual results (interest earnings, member mortality, disability rates, etc.) being different from the assumptions used in previous actuarial valuations.

Annual Required Contribution (ARC) – the annual amount required to pay into the pension funds, as determined through annual actuarial valuations. It is comprised of two primary components: normal pension cost – which is the estimated cost of pension benefits earned by employees in the current year; and, amortization of UAAL – which is the cost needed to cover the unfunded portion of pensions earned by employees in previous years. The UAAL is collected over a period of time referred to as the amortization period. The ARC is a percentage of the current payroll.

Funded Ratio – a ratio of fund assets to actuarial accrued liability. The higher the ratio the better funded the pension is with 100% being fully funded.

Intergenerational equity – ensures that no generation is burdened by substantially more or less pension costs than past or future generations.

POLICY

1. City Council formally accepts by Resolution 2020-50 the assets, liabilities, and current funding ratio of the City's PSPRS trust funds from the June 30, 2019 actuarial valuation, which are detailed below.

Trust Fund	Assets	Accrued Liability	Unfunded Actuarial Accrued Liability	Funded Ratio
Surprise Police	\$46,472,444	\$74,766,358	\$28,293,914	62.2%
Surprise Fire	\$50,604,247	\$63,464,250	\$12,860,003	79.7%
City of Surprise Totals	\$97,076,691	\$138,230,608	\$41,153,917	70.2%

2. PSPRS Funding Goal

- A. The City Council's PSPRS funding ratio goal is 100% (fully funded) by June 30, 2036. City Council has established this goal for the following reasons:
 - i. The PSPRS trust funds represent only the City of Surprise's liability.
 - ii. A fully funded pension is the best way to achieve taxpayer and member intergenerational equity.

PROCEDURES

1. City Council plans to take the following actions to achieve this goal:
 - A. Maintain full Annual Required Contribution (ARC) payment (normal cost and Unfunded Actuarial Accrued Liability (UAAL) amortization) from operating funds. The estimated combined ARC for FY2021 is \$6,779,159.
 - B. Fund the fiscal year annual pension cost at the beginning of each fiscal year with the budgeted contribution amounts as estimated based on actuarial reports.
 - i. The budgeted contribution amount will be based on the highest potential cost assuming that each qualifying position participating in PSPRS is fully staffed.

- ii. If, during the course of the year, the required contribution amount exceeds the original budgeted amount, the City will contribute the additional funds on a per pay period basis to meet its funding obligations.

C. Establish a Public Safety Pension Reserve dedicated for the PSPRS unfunded liability.

- i. During year-end close, or at such other time as economically feasible as determined by the Finance Director and approved by Council, the amount of budget in excess of actual expenditures for the police and fire departments, personnel, supplies and service categories (operating expenses) within the General Fund, will be transferred into the Public Safety Pension Reserve.

D. The City's Finance Department will provide an annual update on the financial position of the PSPRS trust funds to City Council.

E. During the annual budget process, or at such other time as economically feasible as determined by the Finance Director and approved by Council, Council will review the feasibility of making additional payments to the Public Safety Pension Reserve.

G.F. The City Council plans to achieve its goal of 100% funding by June 30, 2036, in accordance with the amortization timeline set forth by the PSPRS June 30, 2019 Actuarial Valuation.

~~Finance Department staff will provide an annual update on the financial position of the PSPRS trust funds to City Council~~

CITY OF SURPRISE, ARIZONA
COMPREHENSIVE FINANCIAL MANAGEMENT POLICIES
EFFECTIVE JULY 1, 2020

Introduction

The City Council's Strategic Plan Framework, goals, and objectives provide the foundation for the comprehensive financial management policies. The City's comprehensive financial policies provide the roadmap to achieve financial resiliency and demonstrate the City's commitment to sound financial management practices. As defined by the Government Finance Officers Association (GFOA), the City Council strives to build a financially resilient government through financial policies and long-term financial planning. The GFOA has identified eight characteristics of a financially resilient government:

1. Diversity: Avoid reliance on a single solution.
2. Redundancy: Avoid having only one path of rescue.
3. Decentralization: Centralized systems look strong, but failure is catastrophic.
4. Transparency: Make it easier to figure out where a problem may lie. Share plans and listen when people point out flaws.
5. Collaboration: Working together to become stronger.
6. Fail Gracefully: Failure happens. Make sure failure won't make things worse.
7. Flexibility: Be ready to change when plans aren't working. Don't expect stability.
8. Foresight: Think and prepare.

Financial policies contribute to increased public confidence and trust as well as provide clear direction to City staff concerning the diligence and stewardship with which public monies are to be managed. Adopted financial policies show our citizens, the credit rating industry, and prospective investors (bond buyers) the City's commitment to financial resiliency. These policies are presented in the following five areas:

1. Operating Management
2. Capital Management
3. Debt Management
4. Minimum Fund Balance
5. Financial Reporting

Operating Management Policies

1. All departments will participate in the responsibility of meeting policy goals and ensuring long-term financial resiliency.
 2. The budget shall be considered balanced if revenues plus use of fund balance are equal to or exceed total expenses, by fund. The budget process is intended to weigh all competing requests for City resources, within expected fiscal constraints.
 3. The City Budget is adopted by department within each fund and by project in the capital funds.
 4. The full-time equivalent (FTE) count and number of full-time positions are adopted by department within each fund.
 5. Budget amendments will be done in accordance with the Budget Amendment Policies and Procedures.
-

6. Long-range financial plans will be prepared to guide the City and ensure the delivery of needed services due to changes in the economy, service demands, and capital improvements.
7. Regional considerations and intergovernmental relationships will be evaluated to fund both operating services and capital projects.
8. The City Council will consider citizen input and review the operating and capital budget recommendations from an outcome and goals perspective.
9. A diversified revenue system will be developed to protect City services.
10. The City Council will set the amount to be received from primary property taxes annually. The amount is limited to one-hundred and two percent (102%) of the prior fiscal year's maximum allowable levy plus new construction and reimbursement for the prior calendar year's tort liability payments.
11. The City currently imposes an additional one and one-half percent (1.5%) transaction privilege tax on construction dedicated to the construction of new roadways and to refurbishing existing transportation corridors. The revenue is recorded in the Transportation Improvement Fund and will be used to fund transportation projects in the Capital Improvement Plan.
12. The City currently imposes a four and fifty-two hundredths percent (4.52%) transaction privilege tax on transient lodging. The four and fifty-two hundredths percent (4.52%) tax rate is then split, with three and fifty-two hundredths percent (3.52%) recorded in the Tourism Fund to be used for promoting tourism and one percent (1.0%) recorded in the General Fund. The three and fifty-two hundredths percent (3.52%) recorded in the Tourism Fund has been committed by City Council to be used for promoting tourism. Of the amount recorded in the Tourism Fund, the Tourism Fund Subcommittee has designated that seventy-five percent (75%) is spent for sports tourism facility development and improvement and twenty-five percent (25%) on marketing, studies, and special events.
13. Water, Wastewater, Stormwater, and Solid Waste user fees and charges will be examined annually to ensure they recover all direct and indirect costs of service and will be approved by the City Council.
14. All user fees (excluding water, wastewater, stormwater, and solid waste) will be examined periodically to determine the direct and indirect cost of service recovery rate. The acceptable recovery rate and any associated changes to user fees and charges will be approved by the City Council.
15. Grant funding will be considered to leverage City funds and requires City Council approval prior to acceptance.
16. Cash balances identified for investments will be maintained in accordance with state law and the adopted investment policy to ensure that proper controls and safeguards are maintained. City funds will be managed with an emphasis on safety of principal, liquidity, and yield, in that order.
17. Employee compensation and benefits will be administered in accordance with the policy given by the City Council. Healthcare costs will be shared between the City and employees and this allocation will be evaluated annually.
18. The Healthcare Self-Insurance Trust Fund was created under the authority of Arizona Revised Statute § 11-981. The Board of Trustees is charged to administer the trust fund and "make recommendations to the City Council regarding trust fund programs, including amount of appropriations to assure stability and security of the trust fund."

19. An actuarial evaluation will be performed annually to determine the Incurred but Not Reported (IBNR) claim liability. This amount is required by accounting practices and represents the cost of unpaid claims (claims run-out), assuming the City stops being self-insured.
20. The City will optimize the efficiency and effectiveness of its services to reduce costs and improve service quality.
21. The City will maintain a methodology for allocating the City's indirect costs to service departments. A consultant may be hired to update the plan periodically.
22. All cash transfers between funds must be approved by City Council. Transfers to record capital assets within operating and capital funds are not presented to the City Council as these are administrative in nature.
23. All initial inter-fund loans must be approved by City Council.
24. All use of budgetary contingency accounts must be approved in accordance with the Budget Amendment Policies and Procedures prior to being expended.

Capital Management Policies

25. The City shall use an integrated approach to capital planning and financing in preparing a five-year Capital Improvement Plan. Only the first year of the plan will be adopted by the City Council.
26. The Capital Improvement Plan will include funding to support repair and replacement of capital equipment and infrastructure. A high priority should be placed on those items where deferring maintenance will result in greater cost to restore or replace. Proposed capital projects will be prioritized based on the City Council's goals and objectives, the General Plan, and master plans.
27. Future operating, maintenance, and replacement costs associated with new capital improvements will be included as a schedule within the annual budget document. Capital projects will include a fiscal impact statement disclosing the expected operating impact of the project and when such cost is expected to occur.
28. All revenues from the two and two-tenths percent (2.2%) transaction privilege tax on construction will be retained in the General Capital Fund.
29. A sustainable and consistent revenue source should be identified so that a portion of this source may be dedicated to asset replacement funding. The amount dedicated to asset replacement will be incrementally increased each year until an adequate amount has been established as determined during the annual budget process.
30. Separate asset replacement funds will be established in the areas including, but not limited to, Information Technology/Communications, Fleet, Facilities, Roads, and Community Services. The budget of each asset replacement fund will be managed by the appropriate department in order to meet the needs of their asset replacement program. As part of the annual budget process, asset replacement funding will be allocated across these funds and any unspent amount will carryover year to year.
31. The City currently imposes an additional one and one-half percent (1.5%) transaction privilege tax on construction dedicated to the construction of new roadways and to refurbishing existing transportation corridors. The revenue is recorded in the Transportation Improvement Fund and will be used to fund transportation projects in the Capital Improvement Plan.
32. As permitted by state law, the City shall maintain a financial structure to ensure future development pays for itself and is not a burden on existing residents (i.e. "growth pays for growth"). Elements of this financial structure

include impact fees, development agreements, Improvement Districts (IDs) and Community Facility Districts (CFDs).

33. Impact fees for infrastructure attributable to new development will be reviewed at least every other year to ensure that fees recover all direct and indirect development-related expenses, as permitted by state law, and will be approved by the City Council.
34. Any capital assets dedicated or donated to the City such as infrastructure, land, right-of-ways, easements, etc. must be approved by the City Council which must include a valuation of the assets.

Debt Management Policies

35. The City shall periodically report measurable steps taken in striving towards achieving and maintaining the highest possible bond ratings. This will minimize borrowing costs, optimize access to credit, and demonstrate excellent financial stewardship on behalf of our residents.
36. An analysis showing how a new debt issue combined with current outstanding debt impacts the City's debt capacity and conformance with City debt policies will accompany every proposal.
37. General Obligation debt, which is supported by property tax revenues, will be utilized as authorized by voters. Other types of voter-approved debt (e.g. water and wastewater) may also be utilized when they are supported by dedicated revenue sources (e.g. fees and user charges).
38. Municipal Property Corporation, trust agreements, and contractual debt, all of which are non-voter approved, will be utilized only when approved by City Council.
39. Improvement District (ID) and Community Facility District (CFD) bonds shall be permitted only when there is a general City benefit as defined and approved by the City Council.
40. Utility rates will be established to ensure the ratio of net revenues to debt service meets bond indenture requirements.
41. The Arizona Constitution provides that the general obligation bonded indebtedness for a city may not exceed twenty percent (20%) of the net secondary assessed valuation of the taxable property of the city for projects for purposes of water, wastewater, artificial light, open space preserves, parks and recreational facilities, public safety, law enforcement, fire and emergency services facilities, streets, and transportation facilities. Outstanding general obligation bonded indebtedness for all other purposes may not exceed six percent (6%) of the City's net secondary assessed valuation.
42. The City will follow appropriate procedures with regard to obligations under continuing disclosure undertakings as identified by the Securities and Exchange Commission under the Securities Exchange Act of 1934.
43. The City will follow appropriate procedures with regard to tax exempt obligations as identified by the Internal Revenue Code of 1986.

Minimum Fund Balance Policies

44. Minimum fund balances are not intended to be spent. The purpose of the minimum fund balance is to ensure the City has adequate resources to meet its needs. If the necessity arises to draw down a fund balance below the minimum requirements that have been set, a plan to replenish the minimum fund balance will be presented to the City Council for approval.

45. Minimum fund balance requirements will be evaluated annually for long-term adequacy and use requirements.

46. The City has formally adopted a minimum fund balance policy for the following governmental funds:

- a. The General Fund will maintain a reserve equal to at least two months of budgeted personnel, supplies, and services for the General Fund, Ground Ambulance Fund, and Highway User Revenue Fund. This amount will be allocated across a three-part reserve as follows:
 - i. Ten percent (10%) will be dedicated to an Emergency Reserve for unexpected, large-scale expenses resulting from events where immediate, remedial action must be taken to protect the health and safety of residents, all unassigned fund balance has been exhausted, and no amount previously appropriated by the City Council is otherwise available. Any use of the Emergency Reserve must be approved by the City Manager or designee. When this occurs, the City Manager shall provide a summary report to the City Council as soon as practical on the usage of these funds and have City Council approve any necessary budget amendments. At that time, the City Manager will also present a plan to restore the Emergency Reserve within the next fiscal year following the fiscal year in which the event occurred.
 - ii. Sixty percent (60%) will be dedicated to an Operating Reserve for unexpected events such as failure of the state to remit revenues to the City, loss of state shared revenues, or other impairment of a significant funding source for the remainder of the fiscal year. The Operating Reserve may also be used for unexpected mandates or other events that cause the City to incur unplanned expenses. The Operating Reserve allows for the continuance of critical City services due to these unanticipated events and is done so after all unassigned fund balance has been exhausted and no amount previously appropriated by the City Council is otherwise available. Any use of the Operating Reserve, and associated budget amendments, must be approved by the City Council and include a repayment plan that projects to restore the Operating Reserve within two fiscal years following the fiscal year in which the event occurred.
 - iii. Thirty percent (30%) will be dedicated to a Stabilization Reserve to provide funding to offset reductions in revenues resulting from fluctuations in the economic cycle that cannot be otherwise absorbed by the operating budget. The reserve funds will provide time for the City to restructure its operations in a deliberate manner to ensure continuance of critical City activities and is used after all unassigned fund balance has been exhausted and no amount previously appropriated by the City Council is otherwise available. Any use of the Budget Stabilization Reserve, and associated budget amendments, must be approved by the City Council and include a repayment plan, based on a multi-year financial projection, that plans to restore the Budget Stabilization Reserve within the three fiscal years following the fiscal year in which the event occurred.
 - b. General Capital Fund of \$1.0M
 - c. Transportation Improvement Fund of \$0.5M
 - d. Street Light Improvement Districts (SLIDs). SLIDs have a maximum levy limit of \$1.20 per \$100 of assessed valuation in accordance with A.R.S. § 48-616. To the extent that the levy limit has not been exceeded, taxes will be levied at a rate that will approach an individual ending fund balance reserve of five percent (5%) of its budgeted annual expenses.
 - e. Tourism Fund of \$5,000.
 - f. The Spring Training Ticket Surcharge Fund will have a minimum fund balance of \$600,000. Any excess fund balance remaining as of June 30 shall be remitted to the General Fund.
-

- g. The Water Fund will have a four-part reserve as follows:
 - i. The City will maintain an Operating Reserve equal to the average of budgeted personnel, supplies, and services expenses over a three-month period for that year's Council Adopted Budget for the Water Fund.
 - ii. The City will maintain an Asset Reserve equal to two percent (2%) of tangible capital assets of the system as of June 30 from the previous fiscal year.
 - iii. The City will maintain a Rate Stabilization Reserve equal to five percent (5%) of the total charges for services revenue. Monies may be withdrawn from this reserve to supplement operating revenue shortfalls caused by various economic factors which may cause either reduced revenues or an unforeseen increase in expenses. Any use of the Rate Stabilization Reserve, and associated budget amendments, must be approved by the City Council and include a repayment plan, based on a multi-year financial projection, that plans to restore the Rate Stabilization Reserve within the four fiscal years following the fiscal year in which the event occurred.
 - iv. The City will maintain a Resource Portfolio Reserve equal to fifteen percent (15%) of the total cost of delivery and capital charges for Municipal and Industrial plus the Phoenix Active Management Area (AMA) Underground Storage charges multiplied by the total amount of the City's Central Arizona Project (CAP) allocation.
- h. The Wastewater Fund will have a three-part reserve as follows:
 - i. The City will maintain an Operating Reserve equal to the average of budgeted personnel, supplies, and services expenses over a three-month period for that year's Council Adopted Budget for the Wastewater Fund.
 - ii. The City will maintain an Asset Reserve equal to two percent (2%) of tangible capital assets of the system as of June 30 from the previous fiscal year.
 - iii. The City will maintain a Rate Stabilization Reserve equal to five percent (5%) of the total charges for services revenue. Monies may be withdrawn from this reserve to supplement operating revenue shortfalls caused by various economic factors which may cause either reduced revenues or an unforeseen increase in expenses. Any use of the Rate Stabilization Reserve, and associated budget amendments, must be approved by the City Council and include a repayment plan, based on a multi-year financial projection, that plans to restore the Rate Stabilization Reserve within the four fiscal years following the fiscal year in which the event occurred.
- i. The Stormwater Fund will have a three-part reserve as follows:
 - i. The City will maintain an amount equal to the average budgeted personnel, supplies, and services expenses over a two-month period for that year's Council Adopted Budget for the Stormwater Fund.
 - ii. The City will maintain an amount equal to two percent (2%) of tangible capital assets of the system as of June 30 from the previous fiscal year for repair and replacement.
 - iii. The City will maintain a Rate Stabilization Reserve equal to five percent (5%) of the total revenues collected through charges for services. Monies may be withdrawn from this reserve to supplement operating revenue shortfalls caused by various economic factors which may

cause either reduced revenues or an unforeseen increase in expenses. Any use of the Rate Stabilization Reserve, and associated budget amendments, must be approved by the City Council and include a repayment plan, based on a multi-year financial projection, that plans to restore the Rate Stabilization Reserve within the four fiscal years following the fiscal year in which the event occurred.

- j. The Solid Waste Fund will have a four-part reserve as follows:
 - i. The City will maintain an Operating Reserve equal to the average of budgeted personnel, supplies, and services expenses over a three-month period for that year's Council Adopted Budget for the Solid Waste Fund.
 - ii. The City will maintain an Asset Reserve equal to two percent (2%) of tangible capital assets of the system as of June 30 from the previous fiscal year.
 - iii. The City will maintain a Rate Stabilization Reserve equal to five percent (5%) of the total charges for services revenue. Monies may be withdrawn from this reserve to supplement operating revenue shortfalls caused by various economic factors which may cause either reduced revenues or an unforeseen increase in expenses. Any use of the Rate Stabilization Reserve, and associated budget amendments, must be approved by the City Council and include a repayment plan, based on a multi-year financial projection, that plans to restore the Rate Stabilization Reserve within the four fiscal years following the fiscal year in which the event occurred.
 - iv. As the Solid Waste Utility has excess revenues, the City will maintain a phased Contingency Reserve equal to one-half percent (0.5%) beginning in FY2022 and increased to one percent (1%) for each subsequent year through FY2024.
- k. The Risk Management Fund will maintain an amount that, together with purchased insurance policies, will adequately indemnify the City. The appropriate funding level will be set at three times the maximum annual loss of \$250,000 which is equal to \$750,000, which will be approved by the City Council.
- l. The Healthcare Self-Insurance Trust Fund ("Trust Fund") will maintain an amount at a level which, together with purchased insurance policies (individual and aggregate stop loss), will adequately indemnify the City. The City has established an Adverse Times Reserve. The purpose of this reserve is to address cash flow needs caused by periods in which claim payments exceed projections. The target amount of this reserve is at least twenty-five percent (25%) of expected annual claims. If, at any time prior to the end of the fiscal year, the Trust Fund's target reserve is met and fully funded for the entire fiscal year based on the original budget projections approved by the City Council, the Finance Director shall document such funding and, after consulting with the City Manager, may conduct an evaluation of the claims incurred by the Trust Fund year to date, and if fiscally and financially prudent based on the claims incurred, Transfer from the City's various operating funds only that portion of the Employer premium necessary to cover actual claims incurred, such that the Trust Fund revenues are equal to the Trust Fund expenses, and the Trust Fund account experiences a zero change in net position. At all times the City will continue to transfer and deposit into the Trust Fund 100% of the monthly employee premiums collected.
- m. The Workers' Compensation Self-Insurance Trust Fund will maintain an amount which, together with the purchased excess insurance policy will adequately indemnify the City. The City has established an Adverse Times Reserve of \$3,000,000. The purpose of this reserve is to maintain the regulatory required reserve and industry standard reserve

Financial Reporting Policies

47. The City's Finance Director will develop standard operating procedures to ensure the City's accounting and financial reporting systems are maintained in conformance with all state and federal laws, Generally Accepted Accounting Principles (GAAP) and the standards of the Governmental Accounting Standards Board (GASB).
48. An annual audit will be performed by an independent public accounting firm. The City will prepare a Comprehensive Annual Financial Report (CAFR) with the objective of receiving an unmodified ("clean") audit opinion. The independent auditor will present and discuss audit findings regarding internal controls and operational issues to the Audit Committee at a public meeting.

CAFR Fund Balance Reporting

1. The hierarchy from least spendable to most spendable fund balance for governmental funds of the City shall be: non-spendable, restricted, committed, assigned and unassigned. When funds are available from multiple classifications, it is the City's policy to utilize the most restrictive funding first.
 2. Non-spendable fund balances are determined solely by their form.
 3. Restricted fund balances are determined solely by the constraints placed on the use of the resources.
 4. Committed fund balance represents amounts that have been constrained to a specific use by the formal action of the City's highest level of decision-making authority, the City Council. A majority vote of the City Council is necessary to establish, modify, or rescind a fund balance commitment.
 5. The City has elected the following commitments of fund balance to be standardized from year to year.
 - a. A commitment for repair and replacement of general government vehicles and other rolling stock will be maintained based upon lifecycle replacement plans prepared annually. This commitment shall be maintained in the Vehicle Replacement Fund.
 - b. A commitment of a one and one-half percent (1.5%) construction sales tax to be used solely for the purposes of paying costs related to new roadways and to refurbish existing transportation corridors, to be maintained in the Transportation Improvement Fund (Ordinance No. 05-13).
 - c. In addition to the two and fifty-two hundredths percent (2.52%) transient lodging tax restricted by state statute, a commitment of an additional 1.0% transient lodging tax for a total of three and fifty-two hundredths percent (3.52%) will be used to promote tourism and be maintained in the Tourism Fund (Ordinance No. 2010-04).
 6. In order to be reported as committed fund balance in the CAFR the City Council must approve the commitments prior to June 30th. However, the amount of the commitment may be determined after June 30th.
 7. Amounts that have been constrained by the City's intent to be used for a specific purpose and are neither restricted nor committed are reported as assigned fund balance. The City Council has designated the authority to assign amounts to be used for specific purposes to the Chief Financial Officer (CFO).
-

49. The City's CAFR will be submitted annually to the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting program.
50. The City's Budget will be submitted to the Government Finance Officers Association (GFOA) Distinguished Budget Presentation program.
51. A financial report will be presented to the City Council no less than quarterly.



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Lloyd Abrams
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Austin Ranch Supplemental Development Agreement (Citrus Road South -- Sewer Overlay Agreement); Resolution #2020-159.

Motion:

I move to approve Resolution #2020-159.

Background:

Austin Ranch, LLC has requested approval of the Austin Ranch Supplemental Development Agreement (Citrus Road South -- Sewer Overlay Agreement). Austin Ranch, LLC will be responsible for designing and constructing some regional sewer improvements that not only benefit their own properties, North Copper Canyon (aka Austin Ranch), but also other properties in the area. These improvements include the design and construction of the main sewer trunk lines north of Deer Valley Road. Therefore, Austin Ranch, LLC is seeking the City's assistance in obtaining buy-in repayments from those benefited property owners. The City will be responsible for notifying Austin Ranch, LLC each time an application is received by the City within the Benefited Area for zoning, platting, site planning or a building permit, as applicable. To be included as a condition of approval for any zoning application within the Benefited Area, a stipulation that requires the applicant to show evidence of payment of all applicable Regional Improvements Buy-in Fees and require a Notice of Payment prior to approving such Benefited Owner's final plat, site plan or building permit.

Objective Analysis:

Potential Positive Impacts Include: Growth is paying for itself; the City is not fully administrating the fees; infrastructure is being built in an area of the City needing public infrastructure.

Policy Compliant:

The action is compliant with Council policy relative to growth paying for itself.

Financial Impact:

Per the agreement, Austin Ranch, LLC will be responsible for the design, construction, and installation of the sewer improvements as listed in section 1 of the agreement. The City will be responsible for the operating and maintenance costs of the public infrastructure upon acceptance. The acceptance of infrastructure increases the City's asset base and adds to future maintenance commitments.

Budget Impact:

None at this time; however, the anticipated incremental additional maintenance expense associated with the public infrastructure will be incorporated in future budgets.

FTE Impact:

This item does not have an impact on current staff levels.

ATTACHMENTS:

1. 20.11.13 EVR CLEAN v5 Citrus Road Austin Ranch Supp DA
 2. 20.11.23 EVR Res 2020-159 AR Suppl Agreement
 3. FS20-036 Austin Ranch Supplemental Agreement Presentation
-

After recording, return to:

City Clerk
City of Surprise, Arizona
16000 N. Civic Center Plaza
Surprise, AZ 85374

With a copy to:

William Lally
Tiffany & Bosco
2525 E. Camelback Road
Phoenix, AZ 85018

**AUSTIN RANCH SUPPLEMENTAL DEVELOPMENT AGREEMENT
(Citrus Road South - Sewer Overlay Agreement)**

THIS AUSTIN RANCH SUPPLEMENT DEVELOPMENT AGREEMENT (“**Overlay Agreement**”) is entered into by and between the City of Surprise, an Arizona municipal corporation (“**City**”) and Austin Ranch LLC, Inc., an Arizona limited liability company (“**Austin**”), as of the date the last party signs and dates this Overlay Agreement.

RECITALS:

A. The purpose of this Overlay Agreement is to facilitate the further development of the Austin Ranch project by providing a method of reimbursement for the design, construction, and installation of the Sewer Improvements (as defined in Paragraph 1 below).

B. Austin will be the party responsible for designing, constructing, and installing the Sewer Improvements.

C. A depiction and legal description of the entire area benefited by the Sewer Improvements is attached hereto as Exhibit A (“**Benefited Area**”).

D. The City and Austin desire to enter into this Overlay Agreement for the purpose of outlining and setting forth certain obligations and commitments relative to the Sewer Improvements pursuant to Surprise City Code Sections 42-3 through 42-10, intending this document to be a “Development Agreement” within the meaning of Ariz. Rev. Stat. § 9-500.05.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and mutual promises set forth in this Overlay Agreement, the City and Austin state, confirm, and agree as follows:

1. **Sewer Improvements**. Austin shall be responsible for designing, constructing, and installing the following regional improvements (referred to herein individually as a “**Sewer**

Improvement” and collectively as the **“Sewer Improvements”**). Sewer Improvements shall include, but shall not be limited to, the main sewer trunk lines north of Deer Valley Road.

The term **“Design and Construction Costs”** shall mean the actual costs of labor, materials and supplies, architectural, engineering, design and consultant fees and costs, blue printing services, construction, drilling, construction staking, demolition, soil amendments or compaction, land costs (including costs associated with purchasing right-of-way from the Arizona State Land Department), legal and engineering services required to obtain permits, costs of insurance and bonds, warranty costs, any corrections, changes or additions to work required by the City of Surprise or necessitated by site conditions, state, county and City of Surprise sales taxes imposed in connection with the construction, and City of Surprise permit, plan review, and inspection fees to build the approved construction drawings for the budget shown on Exhibit B-1.

2. **Budget and Sewer Buy-In Fee.**

2.1 **Budget.** The estimated budget for the Sewer Improvements is attached hereto as Exhibit B-1. The budget has been reviewed and approved by the City and includes a more comprehensive description of the Sewer Improvements. The budget may be amended from time to time by Austin, subject to the review and approval of the City (such review and approval not to be unreasonably conditioned, delayed, or withheld), and shall thereafter be deemed to have been incorporated into this Overlay Agreement.

2.2 **Benefited Area.** The benefited area for the Sewer Improvements is attached hereto as Exhibit B-2 (**“Sewer Buy-in Fee Area”**). The Sewer Buy-in Fee Area is broken down into five (5) service areas.

2.3 **Sewer Buy-In Fee.** Any persons developing property within the Sewer Buy-in Fee Area shall be required to pay a buy-in fee for its proportionate share of the portion of the Sewer Improvements being used by such person’s development (**“Sewer Buy-in Fee”**). The Sewer Buy-in Fee shall be assessed on an equivalent dwelling unit basis measured at the time of final plat, final site plan, or building permit. The Sewer Buy-in Fee shall be calculated using the spreadsheet attached hereto as Exhibit B-3. The initial Sewer Buy-in Fee is based upon the estimated budget for the Sewer Improvements and is subject to change upon completion of the Sewer Improvements and the determination of the actual Design and Construction Costs for the Sewer Improvements.

3. **City Duties and Obligations.** The City shall be responsible for the following duties and obligations, to the extent permitted by law.

- a. Notifying Austin each time an application is received by the City for property within the Benefited Area for zoning, platting, site planning, or a building permit, as applicable. The notification shall include the name, address, phone number, and email address of the applicant, as well as a general description of the project, including, but not limited to, its location and size.
- b. Including as a condition of approval for any zoning application within the Benefited Area a stipulation that requires the applicant to show evidence of

payment of all applicable Sewer Buy-in Fees (defined in Paragraph 4.1). The following is a sample stipulation: “Prior to the City approving a final plat, site plan, or building permit within the property, applicant shall provide the City with a Notice of Payment from Austin that the Sewer Buy-in Fee, all as described in the Austin Ranch Supplemental Development Agreement (Citrus Road South – Sewer Overlay Agreement), has been paid.”

- c. Requiring a Notice of Payment, a sample of which is attached hereto as Exhibit C, of all applicable Sewer Buy-in Fees by any person developing property in the Benefited Area (“**Benefited Owner**”) prior to approving such Benefited Owner’s final plat, site plan, or building permit.
- d. Reviewing and approving the Design and Construction Costs for the Sewer Improvements. The City shall have sixty (60) days to review and approve the Design and Construction Costs for each Sewer Improvement. Failure by the City to approve or provide Austin with any written feedback on the Design and Construction Costs for the Sewer Improvements within the sixty (60) day period shall be deemed the City’s approval of such Design and Construction Costs. If the City has an issue or concern with the Design and Construction Costs, the City shall immediately notify Austin, and the City and Austin agree to work in good faith to resolve the issue or concern. If the issue or concern cannot in good faith be resolved by the City and Austin, then the unresolved issue or concern shall be submitted to a qualified engineer for a final determination. Any costs associated with employing a qualified engineer to make a final determination shall be borne equally by the City and Austin.

4. **Sewer Buy-in Fees.**

4.1 OMITTED.

4.2 Calculating the Sewer Buy-in Fees. Austin shall calculate the Sewer Buy-in Fees using the spreadsheets attached hereto as Exhibit B. This exhibit reflects a static picture of each spreadsheet, and each spreadsheet includes a series of formulas for accurately and equitably calculating the Sewer Buy-in Fee. Prior to executing this Overlay Agreement, the City reviewed and approved the methodology and formulas used in each spreadsheet and confirmed that each spreadsheet accurately and equitably calculates the Sewer Buy-in Fees.

4.2.1 Review of Calculation Methodology. Upon written request from a Benefited Owner, Austin shall promptly provide within 30 days such Benefited Owner with an Excel file copy of the requested Sewer Buy-in Fees spreadsheets (Exhibit B). Failure to timely provide the spreadsheets shall result in waiver of the applicable Sewer Buy-in Fees for the subject property.

4.3 Collecting the Sewer Buy-in Fees. Austin shall provide each Benefited Owner with an invoice showing each of the Sewer Buy-in Fees such Benefited Owner is required to pay as a condition of developing property in the Benefited Area within 30 days of the Benefited Owner delivering the request. Failure to timely provide the invoice shall result in waiver of the

applicable Sewer Buy-in Fees. Austin shall direct each Benefited Owner to remit payment of its Sewer Buy-in Fees directly to Austin. Upon receipt of a Benefited Owner's Sewer Buy-in Fees, Austin shall provide such Benefited Owner with a Notice of Payment.

4.3.1 Timing of Collection. The Sewer Buy-in Fees shall be collected from a Benefited Owner at the earliest stage of the entitlement or development process, beginning with the final plat, site plan, or building permit, as applicable. Austin shall collect the Sewer Buy-in Fees for all Sewer Improvements, even Sewer Improvements that have not yet been completed by Austin. The Sewer Buy-in Fee for a Sewer Improvement that has not yet been completed by Austin shall be the initial Sewer Buy-in Fee identified in this Overlay Agreement, which is based on the estimated budget for such Sewer Improvements.

4.3.1.1 Holding Sewer Buy-in Fees. Sewer Buy-in Fees collected by Austin for Sewer Improvements that have been completed and accepted by the City may be deposited into Austin's general account. Sewer Buy-in Fees collected by Austin for Sewer Improvements not yet completed or accepted by the City shall be held by Austin in an interest-bearing escrow account to be opened by Austin with First American Title. Sewer Buy-in Fees deposited into an escrow account may be withdrawn by Austin once construction has begun on the associated Sewer Improvement.

4.3.2 Repayment Term. The Repayment Term for the Sewer Buy-in Fee shall be twenty (20) years beginning on the date this Agreement is executed. The Repayment Term may be extended for two (2) additional five (5) year extension terms provided the City finds that development within the Benefited Area is ongoing and properties within the Benefited Area will be served by the Sewer Improvements.

4.3.3 Notification to City. Austin shall notify the City and provide the City with a copy of the Notice of Payment each time a Benefited Owner pays its Sewer Buy-in Fees. The Notice of Payment shall include a statement of whether or not all Sewer Buy-in Fees have been paid. The City shall promptly acknowledge receipt of each Notice of Payment and return a signed copy to Austin. Austin shall promptly forward an updated copy of the Notice of Payment with the City's signature to the applicable Benefited Owner.

4.4 Updating Costs. Upon completion of each Sewer Improvement, Austin shall promptly (within sixty days) provide the City with written evidence of the Design and Construction Costs incurred by Austin to complete each Sewer Improvement. Following the City's approval of the Design and Construction Costs for a Sewer Improvement, Austin shall promptly (within sixty days) update the associated Sewer Buy-in Fee spreadsheet to reflect the actual Design and Construction Costs.

4.4.1 Reconciling Sewer Buy-in Fees. Following the completion of a Sewer Improvement and the approval of its Design and Construction Costs, Austin shall "true-up" any Sewer Buy-in Fees paid prior to the completion of such Sewer Improvement.

a. Overpayment. In the event a Benefited Owner paid a Sewer Buy-in Fee greater than what the Sewer Buy-in Fee should have been when based on the actual Design and Construction Costs, then Austin shall calculate the amount of the overpayment and promptly (within sixty days) refund such amount plus any earned interest to the Benefited Owner.

b. **Underpayment.** In the event a Benefited Owner paid a Sewer Buy-in Fee less than what the Sewer Buy-in Fee should have been when based on the actual Design and Construction Costs, then Austin shall calculate the amount of the underpayment and promptly notify both the Benefited Owner and the City of the balance due. The City agrees to treat the balance due just as it would any unpaid Sewer Buy-in Fee and to require Notice of Payment by the Benefited Owner prior to approving any pending or subsequent final plat, site plan, or building permit submitted by such Benefited Owner. In the event that the Benefited Owner has already completed full buildout of the property, the balance due shall be waived and payment shall not be required.

5. **Term.** This Overlay Agreement shall become effective on the date the last party executes this Overlay Agreement and shall automatically terminate twenty (20) years thereafter, unless the Term is extended as permitted by Paragraph 4.3.2 above.

6. **Public Bidding.** Austin shall be required to publicly bid or comply with the requirements of Arizona Revised Statutes, Title 34, and Surprise City Code Section 42-5(d) for any Sewer Improvements for which Austin will be seeking reimbursement through either crediting of on-site impact fees or remittance of off-site impact fees; however, Austin shall not be required to publicly bid in order to be reimbursed for Sewer Improvements if the reimbursement mechanism is solely through the collection of a Sewer Buy-in Fee.

7. **Recordation.** This Overlay Agreement shall be recorded in its entirety in the Official Records of Maricopa County, Arizona, not later than ten (10) days after its full execution.

8. **Notices and Filings.** All notices, filings, consents, approvals, and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally, emailed or sent by first-class United States Mail to:

City: City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374
Attn: Community Development Director
Email: Chris.Boyd@surpriseaz.gov
Phone: 623.222.3020

With Copy to: City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374
Attn: City Attorney
Email: Robert.wingo@surpriseaz.gov
Phone: 623.222.1124

Austin: Courtland Homes, Inc.
4160 W. Kitty Hawk
Chandler, AZ 85226

Attn: Hans Koppenhoefer
Email: hans.koppenhoefer@courtlandhomes.com
Phone: 480.893.7515

With Copy to: Tiffany & Bosco LLC
2525 E. Camelback Road
Phoenix, AZ 85018
Attn: William Lally
Email: wel@tblaw.com
Phone: 602.452.2716

or to such other address or addresses as may hereafter be specified by notice given by any of the above for itself to the others. Any notice or other communication directed to either party shall become effective upon the earliest of the following: (a) actual receipt by that party; or (b) thirty-six (36) hours after deposit with the United States Postal Service, addressed to the party.

9. **Default.** Failure or unreasonable delay by either party to perform or otherwise act in accordance with any term or provision hereof shall constitute a breach of this Overlay Agreement. Any breach not cured within thirty (30) days after written notice is received from a non-breaching party, shall constitute a default under this Overlay Agreement; provided, however, that if the failure is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then the breaching party shall have such additional time as may be necessary to perform or comply so long as the breaching party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation. Any notice of a breach shall specify the nature of the alleged breach and the manner in which said breach may be satisfactorily cured, if possible. The thirty (30) day period shall not apply where an ordinance or statute requires City to perform or otherwise act in a period in excess of thirty (30) days. In the event a breach remains uncured following the thirty (30) day period, the only remedy permitted shall be specific performance, except as specifically allowed within this Overlay Agreement.

10. **Dispute Resolution.** In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the parties agree to attempt to settle the dispute by nonbinding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by the parties. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, then within three (3) days thereafter, the parties shall request the presiding judge of the Superior Court in and for the County of Maricopa, Arizona, to appoint an independent mediator. The mediator selected shall have at least five (5) years' experience in mediating or arbitrating disputes relating to development. The cost of any such mediation shall be divided equally between the parties. The results of the mediation shall be nonbinding on the parties, and either party shall be free to initiate litigation subsequent to the moratorium.

11. **Choice of Law, Venue and Attorneys' Fees.** Any dispute, controversy, claim or cause of action arising out of or related to this Overlay Agreement shall be governed by Arizona law. The venue for any such dispute shall be Maricopa County, Arizona, and each party waives the right to object to venue in Maricopa County for any reason. No party shall be entitled to recover any of its attorneys' fees nor other costs from any other party incurred in any such dispute, controversy, claim or cause of action, but each party shall bear its own attorneys' fees and costs, whether the same is resolved through mediation, arbitration, litigation in a court, or otherwise. The only remedies that may be sought by either party by arbitration, litigation, or otherwise are specific performance, declaratory judgment, and injunction. No money damages may be sought or awarded against either party.

12. **Good Standing and Authority.** The parties represent and warrant that each is duly formed and validly existing under Arizona laws and that the individuals executing this Overlay Agreement on behalf of their respective party are authorized and empowered to bind the party on whose behalf each such individual is signing.

13. **Assignment.** The provisions of this Overlay Agreement are binding upon and shall inure to the benefit of the parties, and all of their successors in interest and assigns. This Overlay Agreement may be assigned in whole or in part by Austin, provided prompt written notice of the assignment is provided to the City. In the event of a complete or partial assignment by Austin, all or a portion of Austin's rights and obligations hereunder shall terminate effective upon the assumption by Austin's assignee of such rights and obligations and receipt by the City of written notice of the assignment.

14. **Third Parties.** It is not intended by this Overlay Agreement to, and nothing contained in this Overlay Agreement shall, create any partnership, joint venture or other agreement between the parties. No term or provision of this Overlay Agreement is intended to or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.

15. **Waiver.** No delay in exercising any right or remedy shall constitute a waiver thereof; and no waiver of any breach shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant, or condition of this Overlay Agreement. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

16. **Further Documentation.** The parties agree in good faith to execute such further or additional instruments and documents and to take such further acts as may be necessary or appropriate to fully carry out the intent and purpose of this Overlay Agreement.

17. **Fair Interpretation.** The parties have been represented by counsel in the negotiation and drafting of this Overlay Agreement and this Overlay Agreement shall be construed according to the fair meaning of its language. The rule of construction that ambiguities shall be resolved against the party who drafted a provision shall not be employed in interpreting this Overlay Agreement.

18. **Headings.** The headings of this Overlay Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Overlay Agreement.

19. **Counterparts.** This Overlay Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

20. **Computation of Time.** Any reference to a “day” in this Overlay Agreement shall mean a City business day unless otherwise noted. In computing any period of time under this Overlay Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so completed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. The time for performance of any obligation or taking any action under this Overlay Agreement shall be deemed to expire at 5:00 p.m. (Arizona time) on the last day of the applicable time period provided herein.

21. **Conflict of Interest.** This Overlay Agreement is subject to the terms of ARS § 38-511.

22. **No Obligation to Develop.** Nothing contained herein shall be deemed to obligate Austin to complete any part of the development of the Austin Ranch project, and the responsibility to design and construct the Sewer Improvements is contingent upon Austin moving forward with the development of the Austin Ranch Project.

23. **Indemnification and Defense of City by Austin.** To the fullest extent permitted by law, Austin shall indemnify, defend (with counsel acceptable to the City), protect, and hold harmless the City, and its elected officials, appointed officials, employees and agents for, from, and against any and all liability, loss, damage, expense, and legal fees or costs, arising from or related to any claim or action, including but not limited to, claims or actions for takings or constitutionally impermissible exactions, brought by any person or entity in connection with the parties’ performance of the duties imposed and the rights granted by this Overlay Agreement. The scope of this duty to indemnify, defend, protect, and hold harmless shall include, but not be limited to, any claim or cause of action that may be asserted by any property owners within the Benefited Area. Austin shall defend the validity of this Overlay Agreement in the event of any proceeding or litigation arising from its terms or implementation that names the City as a party and which challenges the validity of the Agreement or the authority of the City to enter into or perform any of its obligations under the Agreement. Austin’s obligations and liabilities under this Paragraph 23 shall survive the termination of this Overlay Agreement.

24. **Takings/Exactions.** Nothing in this Overlay Agreement shall require the City to effect a taking, administrative or otherwise, or constitutionally impermissible exaction. To the extent that any provision of this Overlay Agreement is held to be a taking, a constitutionally impermissible exaction, or otherwise unlawful by a court of competent jurisdiction, that provision shall be void and the City shall be released from performance of any obligation under that provision.

25. **Entire Agreement.** This Overlay Agreement, together with the following Exhibits attached hereto (which are incorporated herein by this reference) constitutes the entire Overlay Agreement between the parties.

- a. Exhibit A: Legal description and depiction of the Benefited Area
- b. Exhibit B-1: Sewer Improvement Budget
- c. Exhibit B-2: Depiction of the Sewer Buy-in Fee Areas
- d. Exhibit B-3: Sewer Buy-in Fee Spreadsheet
- e. Exhibit B-4: EDU Exhibit
- f. Exhibit C: Sample Notice of Payment

26. **Conflicts with the Development Agreement.** Except as otherwise superseded by similar provisions within this Overlay Agreement, all of the terms and provisions of the Development Agreement shall remain in full force and effect. In the event of any conflict between this Overlay Agreement and the Development Agreement, the provisions of this Overlay Agreement shall control.

IN WITNESS WHEREOF, the parties have executed this Overlay Agreement on the date(s) written below.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

CITY:
CITY OF SURPRISE, an Arizona municipal corporation

By: _____
Skip Hall, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk

APPROVED AS TO FORM:

Robert Wingo, City Attorney

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2020, before me personally appeared Skip Hall, the Mayor of the City of Surprise, an Arizona municipal corporation, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above/attached document.

[Affix notary seal here]

Notary Public

AUSTIN:
AUSTIN RANCH LLC an Arizona limited liability company

By: _____
Name: Alan Hamberlin
Title: Manager

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2020, before me personally appeared Alan Hamberlin, Manager of Austin Ranch LLC, an Arizona limited liability company, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above/attached document.

[Affix notary seal here]

Notary Public

Exhibit A

Legal Description and Depiction of the Benefited Area

EXHIBIT A
"BENEFITTED AREA"

That portion of Sections 3, 10, 11, 14 and 15, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Section 15;
Thence North 00° 08' 30" East a distance of 2622.02 feet to the West quarter corner of Section 15;
Thence North 00° 09' 04" East a distance of 2620.86 feet to the Northwest corner of Section 15 and the Southwest corner of Section 10;
Thence North 00° 36' 23" East a distance of 2663.82 feet to the West quarter corner of Section 10;
Thence North 00° 36' 41" East a distance of 2631.30 feet to the Northwest corner of Section 10 and the Southwest corner of Section 3;
Thence North 00° 09' 49" West a distance of 2631.48 feet to the West quarter corner of Section 3;
Thence South 89° 47' 17" East along the East-West mid-section line of Section 2 a distance of 2453.63 feet to the southwesterly right-of-way line of U.S. 60 (Grand Avenue);
Thence South 46° 37' 50" East along said right-of-way line a distance of 7460.76 feet to the North-South midsection line of Section 11;
Thence South 00° 07' 01" West along said mid-section line a distance of 166.25 feet to the Center of Section 11;
Thence North 89° 45' 14" West along the East-West mid-section line of Section 11 a distance of 2642.15 feet to the West quarter corner of Section 11;
Thence South 00° 05' 51" West a distance of 2633.88 feet to the Southwest corner of Section 11 and the Northwest corner of Section 14;
Thence South 89° 37' 59" East a distance of 2632.47 feet to the North quarter corner of Section 14;
Thence South 89° 38' 51" East a distance of 2633.51 feet to the Northeast corner of Section 14;
Thence South 00° 28' 33" West a distance of 1316.50 feet to the Northeast corner of the Southeast quarter of the Northeast quarter of Section 14;
Thence South 45° 14' 52" West a distance of 1861.57 feet to the Southwest corner of the Southeast quarter of the Northeast quarter of Section 14;
Thence North 89° 44' 55" West along the East-West mid-section line of Section 14 a distance of 2623.58 feet to the Northeast corner of the Northwest quarter of the Southwest quarter of Section 14;
Thence South 00° 08' 47" West a distance of 657.25 feet to the Southeast corner of the North half of the Northwest quarter of the Southwest quarter of Section 14;
Thence North 89° 43' 53" West a distance of 1312.35 feet to the Southwest corner of the North half of the Northwest quarter of the Southwest quarter of Section 14;
Thence South 00° 04' 38" West a distance of 1970.58 feet to the Southwest corner of Section 14 and the Southeast corner of Section 15;

Land Survey Services PLC
20651 W. Pasadena Avenue
Buckeye, AZ 85396-1255

Job No. 18046

Thence North 89° 44' 54" West a distance of 2642.29 feet to the South quarter corner of
Section 15;

Thence North 89° 46' 06" West a distance of 2642.82 feet to the POINT OF BEGINNING;

Containing 1911 acres

See attached Exhibit Drawing by reference made a part hereto.



Land Survey Services PLC
20651 W. Pasadena Avenue
Buckeye, AZ 85396-1255

Job No. 18046

EXHIBIT A

"BENEFITTED AREA"

A PORTION OF SECTIONS 3, 10, 11, 14, & 15
T4N, R2W, G&SRBM, MARICOPA COUNTY, ARIZONA

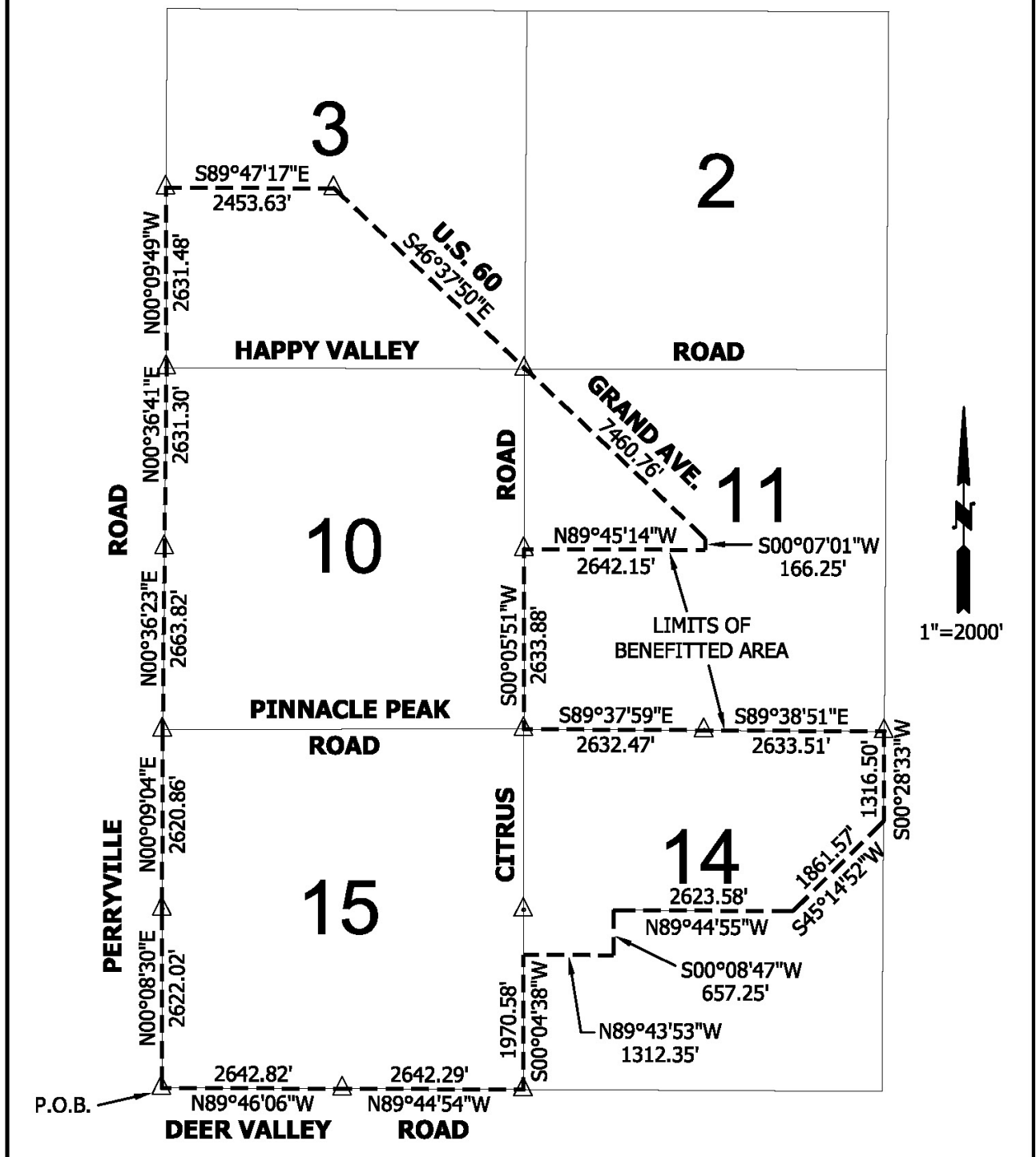


Exhibit B-1
Sewer Improvement Budget

EXHIBIT B-1

SUMMARY

SEWER LINE	QTY	UNIT	*UNIT PRICE	EXTENSION
BUDGET - Austin Ranch West Parcel 1 - 24"	6,028	EDU	\$ 41.45	\$ 249,837.70
BUDGET - Austin Ranch West Parcel 1 - 15"	1,973	EDU	\$ 85.46	\$ 168,605.78
BUDGET - Austin Ranch East Offsite & Ph1A - 18"	4,055	EDU	\$ 188.12	\$ 762,824.71
BUDGET - Austin Ranch East Ph1A & Ph2 - 15"	2,284	EDU	\$ 226.29	\$ 516,857.25
GRAND TOTAL - SEWER				\$ 1,698,125.44

SUMMARY - SEWER SERVICE AREAS

SERVICE AREA BR	QTY	UNIT	*UNIT PRICE	EXTENSION
Austin Ranch West Parcel 1 - 24"			\$ 41.45	
Austin Ranch East Offsite & Ph1A - 18"			\$ 188.12	
Austin Ranch East Ph1A & Ph2 - 15"			\$ 226.29	
TOTAL - SERVICE AREA BR	1694	EDU	\$ 455.86	\$ 772,227.69

SERVICE AREA BL	QTY	UNIT	*UNIT PRICE	EXTENSION
Austin Ranch West Parcel 1 - 24"			\$ 41.45	
Austin Ranch East Offsite & Ph1A - 18"			\$ 188.12	
Austin Ranch East Ph1A & Ph2 - 15"			\$ 226.29	
TOTAL - SERVICE AREA BL	590	EDU	\$ 455.86	\$ 268,957.70

SERVICE AREA R	QTY	UNIT	*UNIT PRICE	EXTENSION
Austin Ranch West Parcel 1 - 24"			\$ 41.45	
Austin Ranch East Offsite & Ph1A - 18"			\$ 188.12	
TOTAL - SERVICE AREA R	270	EDU	\$ 229.57	\$ 61,982.75

SERVICE AREA G	QTY	UNIT	*UNIT PRICE	EXTENSION
Austin Ranch West Parcel 1 - 24"			\$ 41.45	
Austin Ranch East Offsite & Ph1A - 18"			\$ 188.12	
TOTAL - SERVICE AREA G	1501	EDU	\$ 229.57	\$ 344,578.17

SERVICE AREA P	QTY	UNIT	*UNIT PRICE	EXTENSION
Austin Ranch West Parcel 1 - 24"			\$ 41.45	
Austin Ranch West Parcel 1 - 15"			\$ 85.46	
TOTAL - SERVICE AREA P	1973	EDU	\$ 126.90	\$ 250,379.13

TOTAL COSTS	6028			\$ 1,698,125.44
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* Unit Price is rounded to nearest cent but is calculated as budget extension price divided by budget EDUs

Exhibit B-1 - Summary

11/25/2020

EXHIBIT B-1

BUDGET - Austin Ranch Parcel 1 Sewer Plan - 24"

ITEM	QTY	UNIT	UP	EXTENSION
Engineering Design	3.0%	%	\$ 120,675.00	\$ 3,620.25
Other Consultants	0.5%	%	\$ 120,675.00	\$ 603.38
Review & Recording Fees	1.0%	%	\$ 120,675.00	\$ 1,206.75
Environmental/Remediation	0.0%	%	\$ 120,675.00	\$ 0,000.00
Construction Permits	2.5%	%	\$ 120,675.00	\$ 3,016.88
MCESD Fees	0.5%	%	\$ 120,675.00	\$ 603.38
Dust Control Permit & Sign	0.5%	%	\$ 120,675.00	\$ 603.38
Staking/Survey	1.5%	%	\$ 120,675.00	\$ 1,810.13
Soils Reports/Testing	1.5%	%	\$ 120,675.00	\$ 1,810.13
Engineer of Record	1.5%	%	\$ 120,675.00	\$ 1,810.13
Performance Bond	1.0%	%	\$ 120,675.00	\$ 1,206.75
Warranty Bond	1.0%	%	\$ 12,067.50	\$ 120.68
Reproduction	0.5%	%	\$ 120,675.00	\$ 603.38
Sewer Easement Acquisition	1.326	AC	\$ 60,000.00	\$ 79,560.00
Total Soft Costs	710	LF	\$ 136.02	\$ 96,575.18
24" PVC	710	LF	\$ 123.00	\$ 87,330.00
5' Dia Manhole	3	EA	\$ 3,150.00	\$ 9,450.00
Connect to Existing	1	EA	\$ 1,850.00	\$ 1,850.00
Install Sewer Plug	1	EA	\$ 430.00	\$ 430.00
Mobilization/Demobilization	1	EA	\$ 1,625.00	\$ 1,625.00
Remove Sewer Plug	1	EA	\$ 125.00	\$ 125.00
Testing	1	EA	\$ 9,925.00	\$ 9,925.00
SWPPP	710	LF	\$ 5.00	\$ 3,550.00
Construction Water	710	LF	\$ 3.00	\$ 2,130.00
Revegetation/Stabilization	710	LF	\$ 2.50	\$ 1,775.00
Repairs/Warranty	710	LF	\$ 3.50	\$ 2,485.00
Total Hard Costs	710	LF		\$ 120,675.00
TOTAL COSTS	710	LF		\$ 217,250.18
Taxes included in line items above				
Contingency	15.0%	%	\$ 217,250.18	\$ 32,587.53
TOTAL PROJECT COSTS	710	LF	\$ 351.88	\$ 249,837.70
BUY IN	6,028	EDU	\$ 41.45	\$ 249,837.70
Taxes included in line items Above				

Exhibit B-1 - Parcel 1 - 24"
10/30/2020

EXHIBIT B-1

BUDGET - Austin Ranch Parcel 1 Sewer Plan - 15"

ITEM	QTY	UNIT	UP	EXTENSION
Engineering Design	3.0%	%	\$ 58,767.50	\$ 1,763.03
Other Consultants	0.5%	%	\$ 58,767.50	\$ 293.84
Review & Recording Fees	1.0%	%	\$ 58,767.50	\$ 587.68
Environmental/Remediation	0.0%	%	\$ 58,767.50	\$ 0,000.00
Construction Permits	2.5%	%	\$ 58,767.50	\$ 1,469.19
MCESD Fees	0.5%	%	\$ 58,767.50	\$ 293.84
Dust Control Permit & Sign	0.5%	%	\$ 58,767.50	\$ 293.84
Staking/Survey	1.5%	%	\$ 58,767.50	\$ 881.51
Soils Reports/Testing	1.5%	%	\$ 58,767.50	\$ 881.51
Engineer of Record	1.5%	%	\$ 58,767.50	\$ 881.51
Performance Bond	1.0%	%	\$ 58,767.50	\$ 587.68
Warranty Bond	1.0%	%	\$ 5,876.75	\$ 58.77
Reproduction	0.5%	%	\$ 58,767.50	\$ 293.84
Sewer Easement Acquisition	1.326	AC	\$ 60,000.00	\$ 79,560.00
Total Soft Costs	575	LF	\$ 152.78	\$ 87,846.22
15" PVC	575	LF	\$ 50.00	\$ 28,750.00
5' Dia Manhole	3	EA	\$ 3,150.00	\$ 9,450.00
Connect to Existing	1	EA	\$ 1,850.00	\$ 1,850.00
Install Sewer Plug	1	EA	\$ 430.00	\$ 430.00
Mobilization/Demobilization	1	EA	\$ 1,625.00	\$ 1,625.00
Remove Sewer Plug	1	EA	\$ 125.00	\$ 125.00
Testing	1	EA	\$ 9,925.00	\$ 9,925.00
SWPPP	575	LF	\$ 5.00	\$ 2,875.00
Construction Water	575	LF	\$ 3.00	\$ 1,725.00
Repairs/Warranty	575	LF	\$ 3.50	\$ 2,012.50
Total Hard Costs	575	LF		\$ 58,767.50
TOTAL COSTS	575	LF		\$ 146,613.72
Taxes included in line items above				
Contingency	15.0%	%	\$ 146,613.72	\$ 21,992.06
TOTAL PROJECT COSTS	575	LF	\$ 293.23	\$ 168,605.78
BUY IN	1,973	EDU	\$ 85.46	\$ 168,605.78
Taxes included in line items Above				

Exhibit B-1 - Parcel 1 - 15"
11/25/2020

EXHIBIT B-1

BUDGET - Austin Ranch East Offsite Phase 1A Sewer Plan - 18"

ITEM	QTY	UNIT	UP	EXTENSION
Engineering Design	3.0%	%	\$ 511,626.50	\$ 15,348.80
Other Consultants	0.5%	%	\$ 511,626.50	\$ 2,558.13
Review & Recording Fees	1.0%	%	\$ 511,626.50	\$ 5,116.27
Environmental/Remediation	0.0%	%	\$ 511,626.50	\$ 0,000.00
Construction Permits	2.5%	%	\$ 511,626.50	\$ 12,790.66
MCESD Fees	0.5%	%	\$ 511,626.50	\$ 2,558.13
Dust Control Permit & Sign	0.5%	%	\$ 511,626.50	\$ 2,558.13
Staking/Survey	1.5%	%	\$ 511,626.50	\$ 7,674.40
Soils Reports/Testing	1.5%	%	\$ 511,626.50	\$ 7,674.40
Engineer of Record	1.5%	%	\$ 511,626.50	\$ 7,674.40
Performance Bond	1.0%	%	\$ 511,626.50	\$ 5,116.27
Warranty Bond	1.0%	%	\$ 51,162.65	\$ 511.63
Reproduction	0.5%	%	\$ 511,626.50	\$ 2,558.13
Sewer Easement Dedication	1.326	AC	\$ 60,000.00	\$ 79,560.00
Total Soft Costs	2,881	LF	\$ 52.66	\$ 151,699.34
18" PVC (Offsite)	2,123	LF	\$ 94.00	\$ 199,562.00
5' Dia Manhole (Offsite)	6	EA	\$ 8,750.00	\$ 52,500.00
18" PVC (Phase 1A)	752	LF	\$ 129.00	\$ 97,008.00
18" PVC Stub to Future	1	EA	\$ 1,000.00	\$ 1,000.00
5' Dia Manhole (Phase 1A)	3	EA	\$ 8,750.00	\$ 26,250.00
Break into Existing MH (22' Deep)	1	EA	\$ 7,000.00	\$ 7,000.00
Remove and Replace Ex Sidewalk	100	SF	\$ 15.00	\$ 1,500.00
Rem and Repl Ex Curb & Gutter	20	LF	\$ 48.00	\$ 960.00
Pavement Remove and Replace	625	SY	\$ 017.22	\$ 10,762.50
Traffic Control	1	LS	\$ 15,000.00	\$ 15,000.00
Wash Area Access Road	43,000	SF	\$ 1.00	\$ 43,000.00
Mobilization	1	EA	\$ 16,250.00	\$ 16,250.00
Connect to Existing Manhole	1	EA	\$ 500.00	\$ 500.00
SWPPP	2881	LF	\$ 5.00	\$ 14,405.00
Construction Water	2881	LF	\$ 3.00	\$ 8,643.00
Revegetation/Stabilization	2881	LF	\$ 2.50	\$ 7,202.50
Repairs/Warranty	2881	LF	\$ 3.50	\$ 10,083.50
Total Hard Costs	2,881	LF		\$ 511,626.50
TOTAL COSTS	2,881	LF		\$ 663,325.84
Taxes included in line items above				
Contingency	15.0%	%	\$ 663,325.84	\$ 99,498.88
TOTAL PROJECT COSTS	2,881	LF	\$ 264.78	\$ 762,824.71
BUY IN	4,055	EDU	\$ 188.12	\$ 762,824.71
Taxes included in line items Above				

Exhibit B-1 - Offsite-Ph1A - 18"

10/30/2020

EXHIBIT B-1

BUDGET - Austin Ranch East - Phase 1A Phase 2 Sewer Plan - 15"

ITEM	QTY	UNIT	UP	EXTENSION
Engineering Design	3.0%	%	\$ 393,901.04	\$ 11,817.03
Other Consultants	0.5%	%	\$ 393,901.04	\$ 1,969.51
Review & Recording Fees	1.0%	%	\$ 393,901.04	\$ 3,939.01
Environmental/Remediation	0.0%	%	\$ 393,901.04	\$ 0,000.00
Construction Permits	2.5%	%	\$ 393,901.04	\$ 9,847.53
MCESD Fees	0.5%	%	\$ 393,901.04	\$ 1,969.51
Dust Control Permit & Sign	0.5%	%	\$ 393,901.04	\$ 1,969.51
Staking/Survey	1.5%	%	\$ 393,901.04	\$ 5,908.52
Soils Reports/Testing	1.5%	%	\$ 393,901.04	\$ 5,908.52
Engineer of Record	1.5%	%	\$ 393,901.04	\$ 5,908.52
Performance Bond	1.0%	%	\$ 393,901.04	\$ 3,939.01
Warranty Bond	1.0%	%	\$ 39,390.10	\$ 0,393.90
Reproduction	0.5%	%	\$ 393,901.04	\$ 1,969.51
Total Soft Costs	1,803	LF	\$ 30.80	\$ 55,540.05
15" PVC (Phase 1A)	60	LF	\$ 115.58	\$ 6,934.80
15" PVC (Phase 2)	1,743	LF	\$ 115.58	\$ 201,455.94
Connect to Existing Manhole	1	EA	\$ 1,000.00	\$ 1,000.00
5' Dia Manhole	5	EA	\$ 4,600.00	\$ 23,000.00
15" Plug	1	EA	\$ 900.00	\$ 900.00
Mobilization/Demobilization	1	EA	\$ 6,250.00	\$ 6,250.00
Pavement R&R w/ temp pave	7040	SY	\$ 17.22	\$ 121,228.80
SWPPP	2881	LF	\$ 5.00	\$ 14,405.00
Construction Water	2881	LF	\$ 3.00	\$ 8,643.00
Repairs/Warranty	2881	LF	\$ 3.50	\$ 10,083.50
Total Hard Costs	1,803	LF		\$ 393,901.04
TOTAL COSTS	1,803	LF		\$ 449,441.09
Taxes included in line items above				
Contingency	15.0%	%	\$ 449,441.09	\$ 67,416.16
TOTAL PROJECT COSTS	1,803	LF	\$ 286.67	\$ 516,857.25
BUY IN	2,284	EDU	\$ 226.29	\$ 516,857.25
Taxes included in line items Above				

Exhibit B-1 - Ph1A-Ph2 - 15"
11/25/2020

Exhibit B-2

Depiction of the Sewer Buy-in Fee Areas

Exhibit B-2

Depiction of the Purple Sewer Buy-in Fee Area

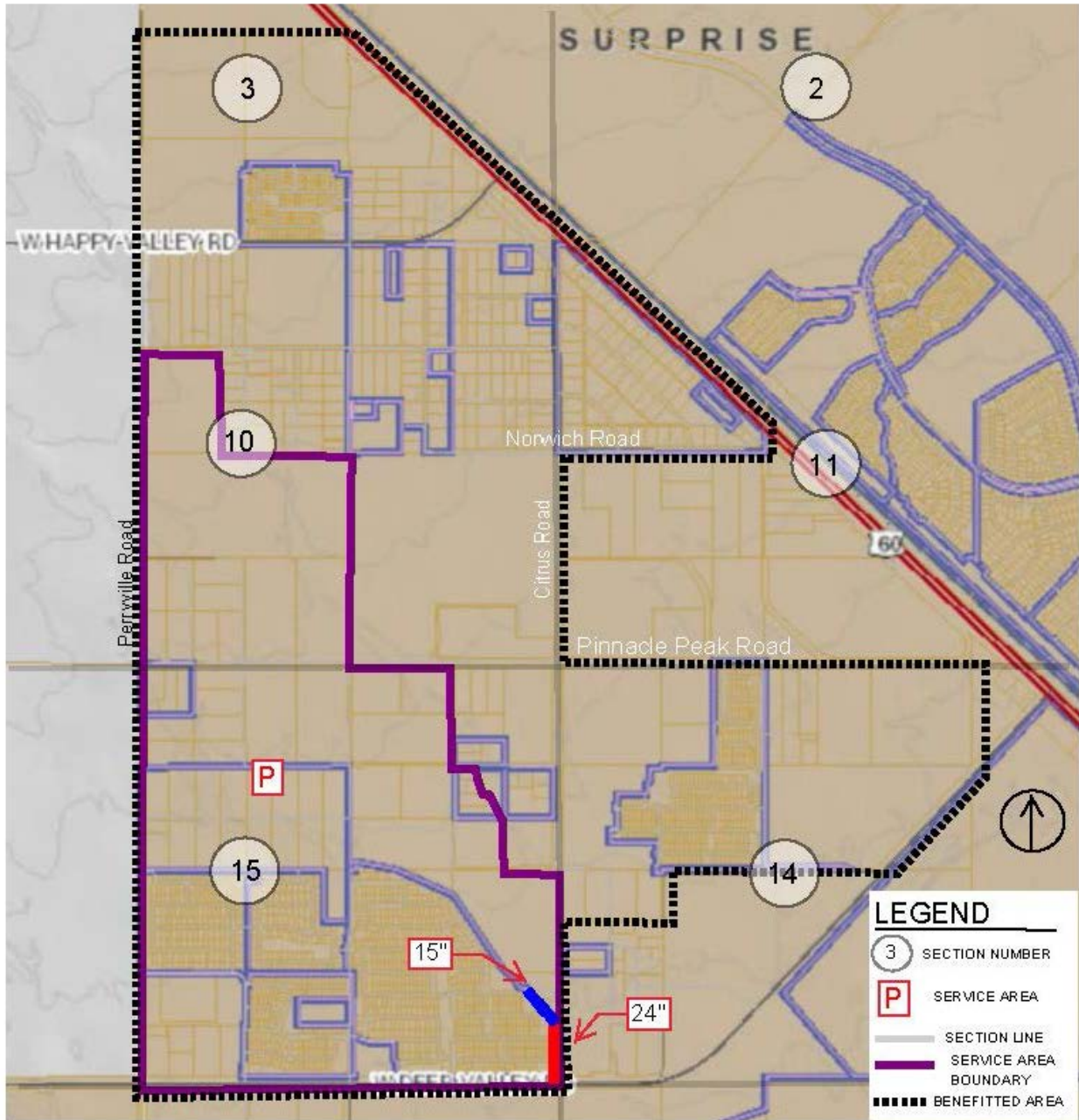


Exhibit B-2

Depiction of the Green Sewer Buy-in Fee Area

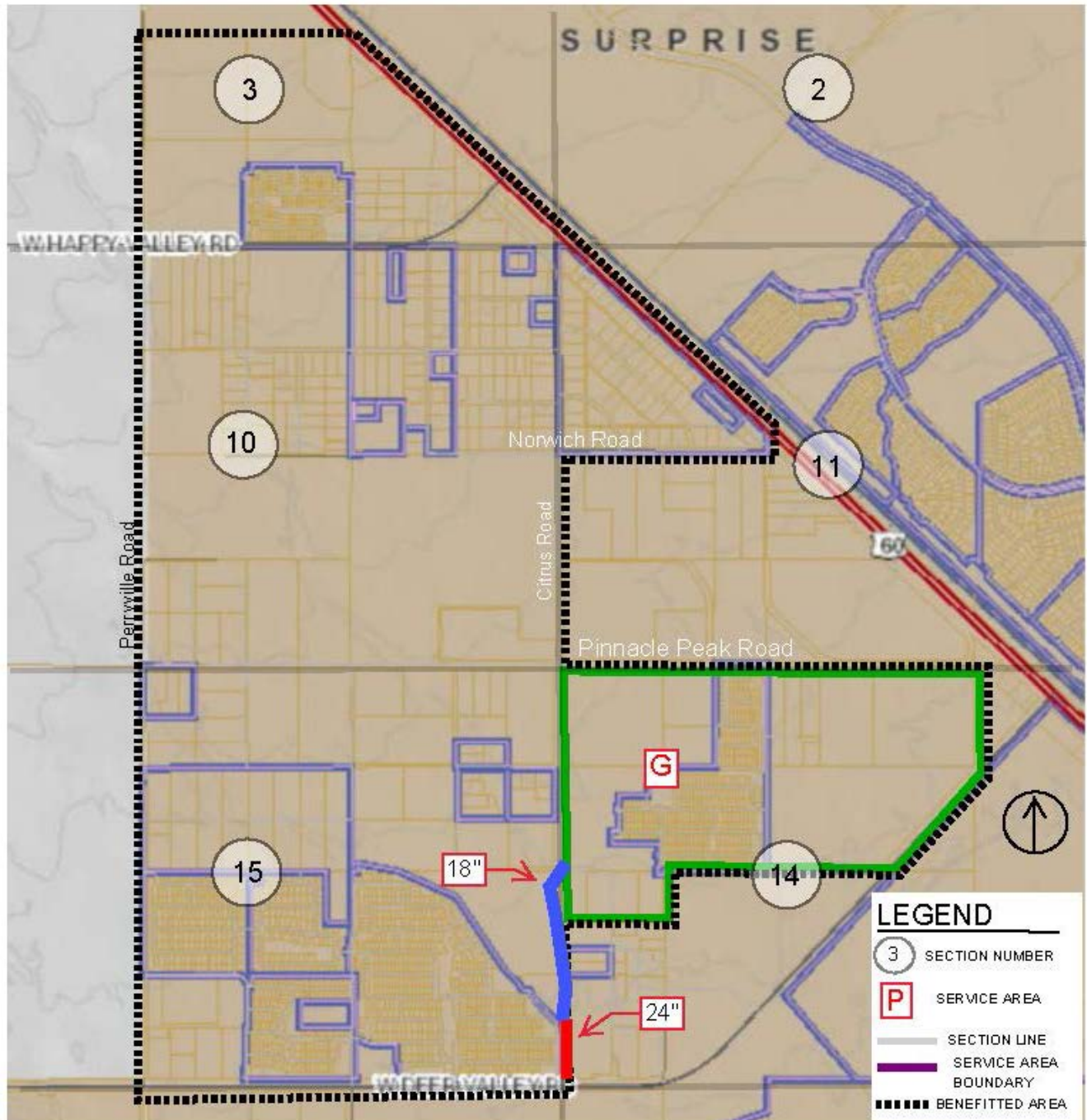


Exhibit B-2

Depiction of the Red Sewer Buy-in Fee Area

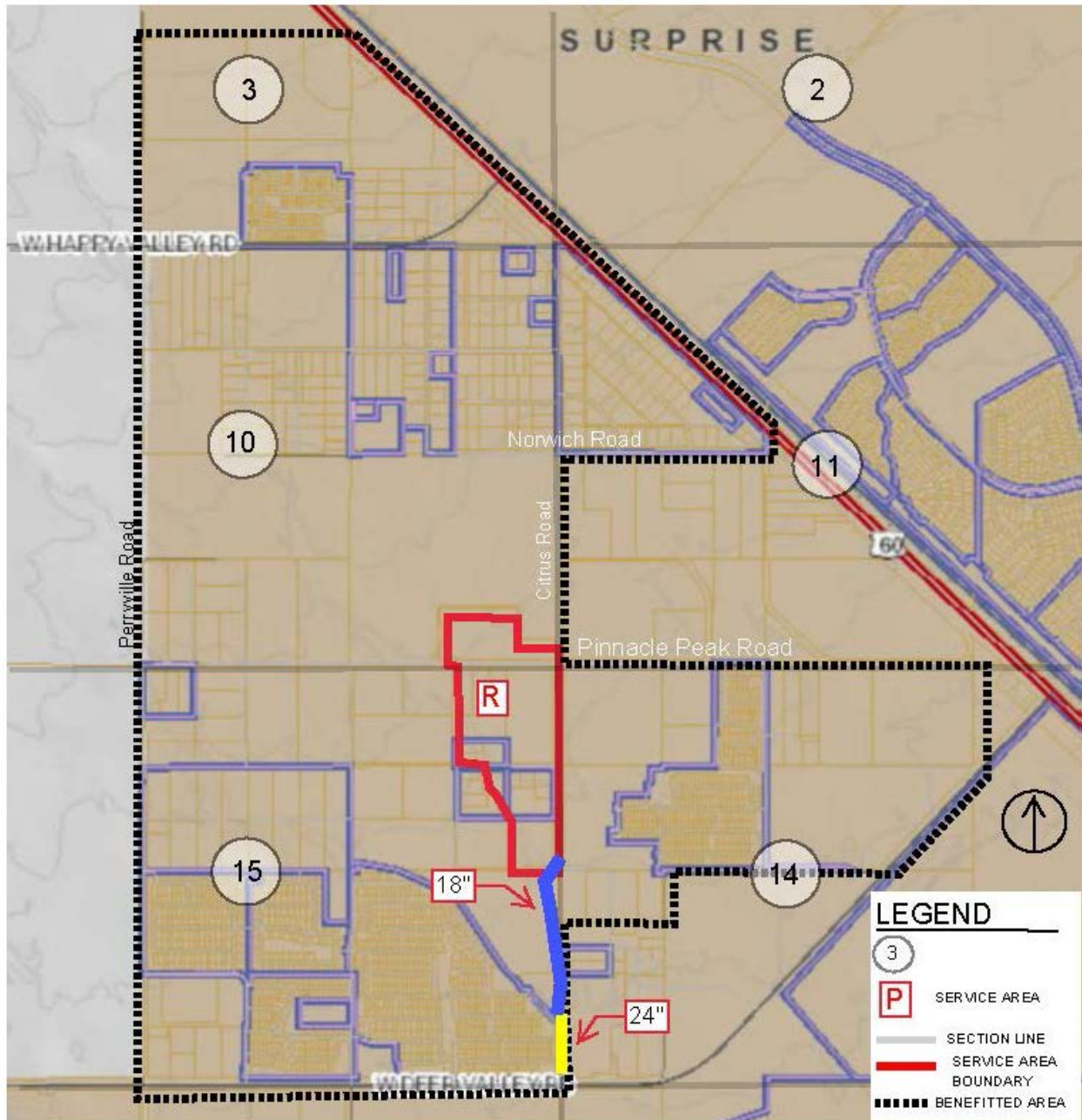


Exhibit B-2

Depiction of the Blue Sewer Buy-in Fee Area

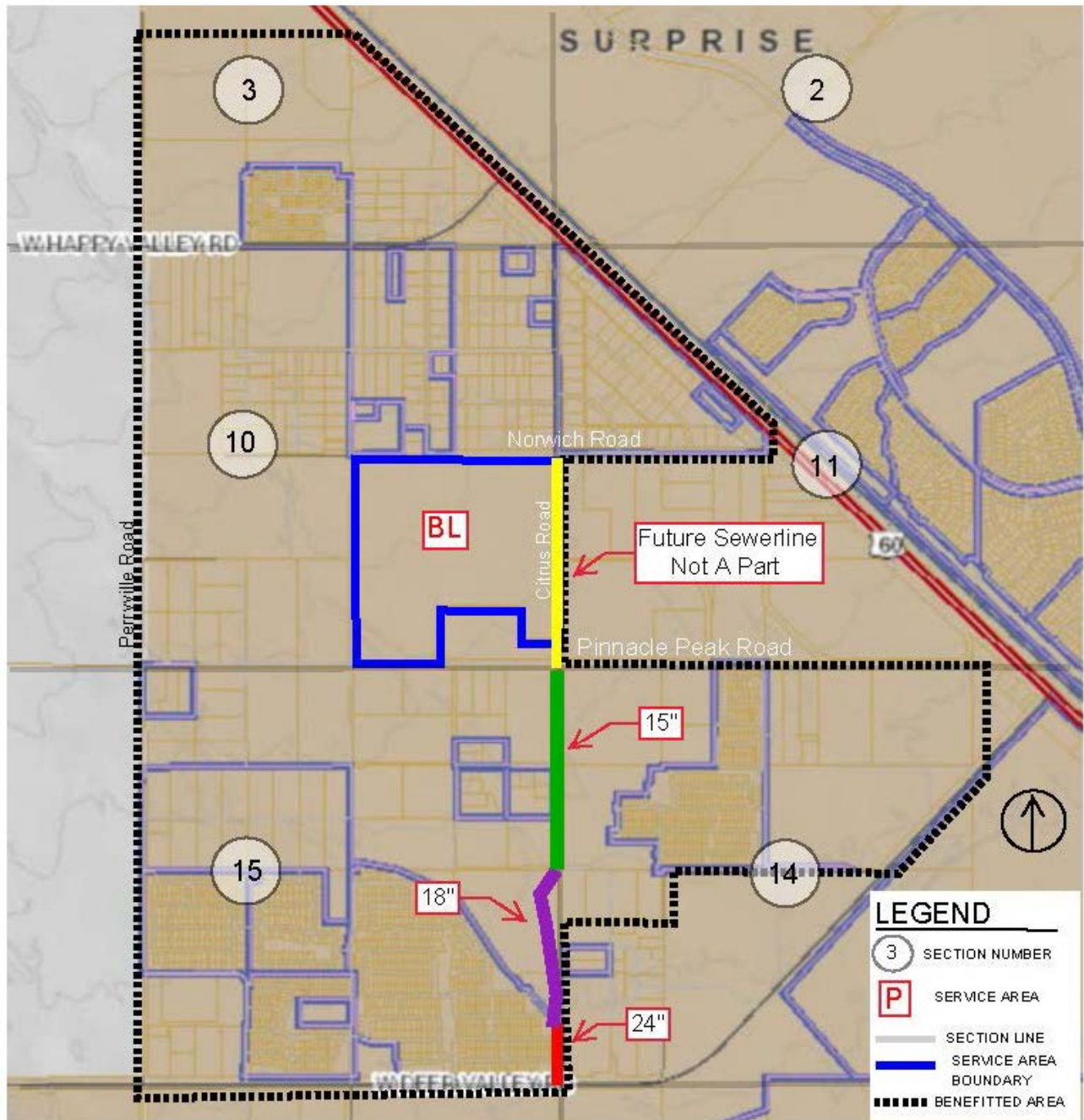


Exhibit B-2

Depiction of the Brown Sewer Buy-in Fee Area

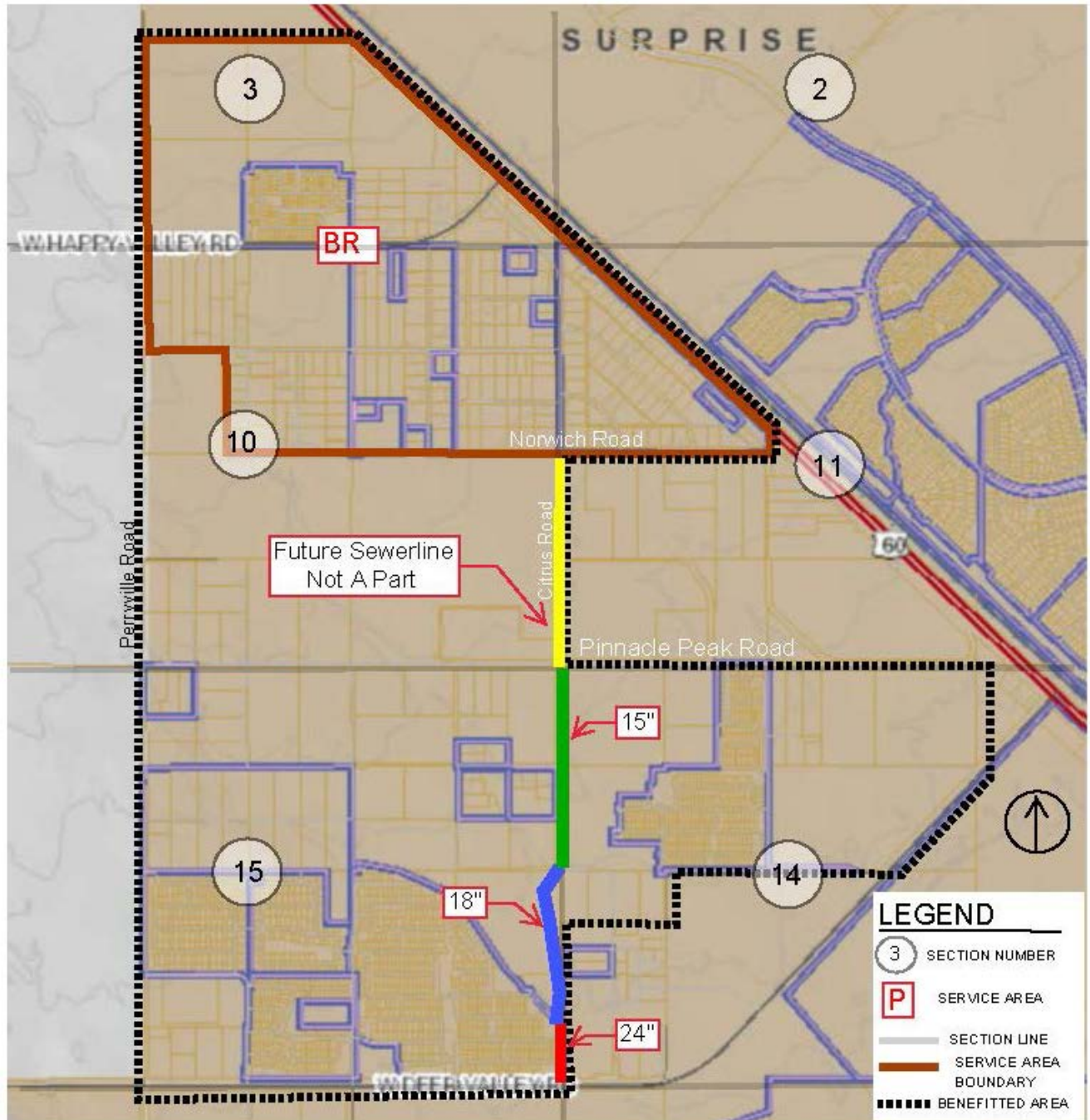


Exhibit B-3
Sewer Buy-in Fee Spreadsheet

Exhibit B-4

EDU Exhibit

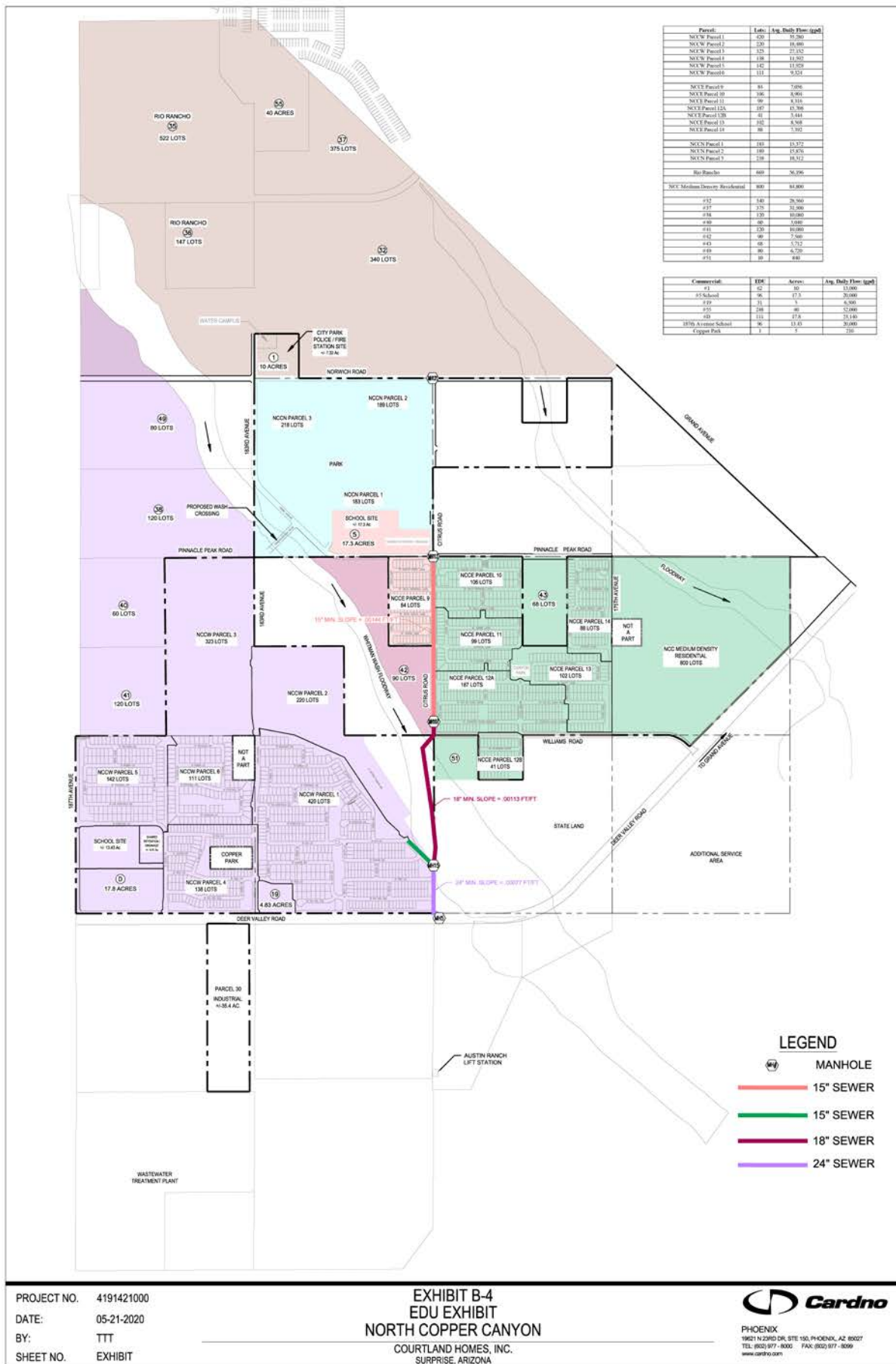


Exhibit C

Sample Notice of Payment

_____ (“Benefited Owner”) has paid Austin the following Sewer Buy-In Fee. If the buy-in fee is based on the estimated budget it shall be subject to future “true-up” following the completion of the associated Sewer Improvement.

Based on Estimate

\$ _____ Sewer Buy-in Fee YES / NO

[INSERT THE FOLLOWING SENTENCE AND INITIAL IF ALL BUY-IN FEES HAVE BEEN PAID]

_____ Benefitted Owner has paid all of its Sewer Buy-in Fees

[INSERT THE FOLLOWING SENTENCE AND INITIAL IF BENEFITTED OWNER STILL HAS OUSTANDING BUY-IN FEES]

_____ Benefitted Owner still owes the following Sewer Buy-in Fees

Austin Ranch LLC: _____
Name Date

City
Acknowledgement: _____
Name Date

RESOLUTION # 2020-159

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING THE AUSTIN RANCH SUPPLEMENTAL DEVELOPMENT AGREEMENT (Citrus Road South--Sewer Overlay Agreement) WITH AUSTIN RANCH LLC.

WHEREAS, the City of Surprise is authorized to enter into development agreements pursuant to Ariz. Rev. Stat. § 9-500.05;

WHEREAS, Austin Ranch LLC ("Austin"), an Arizona limited liability company, will be constructing regional sewer infrastructure improvements to serve its properties located in the North Copper Canyon (aka Austin Ranch) Planned Area Development, generally bounded by 183rd Avenue on the West, Deer Valley Road on the East and South, and Grand Avenue/US 60 on the North;

WHEREAS, Austin seeks reimbursement from those properties in the area of the North Copper Canyon Property that will benefit from the regional sewer infrastructure to be constructed by Austin (the "Benefited Area"); and

WHEREAS, the City has agreed to enter into the Austin Ranch Supplemental Development Agreement (Citrus Road South--Sewer Overlay Agreement), attached hereto as **Exhibit A**, pursuant to which the City will be responsible to notify Austin each time a development application is received by the City for property located within the "Benefited Area," as defined in the Agreement, so that "Sewer Buy-In Fees" may be collected and remitted to Austin; and

WHEREAS, pursuant to the Agreement, the City will not approve a final plat, site plan, or building permit for a property located within the "Benefited Area" until a Notice of Payment has been received.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. The City of Surprise Mayor and City Council approves the Austin Ranch Supplemental Development Agreement (Citrus Road South--Sewer Overlay Agreement) attached as **Exhibit A**.

Section 2. The Mayor is hereby authorized to execute the Agreement on behalf of the City of Surprise, and the Mayor, City Manager, and City Attorney are hereby authorized to take all other actions necessary to implement the Agreement.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

APPROVED AND ADOPTED this ____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

Exhibit “A”

**Austin Ranch Supplemental Development Agreement
(Citrus Road South—Sewer Overlay Agreement)**



**Resolution 2020-159, Austin Ranch Supplemental
Development Agreement
(Citrus Road South - Sewer Overlay Agreement)**

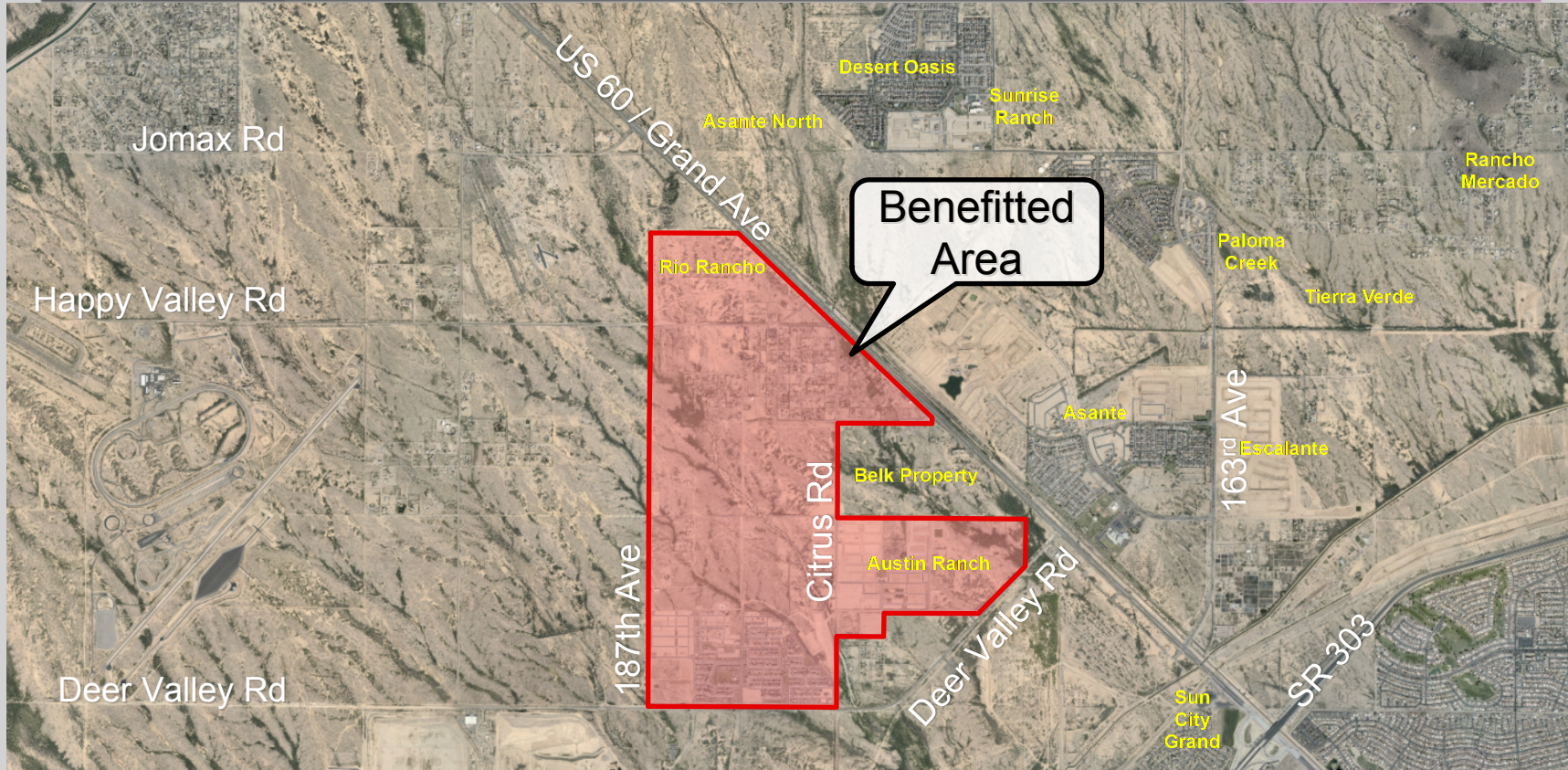
City Council
December 15, 2020



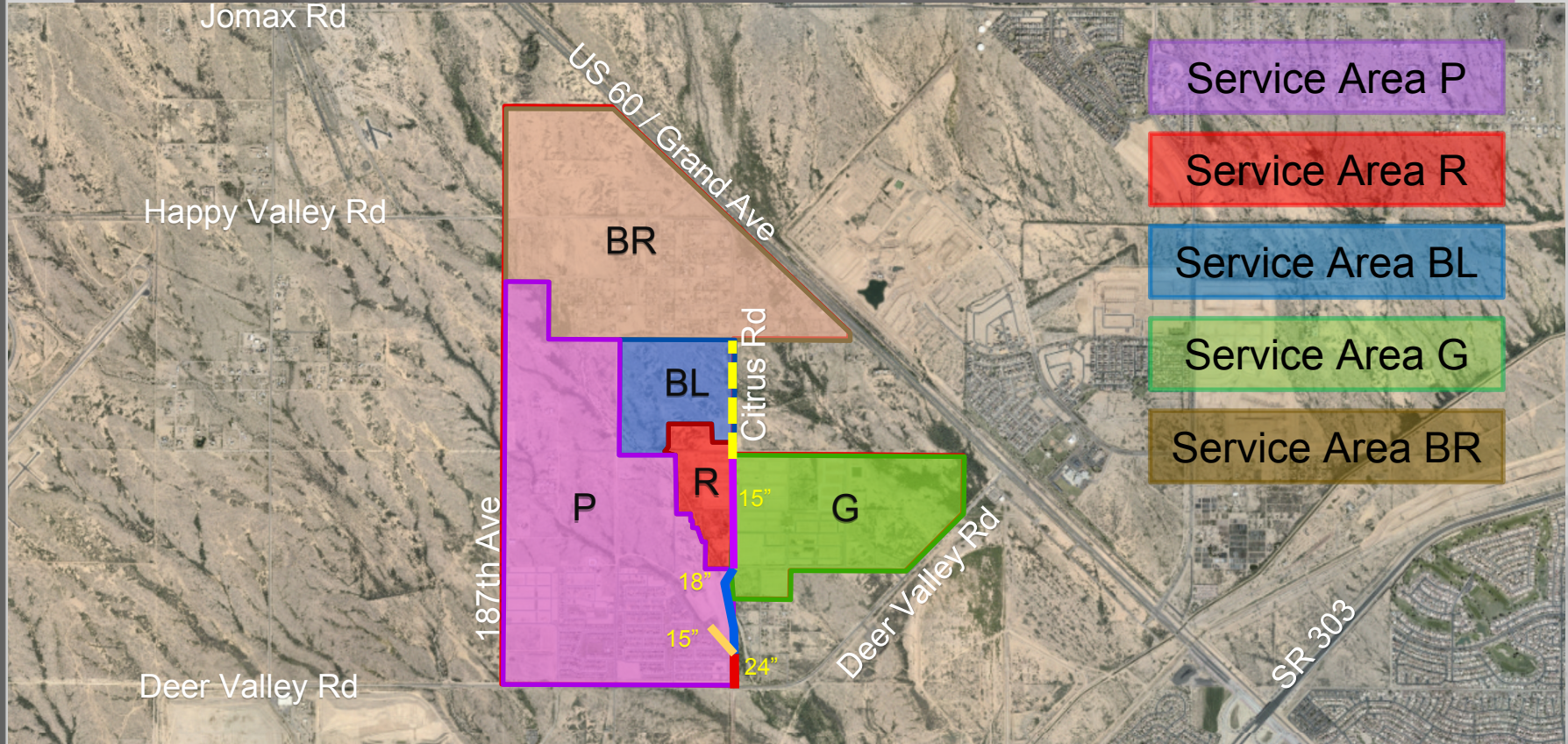
Purpose of the Agreement

The purpose of the agreement is to facilitate the further development of the Austin Ranch project by providing a method of reimbursement for the design, construction, and installation of the regional sewer improvements that not only benefit their property, but also other properties in the area pursuant to Surprise City Code Sections 42-3 through 42-10.

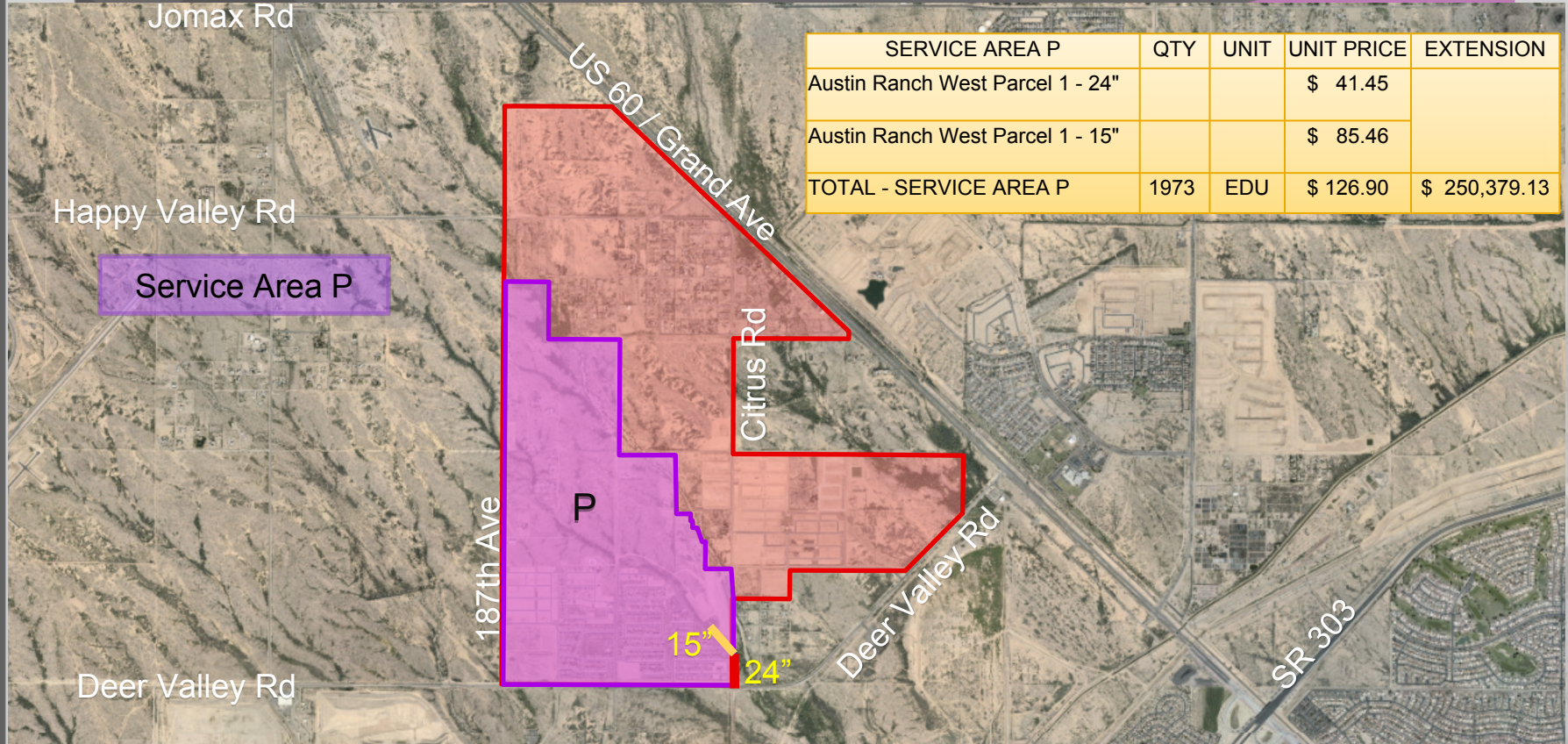
Location Map



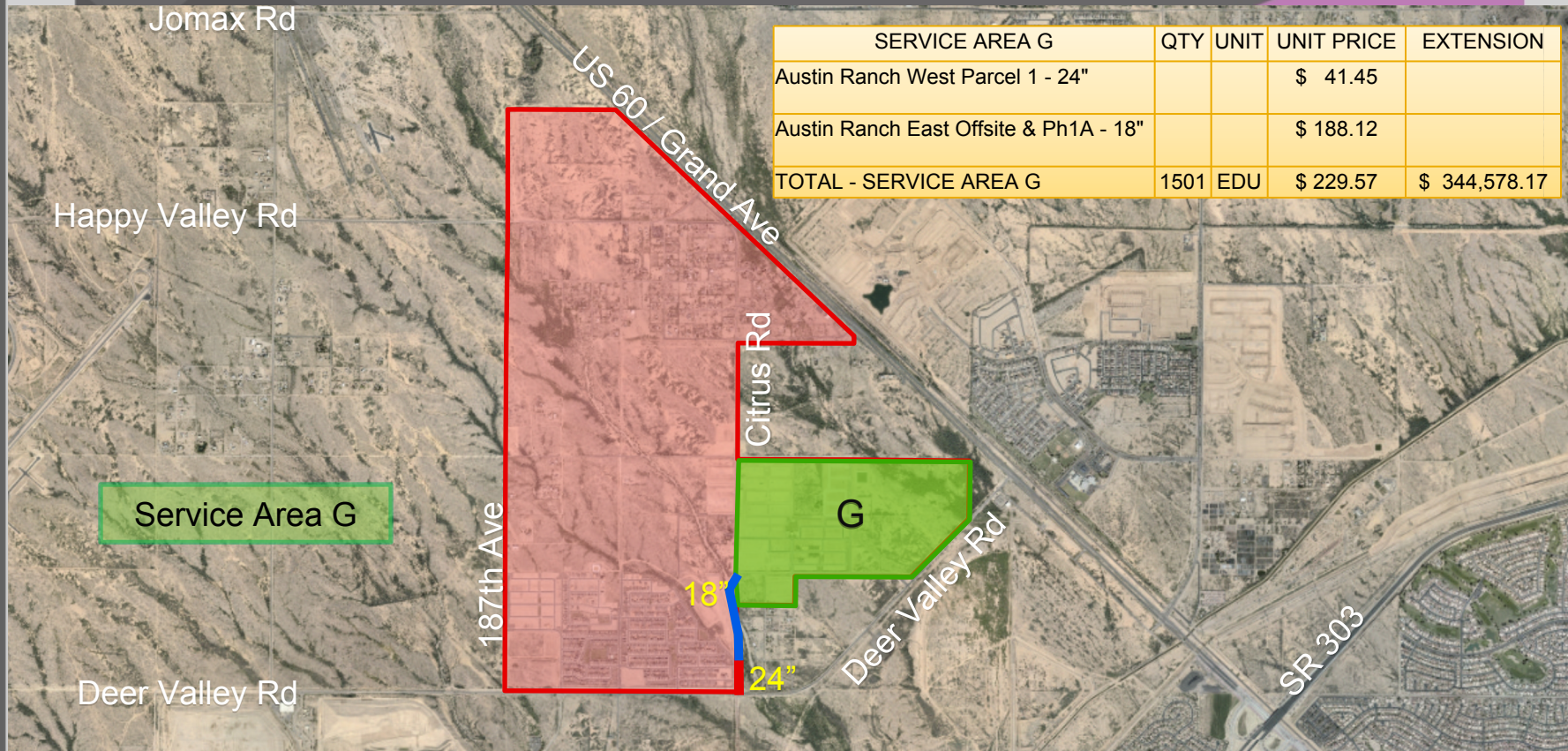
5 Sewer Service Buy-in Fee Areas



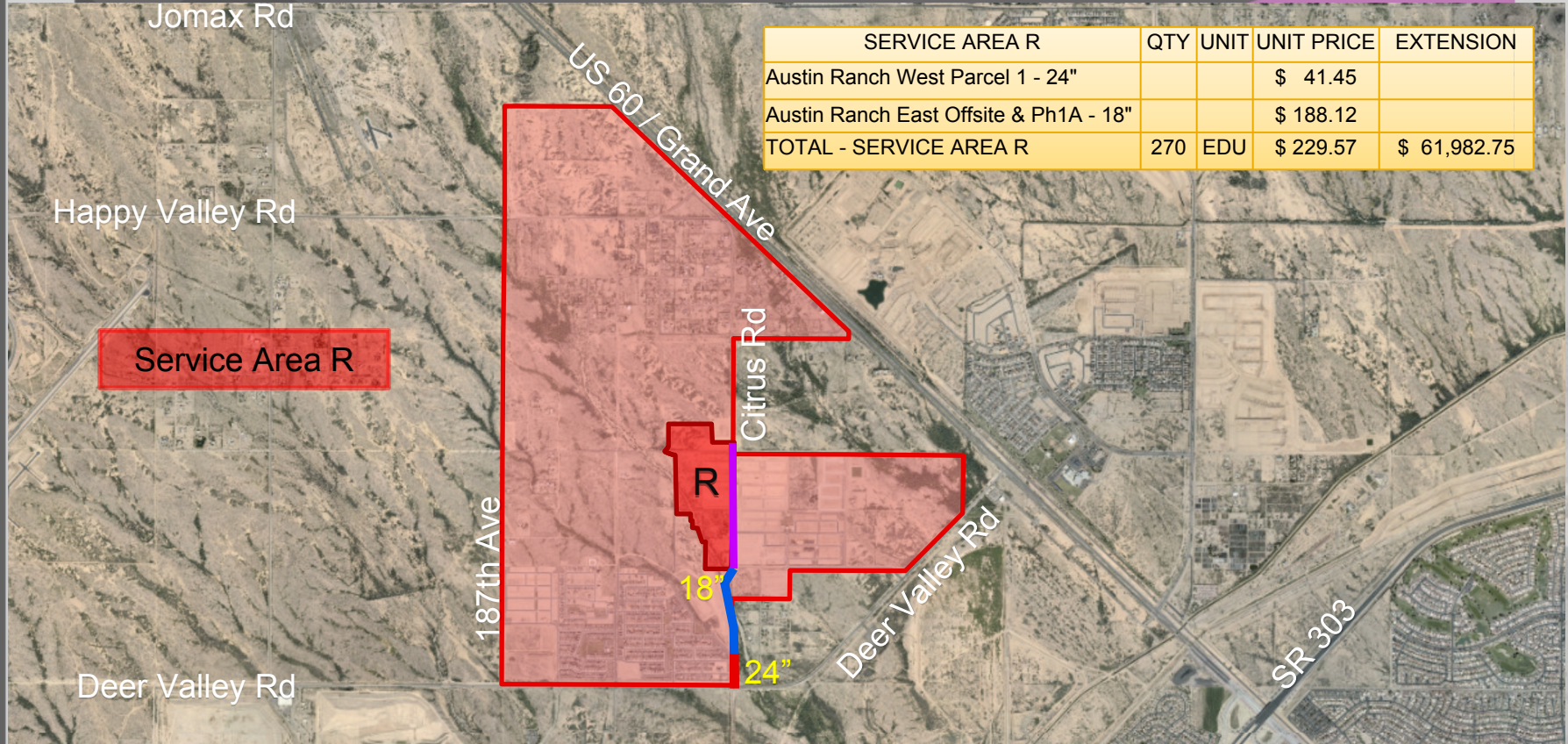
Service Area P



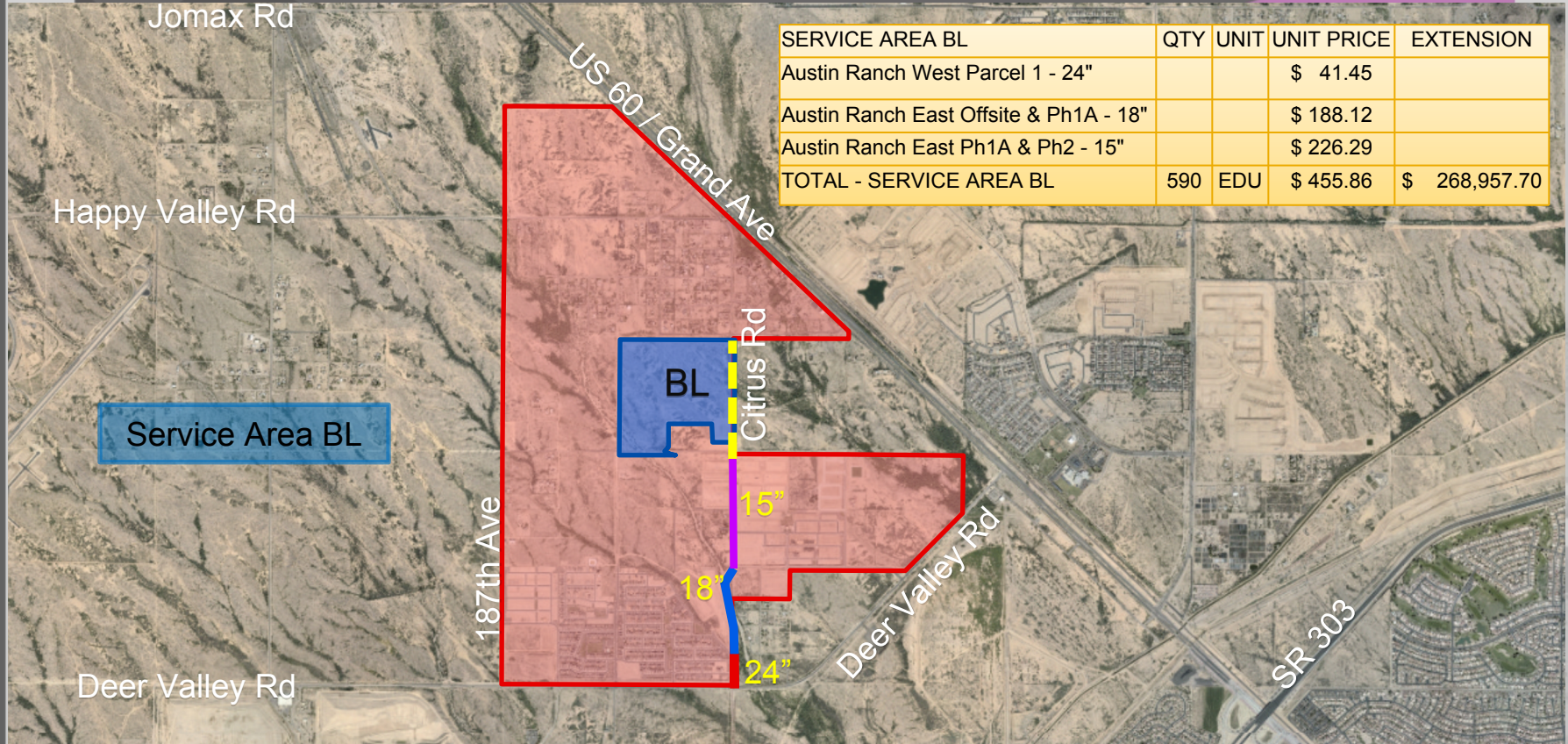
Service Area G



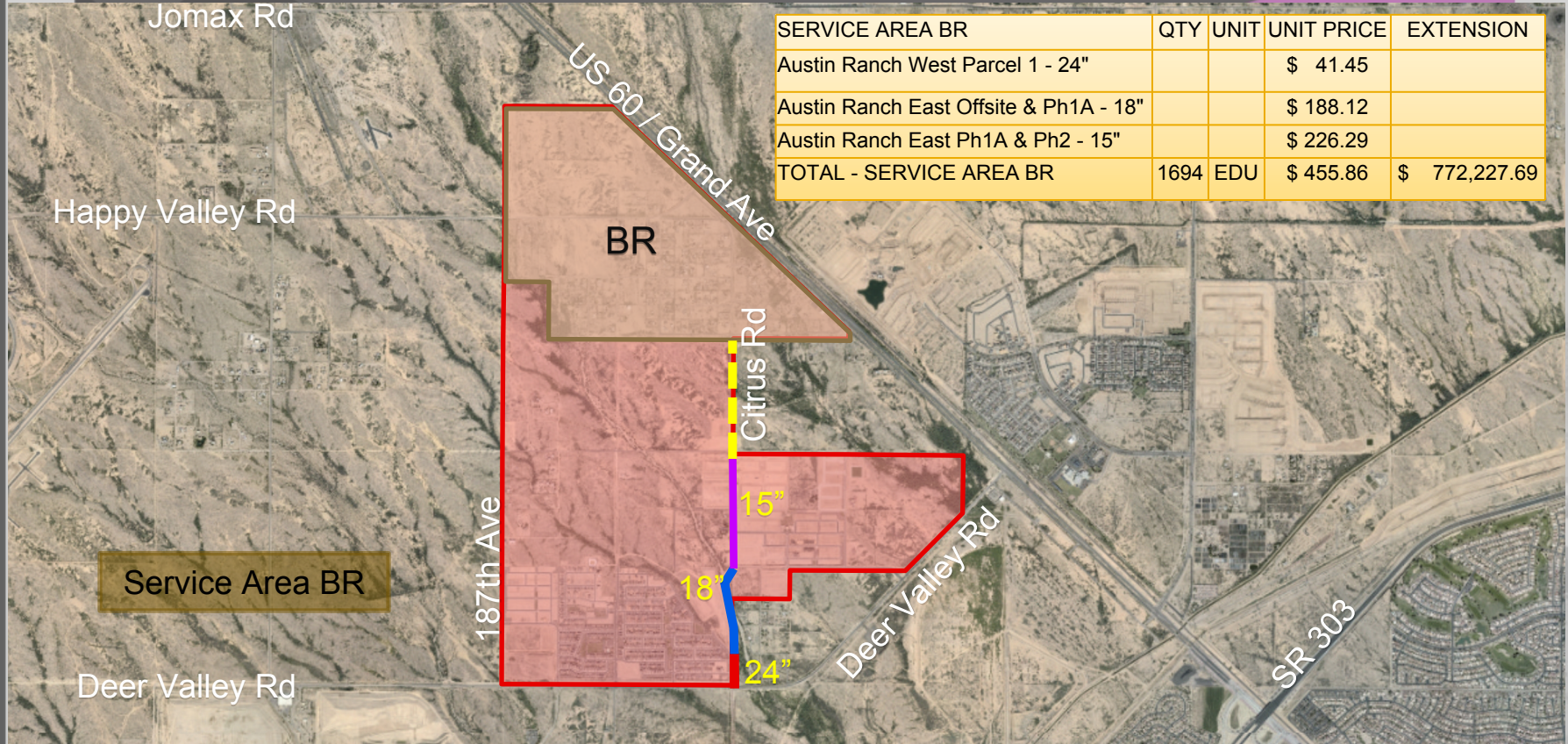
Service Area R



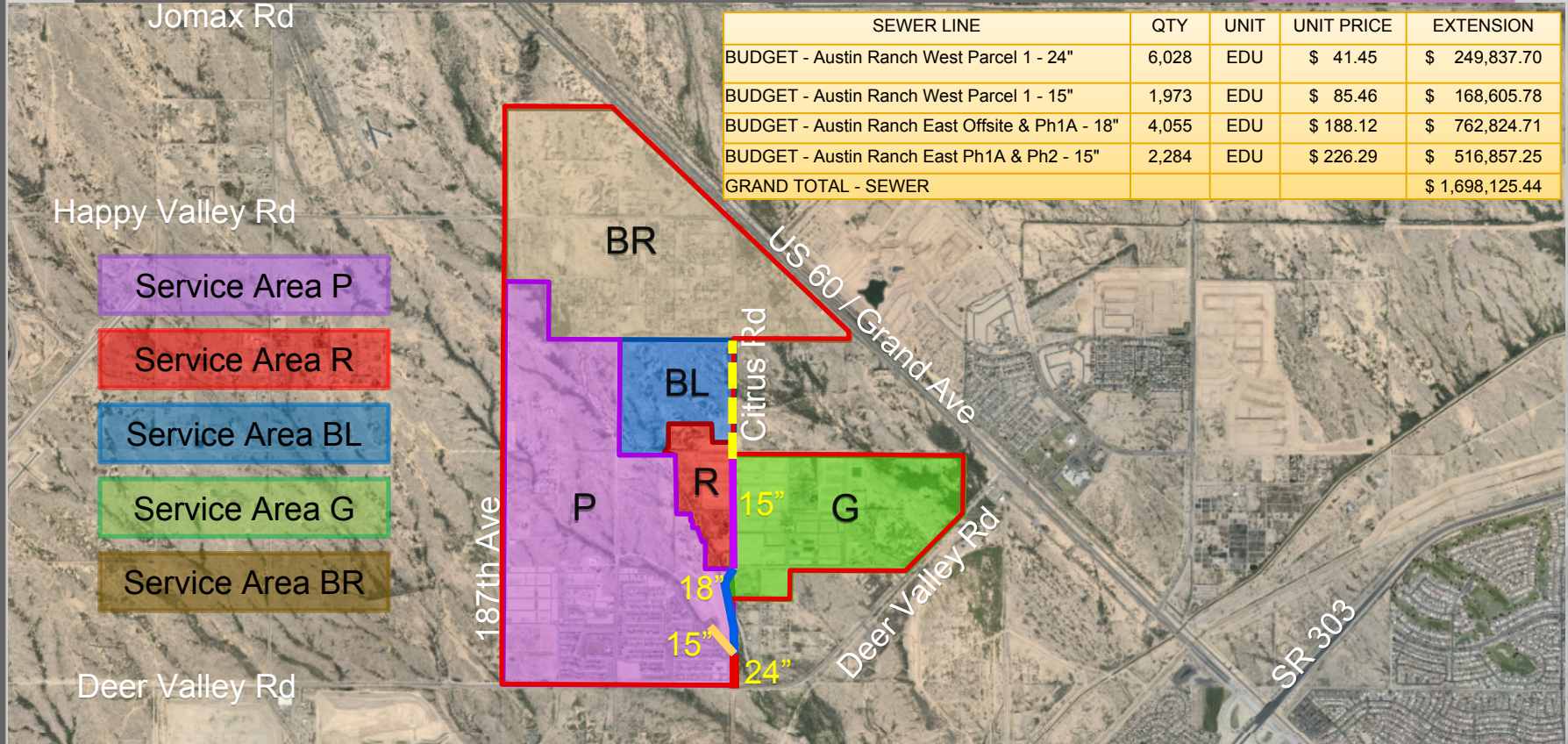
Service Area BL



Service Area BR



Service Area Summary





The City Responsibility

The City is required to do the following:

- Notify Austin Ranch LLC each time an application is received by the City within the Benefited Area for zoning, platting, site planning or a building permit, as applicable.
- Include as a condition of approval for any zoning application within the Benefited Area, a stipulation that requires the applicant to show evidence of payment of all applicable Regional Improvement Buy-in Fees.
- Require a Notice of Payment prior to approval of final plat or issuing of permit.
- Reviewing and approving the Design and Construction Costs for each Sewer Improvement.



QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Sergio Angulo
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Final Plat entitled "Tierra Verde East Phase 1", located in the Tierra Verde East PAD; Resolution # 2020-157.

Motion:

I move to approve Resolution # 2020-157.

Background:

Atwell, LLC on behalf of Tierra Verde 2015, LLC, seeks approval of a Final Plat for a single-family residential development for 195 lots in Parcels 1 and 2 of the Tierra Verde East PAD. This property is located within the "Benefited Area" defined by the Rancho Mercado Supplemental Development Agreement and is required to pay the Buy-in Fees for Happy Valley Road East, Happy Valley Road West, Water, and/or Sewer, as applicable, as a condition to approval and recordation of the final plat. Resolution 2020-157 allows for approval of the plat conditioned upon payment of the applicable Buy-in Fees and the posting of financial assurances for the completion of subdivision improvements required by the Surprise City Code.

Objective Analysis:

This Final Plat will create 195 single-family residential lots which is consistent with the approved Tierra Verde East PAD and the approved preliminary plat under case FS18-249.

Policy Compliant:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which supports uses such as that proposed.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staffing levels.

ATTACHMENTS:

1. 00 20.11.30 EVR TVE Ph 1 - Final Plat - Staff Report (1)
 2. 01 - FS19-227 - TVE Ph 1 - Final Plat - Vicinity Map
 3. 02 - 18000163 TVE FP PH1
 4. 03 - 2020.11.18 EVR Res 2020-157 TVE Ph 1 - Final Plat
 5. FS19-227 - TVE Ph 1 - Final Plat - PowerPoint
-

Case: FS19-227

Project Name: Tierra Verde East Phase 1

Council District: 1

City Council Date: December 15, 2020

Planner: Sergio Angulo, Planner II

Owner: Tierra Verde 2015, LLC

Applicant: Dennis Roberts of Atwell, LLC

Request: Final Plat for a 195 lot, single-family subdivision in Parcels 1 and 2 of the Tierra Verde East PAD

Site Location: Northeast corner of Happy Valley Road and 155th Avenue.

Site Size: 59.9 acres (approx.)

Density: 3.25 DU/Ac

Findings:

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the latest amendment of the Tierra Verde East PAD as approved under case FS18-249.
- The Final Plat is consistent with the Preliminary Plat approved under case FS18-429.

Alternative Actions: **Approve** – Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Deny – Denial of the requested Final Plat will prevent the applicant from subdividing the property as proposed.

Additional Information:

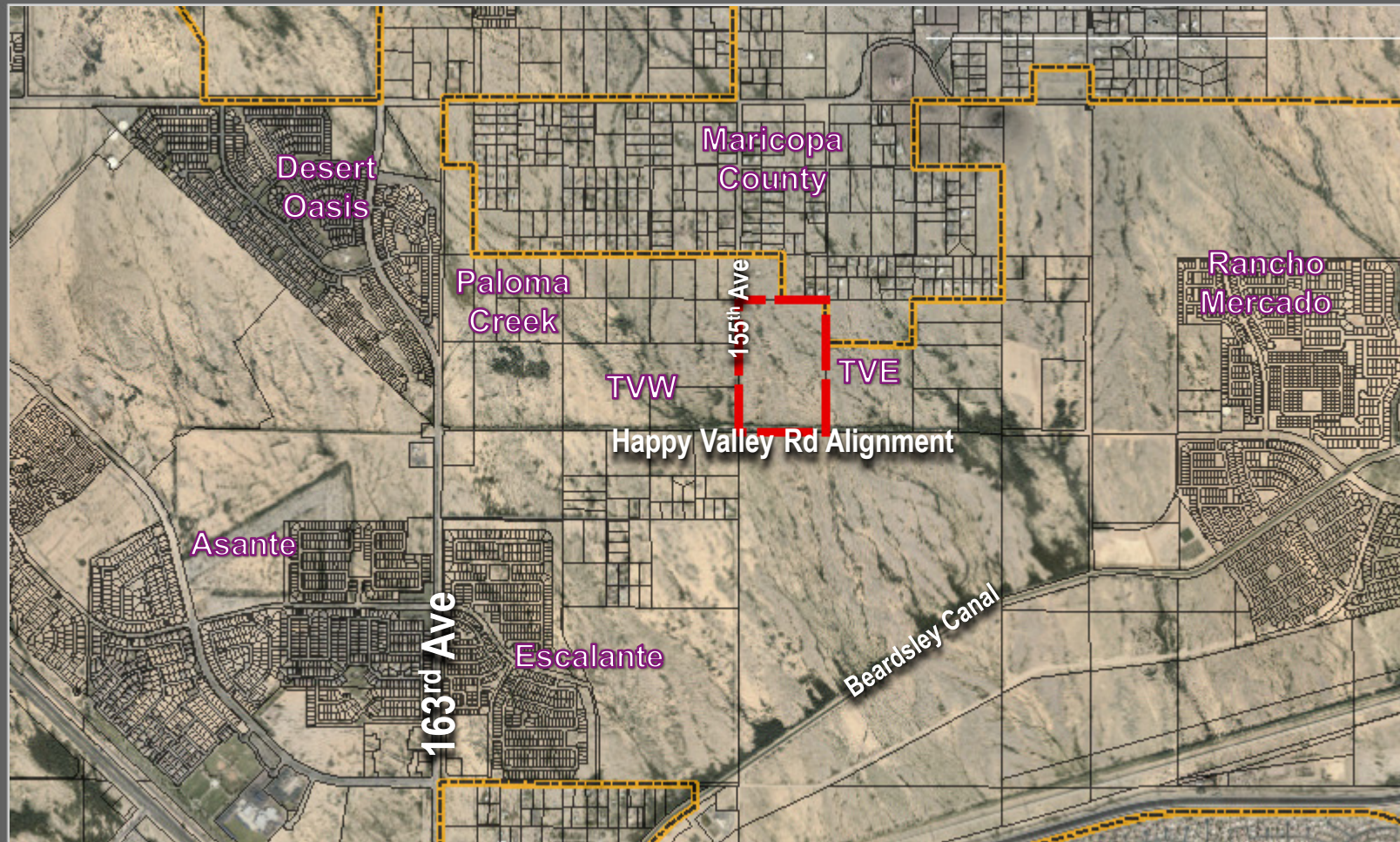
Atwell, LLC, on behalf of Tierra Verde 2015, LLC, requests approval of the Final Plat for Tierra Verde East Phase 1. The subject property is approximately 59.9 acres and is made up of Parcels 1 and 2 of the Tierra Verde East PAD located on the northeast corner of Happy Valley Road and 155th Avenue. The subject property is zoned PAD and has a land use designation of Low Density Residential.

Tierra Verde East and Tierra Verde West are both within the “Benefited Area” defined by the Rancho Mercado Supplemental Development Agreement, as amended, and are required to pay the Buy-In Fees for Happy Valley Road East, Happy Valley Road West, Water, and/or Sewer, as applicable, per that Development Agreement. This plat is being approved conditionally by Resolution such that the plat, if approved by the City Council, will not be recorded until the City receives a Notice of Payment that all applicable Buy-In Fees have been paid to William Lyon Homes and the developer has posted the financial assurances for completion of subdivision improvements required by the Surprise City Code. If both do not happen within 60 days of approval, this final plat will be returned to the City Council for reconsideration and possible action to void and rescind the approval.

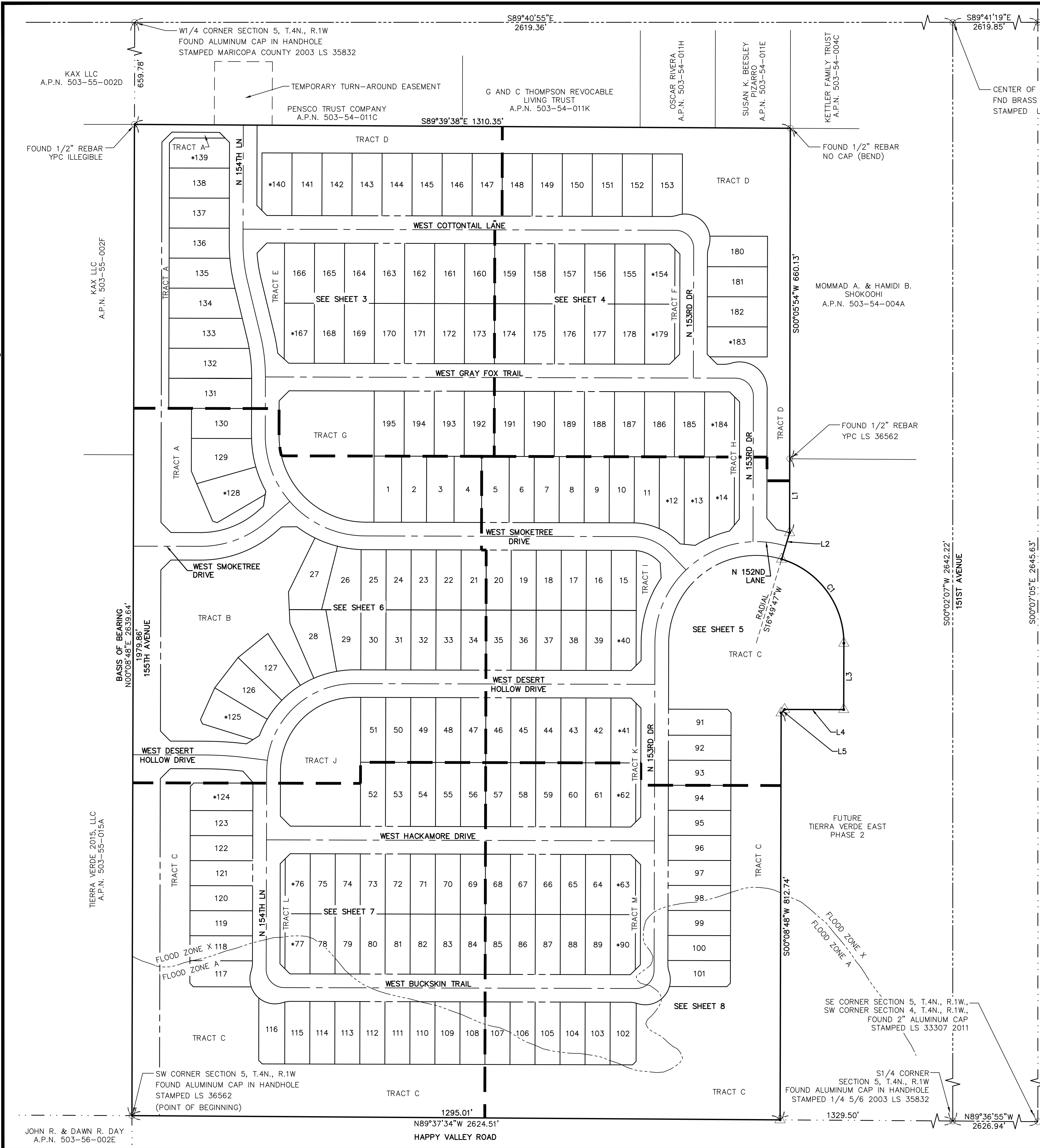
The applicant proposes a total of 195 single-family lots for a total density of 3.25 dwelling units per acre. The typical lot proposed is a mix of 50’ x 120’ and 60’ x 120’. This plat includes a total of 16.4 acres of open space that includes an 8.8-acre open recreation tract (Tract C) with amenities such as playground equipment, BBQ area, a ramada, and a large open turf area. The proposed project also includes a 0.99-acre open space tract (Tract G) which includes playground equipment, a ramada, and turf area. The proposed final plat is in compliance with the latest approved Tierra Verde East PAD and the preliminary plat approved under case FS18-429.

Attachments:

- 01 Vicinity Map
- 02 Final Plat
- 03 Resolution



VICINITY MAP



LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S00°05'54"W	147.85'
L2	S16°49'47"W	55.00'
L3	S00°08'48"W	132.55'
L4	N89°51'12"W	118.00'
L5	S45°08'48"W	9.90'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	223.93'	175.00'	073°19'01"

LEGAL DESCRIPTION

BEGINNING AT A FOUND ALUMINUM CAP IN HANDHOLE STAMPED LS 36562 2003 ACCEPTED AS THE SOUTHWEST CORNER OF SECTION 5, TOWNSHIP 4 NORTH, RANGE 1 WEST, ALSO BEING THE POINT OF BEGINNING, FROM WHICH A FOUND ALUMINUM CAP IN HANDHOLE STAMPED MARICOPA COUNTY 2003 LS 25832 ACCEPTED AS THE WEST QUARTER CORNER OF SAID SECTION 5, THEREOF BEARS N00°08'48"E A DISTANCE OF 2639.64 FEET;

THENCE, ALONG THE WEST LINE OF SAID SECTION 5, N00°08'48"E, 1979.86 FEET TO A FOUND 1/2-INCH REBAR WITH YELLOW PLASTIC CAP ACCEPTED AS THE NORTHWEST CORNER OF THIS INTERIOR PARCEL DESIGNATED AS APN 503-54-011B;

THENCE, LEAVING SAID WEST LINE OF SAID SECTION 5, S89°39'38"E, 1310.35 FEET ALONG THE NORTH LINE OF SUBJECT PARCEL TO A FOUND 1/2-INCH REBAR WITH NO CAP ACCEPTED AS THE NORTHEAST CORNER SAID INTERIOR PARCEL;

THENCE, LEAVING SAID NORTH LINE OF SAID INTERIOR PARCEL, S00°05'54"W, 660.13 FEET ALONG THE EAST LINE OF SAID INTERIOR PARCEL TO A FOUND 1/2-INCH REBAR WITH YELLOW PLASTIC CAP LS 36562;

THENCE, CONTINUING S00°05'54"W A DISTANCE OF 147.85 FEET;

THENCE, S16°49'47"W A DISTANCE OF 55.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE LEFT;
THENCE, SOUTHEASTERLY ALONG SAID CURVE AN ARC LENGTH OF 223.93 FEET, WITH A RADIUS OF 175.00 FEET AND THE
RADIAL BEARING OF S16°49'47"W AND A CENTRAL ANGLE OF 73°19'01";

THENCE, S00°08'48"W A DISTANCE OF 132.55 FEET;

THENCE, N89°51'12"W A DISTANCE OF 118.00 FEET;

THENCE, S45°08'48"W A DISTANCE OF 9.90 FEET;

THENCE, S00°08'48"W A DISTANCE OF 812.74 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 5;

THENCE, ALONG THE SOUTH LINE OF SAID SECTION 5, N89°37'34"W, 1295.01 FEET TO THE POINT OF BEGINNING.

TRACT TABLE			
TRACT	AREA SQ FT	AREA ACRES	USAGES
TRACT A	29,746	0.683	OPEN SPACE, DRAINAGE, PUE
TRACT B	77,820	1.787	RETENTION, OPEN SPACE, DRAINAGE, PUE, RECREATION, AMENITIES
TRACT C	384,795	8.834	RETENTION, OPEN SPACE, DRAINAGE, PUE, PUBLIC TRAIL EASEMENT, RECREATION, AMENITIES SEWER EASEMENT
TRACT D	119,995	2.755	RETENTION, OPEN SPACE, DRAINAGE, PUE
TRACT E	7,920	0.182	OPEN SPACE, PUE
TRACT F	2,100	0.048	OPEN SPACE, PUE
TRACT G	43,210	0.992	RETENTION, OPEN SPACE, DRAINAGE, PUE, RECREATION, AMENITIES
TRACT H	2,451	0.056	OPEN SPACE, PUE
TRACT I	5,582	0.128	OPEN SPACE, PUE
TRACT J	36,340	0.834	RETENTION, OPEN SPACE, DRAINAGE, PUE, RECREATION, AMENITIES
TRACT K	2,276	0.052	OPEN SPACE, PUE
TRACT L	2,100	0.048	OPEN SPACE, PUE
TRACT M	2,100	0.048	OPEN SPACE, PUE
TOTAL	716,436	16.447	

CITY OF SURPRISE CASE ZONING

DEVELOPMENT STANDARDS ARE PER CITY OF SURPRISE
ZONING CASE FS18-249 OR AS SUBSEQUENTLY AMENDED.

FLOOD PLAIN NOTE

LOTS ARE IN AN EXISTING FLOOD PLAIN AND WILL BE REMOVED FROM THE FLOOD PLAIN PER THE APPROVED CLOMR/LOMR.

LOTS AFFECTED BY FLOOD PLAIN

77 TO 79

98 TO 118

LEGEND

_____	SUBDIVISION BOUNDARY
_____	RIGHT OF WAY LINE
_____	EXISTING RIGHT OF WAY LINE
_____	CENTERLINE
_____	FLOOD ZONE BOUNDARY
_____	PROPOSED EASEMENT LINE
_____	SECTION LINE
_____	ALIQUOT SECTION LINE
	SUBDIVISION CORNER TO BE SET
	FOUND MONUMENT AS NOTED
	CENTERLINE MONUMENT (TO BE SET BY CITY OF SURPRISE STANDARDS)
	30'x30' SIGHT VISIBILITY EASEMENT PER CITY OF SURPRISE STD. DTL. 4-02
VNAE	VEHICULAR NON-ACCESS EASEMENT
PUE	PUBLIC UTILITY EASEMENT
M.C.R.	MARICOPA COUNTY RECORDS
M.O.D.	MAP OF DEDICATION
R/W	RIGHT-OF-WAY
FBSL	FRONT BUILDING SETBACK LINE
YPC	YELLOW PLASTIC CAP
D	DELTA
C1	CURVE TABLE NUMBER
L1	LINE TABLE NUMBER
*	LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO THE BUILDING ENVELOPE

FINAL PLAT

TIERRA VERDE EAST
PHASE 1

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:



ATWELL

PM. J. SPRING

DR. T. SIEVERDING
125 NO.

18000163

SCALE 0 50 100

1" = 100 FEE

18000163 TVE FP PH1.DW

SHEP

2 OF 8

KAX LLC
A.P.N. 503-55-002D

8" ELEC ESMT
PER DKT:10377, PG 1035
& BK 636, PG 39, M.C.R.
33' DESIGNATED COUNTY ROAD
PER DKT:3769, PG 39
& BK 636, PG 39, M.C.R.

KAX LLC
A.P.N. 503-55-002F

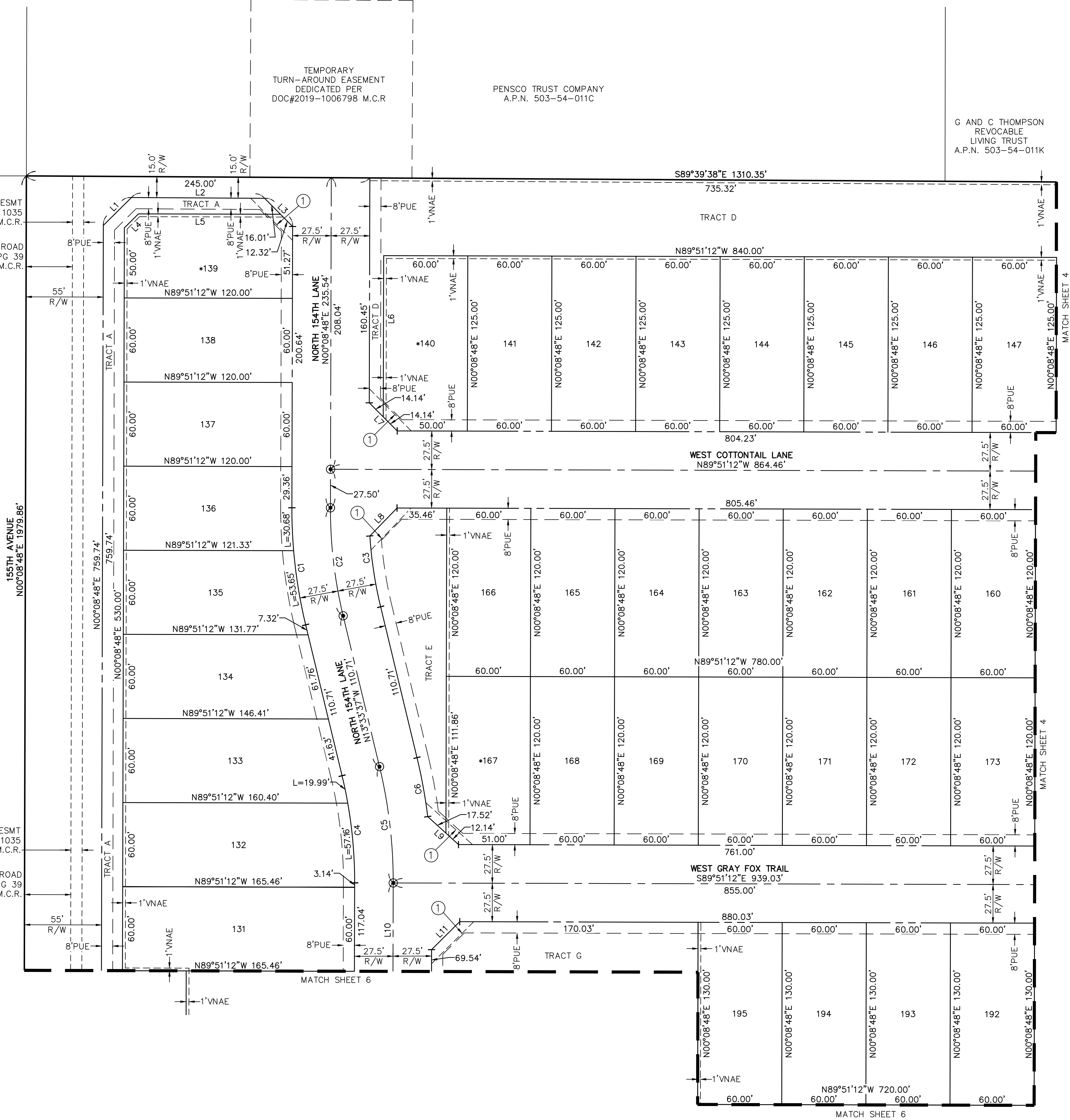
8" ELEC ESMT
PER DKT:10377, PG 1035
& BK 636, PG 39, M.C.R.
33' DESIGNATED COUNTY ROAD
PER DKT:3769, PG 39
& BK 636, PG 39, M.C.R.

TEMPORARY
TURN-AROUND EASEMENT
DEDICATED PER
DOC#2019-1006798 M.C.R.

PENSICO TRUST COMPANY
A.P.N. 503-54-011C

G AND C THOMPSON
REVOCABLE
LIVING TRUST
A.P.N. 503-54-011K

155TH AVENUE
N00°08'48"E 1979.86'



LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
131	9927	0.228	60.0	161	7200	0.165	60.0
132	9832	0.226	60.2	162	7200	0.165	60.0
133	9219	0.212	61.6	163	7200	0.165	60.0
134	8345	0.192	61.8	164	7200	0.165	60.0
135	7542	0.173	60.9	165	7200	0.165	60.0
136	7214	0.166	60.0	166	7200	0.165	60.0
137	7200	0.165	60.0	*167	7163	0.164	60.0
138	7200	0.165	60.0	168	7200	0.165	60.0
*139	7112	0.163	60.0	169	7200	0.165	60.0
*140	7450	0.171	60.0	170	7200	0.165	60.0
141	7500	0.172	60.0	171	7200	0.165	60.0
142	7500	0.172	60.0	172	7200	0.165	60.0
143	7500	0.172	60.0	173	7200	0.165	60.0
144	7500	0.172	60.0	192	7800	0.179	60.0
145	7500	0.172	60.0	193	7800	0.179	60.0
146	7500	0.172	60.0	194	7800	0.179	60.0
147	7500	0.172	60.0	195	7800	0.179	60.0
160	7200	0.165	60.0				

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N45°14'35"E	28.24'
L2	N89°39'38"W	95.00'
L3	N44°45'25"W	28.33'
L4	N45°08'48"E	14.14'
L5	N89°51'12"W	101.30'
L6	N00°08'48"E	115.00'
L7	N44°51'12"W	28.28'
L8	N44°11'01"E	27.80'
L9	N47°42'04"W	29.65'
L10	N00°08'48"E	117.04'
L11	N45°08'48"E	28.28'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	84.33'	352.50'	013°42'25"
C2	77.75'	325.00'	013°42'25"
C3	51.17'	297.50'	009°51'16"
C4	77.15'	322.50'	013°42'25"
C5	83.73'	350.00'	013°42'25"
C6	42.78'	377.50'	006°29'37"



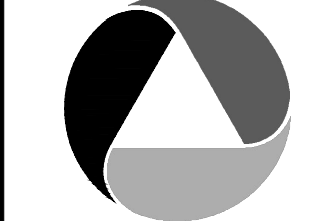
FINAL PLAT

Tierra Verde East
Phase 1
City of Surprise, Arizona

COUNTY: MARICOPA
SECTION: 5
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

DECEMBER 2020

REVISIONS:

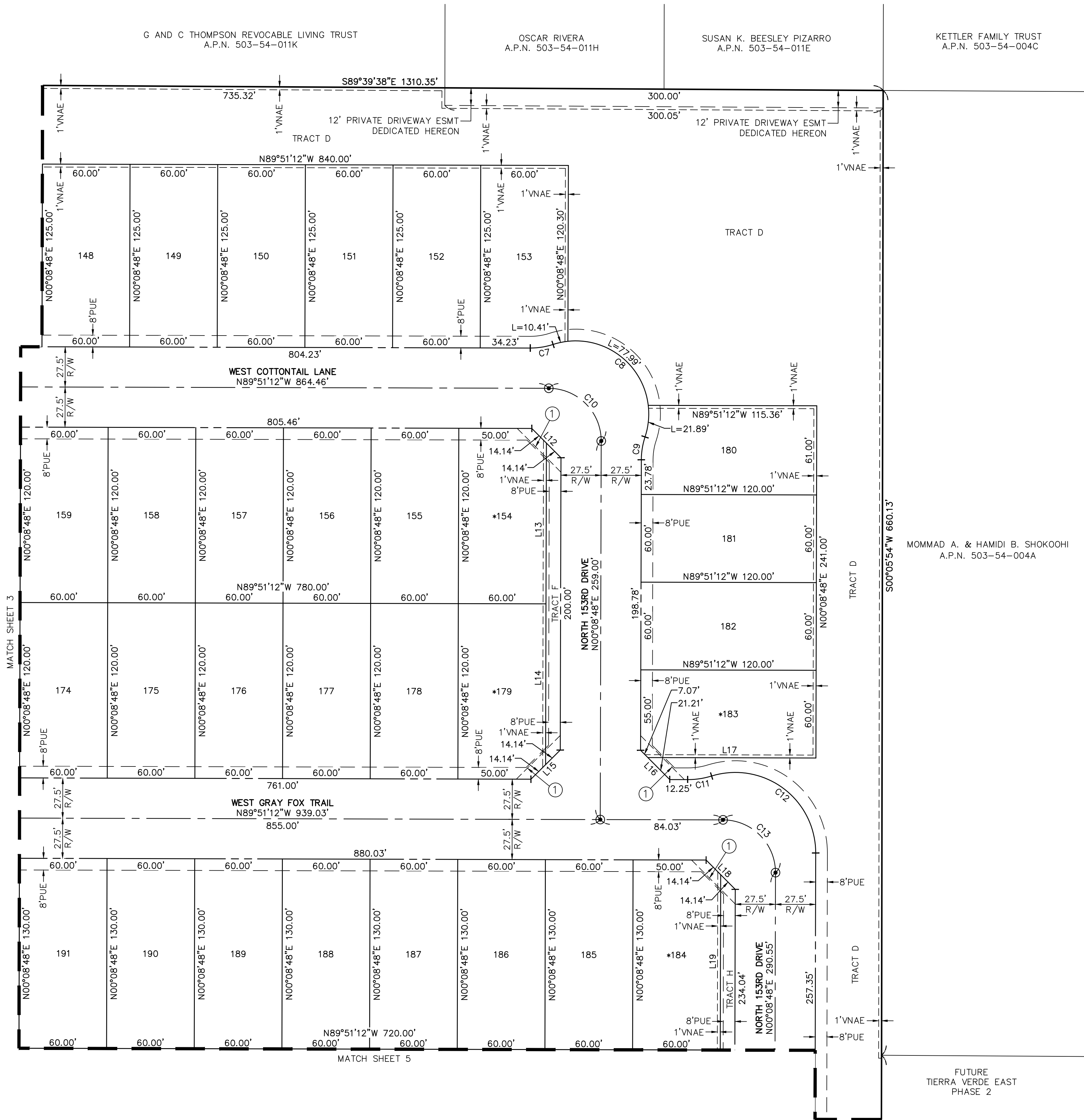


PM. J. SPRING
DR. T. SIEVERDING
JOB NO.
18000163

SCALE 0 20 40
1" = 40 FEET

18000163 THE FP PH.DWG

SHEET NO.
3 OF 8

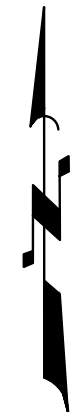


LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
148	7500	0.172	60.0	177	7200	0.165	60.0
149	7500	0.172	60.0	178	7200	0.165	60.0
150	7500	0.172	60.0	*179	7150	0.164	60.0
151	7500	0.172	60.0	180	7213	0.166	61.0
152	7500	0.172	60.0	181	7200	0.165	60.0
153	7449	0.171	60.0	182	7200	0.165	60.0
*154	7150	0.164	60.0	*183	7188	0.165	60.0
155	7200	0.165	60.0	*184	7750	0.178	60.0
156	7200	0.165	60.0	185	7800	0.179	60.0
157	7200	0.165	60.0	186	7800	0.179	60.0
158	7200	0.165	60.0	187	7800	0.179	60.0
159	7200	0.165	60.0	188	7800	0.179	60.0
174	7200	0.165	60.0	189	7800	0.179	60.0
175	7200	0.165	60.0	190	7800	0.179	60.0
176	7200	0.165	60.0	191	7800	0.179	60.0

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE		
LINE #	DIRECTION	LENGTH
L12	N44°51'12"W	28.28'
L13	N00°08'48"E	110.00'
L14	N00°08'48"E	110.00'
L15	N45°08'48"E	28.28'
L16	N44°51'12"W	28.28'
L17	N89°51'12"W	115.00'
L18	N44°51'12"W	28.28'
L19	N00°08'48"E	120.00'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C7	15.88'	50.00'	018°11'42"
C8	110.30'	50.00'	126°23'23"
C9	15.88'	50.00'	018°11'42"
C10	56.55'	36.00'	090°00'00"
C11	16.65'	55.00'	017°20'29"
C12	103.04'	55.00'	107°20'29"
C13	56.55'	36.00'	090°00'00"



ATWELL

866.850.4200

www.atwell-group.com

4700 E. SOUTHERN AVENUE

MESA, AZ 85206

480.218.6651

COUNTY: MARICOPA

SECTION: 5

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

FINAL PLAT

TERRA VERDE EAST

PHASE 1

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

PM. J. SPRING

DR. T. SIEVERDING

JOB NO. 18000163

SCALE 0 20 40

1" = 40 FEET

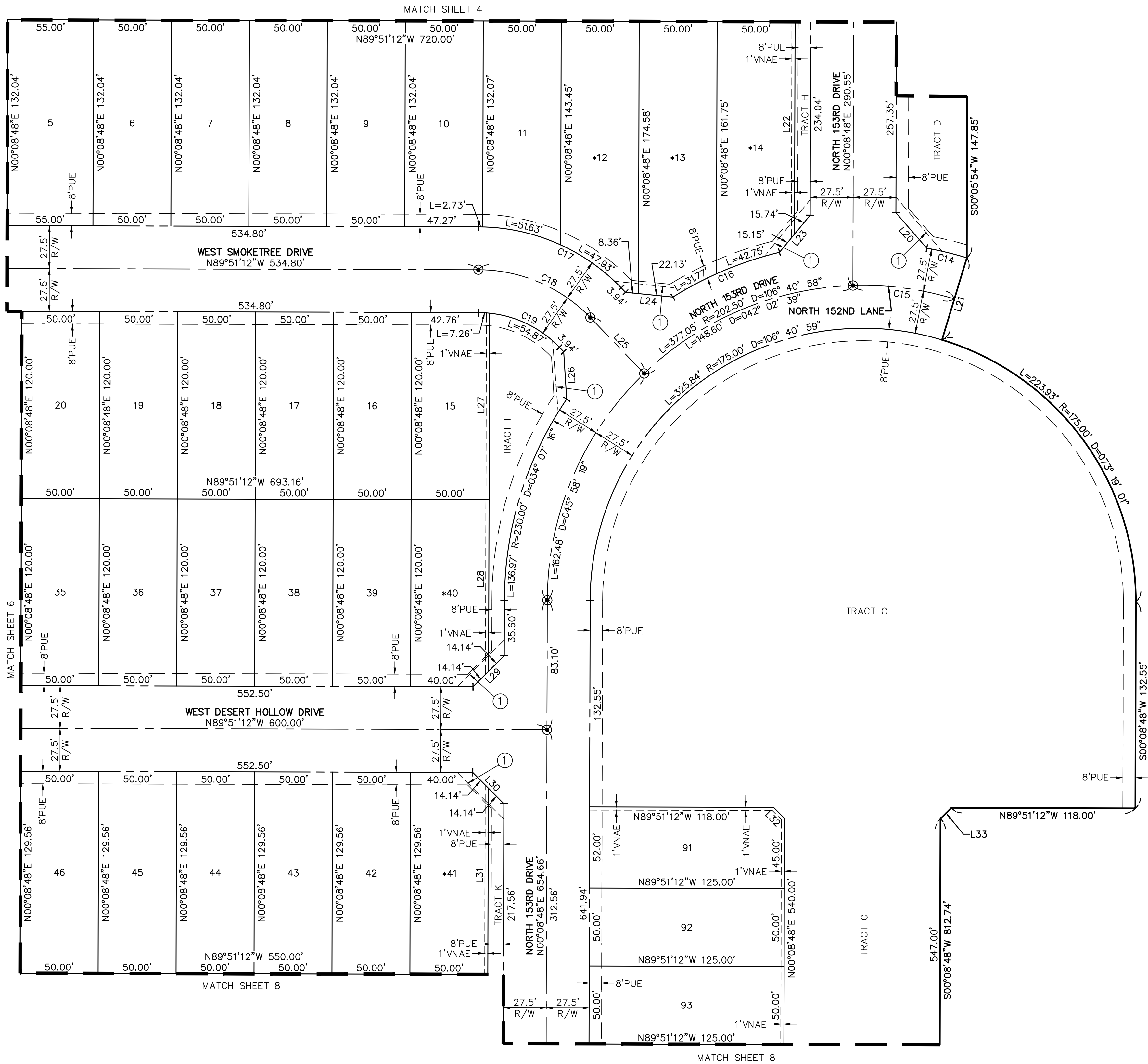
18000163 THE FP PH.DWG

SHEET NO. 4 OF 8

FS19-227

Page 1016 of 1138

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K:\18000163 - tierra verde east\dwg\survey\final plat\18000163.twg (p h-dwg) Savedate: 12/1/2020 7:31 AM Plotdate: 12/1/2020 8:34 AM
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LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
5	7262	0.167	55.0	35	6000	0.138	50.0
6	6602	0.152	50.0	36	6000	0.138	50.0
7	6602	0.152	50.0	37	6000	0.138	50.0
8	6602	0.152	50.0	38	6000	0.138	50.0
9	6602	0.152	50.0	39	6000	0.138	50.0
10	6602	0.152	50.0	* 40	5950	0.137	50.0
11	6799	0.156	50.0	* 41	6428	0.148	50.0
* 12	7971	0.183	50.0	42	6478	0.149	50.0
* 13	8592	0.197	50.0	43	6478	0.149	50.0
* 14	7590	0.174	50.0	44	6478	0.149	50.0
15	5999	0.138	50.0	45	6478	0.149	50.0
16	6000	0.138	50.0	46	6478	0.149	50.0
17	6000	0.138	50.0	91	6475	0.149	52.0
18	6000	0.138	50.0	92	6250	0.143	50.0
19	6000	0.138	50.0	93	6250	0.143	50.0
20	6000	0.138	50.0				

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L20	N41°03'07"W	30.10'	L27	N00°08'48"E	119.64'
L21	S16°49'47"W	55.00'	L28	N00°08'48"E	110.00'
L22	N00°08'48"E	136.19'	L29	N45°08'48"E	28.28'
L23	N39°35'10"E	30.89'	L30	N44°51'12"W	28.28'
L24	N84°12'07"W	30.50'	L31	N00°08'48"E	119.56'
L25	N43°52'53"W	49.79'	L32	N44°51'12"W	9.90'
L26	N03°33'39"W	30.50'	L33	S45°08'48"W	9.90'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C14	26.45'	230.00'	006°35'17"
C15	65.97'	202.50'	018°40'00"
C16	74.52'	230.00'	018°33'51"
C17	102.30'	127.50'	045°58'19"
C18	80.24'	100.00'	045°58'19"
C19	58.17'	72.50'	045°58'19"

FINAL PLAT

Tierra Verde East
Phase 1

CITY OF SURPRISE, ARIZONA

COUNTY: MARICOPA

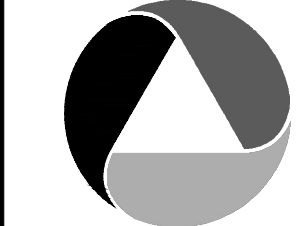
SECTION: 5

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

DECEMBER 2020

REVISIONS:



PM. J. SPRING

DR. T. SIEVERDING

JOB NO.

18000163

SCALE

0 20 40

1" = 40 FEET

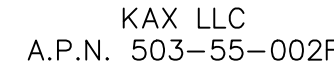
18000163 THE FP PH.DWG

SHEET NO.

5 OF 8

FS19-227





8' ELEC ESMT
PER DKT:10377, PG 1035
& BK 636, PG 39, M.C.R.

33' DESIGNATED COUNTY ROAD
PER DKT: 3769, PG 39
& BK 636, PG 39, M.C.R.

TIERRA VERDE 2015, LLC
A.P.N. 503-55-015A

8' ELEC ESMT
PER DKT:10377, PG 1035
& BK 636, PG 39, M.C.R.-

33' DESIGNATED COUNTY ROAD
PER DKT: 3769, PG 39
& BK 636, PG 39, M.C.R.

LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
1	7262	0.167	55.0	32	6000	0.138	50.0
2	6602	0.152	50.0	33	6000	0.138	50.0
3	7262	0.167	55.0	34	6000	0.138	50.0
4	7262	0.167	55.0	47	6478	0.149	50.0
21	6000	0.138	50.0	48	6478	0.149	50.0
22	6000	0.138	50.0	49	6478	0.149	50.0
23	6000	0.138	50.0	50	6478	0.149	50.0
24	6000	0.138	50.0	51	6478	0.149	50.0
25	6000	0.138	50.0	*125	7417	0.170	51.1
26	7779	0.179	50.0	126	7484	0.172	50.0
27	8711	0.200	50.0	127	7486	0.172	50.0
28	8497	0.195	50.0	*128	8786	0.202	60.0
29	7169	0.165	50.5	129	9194	0.211	60.0
30	6000	0.138	50.0	130	7200	0.165	60.0
31	6000	0.138	50.0				

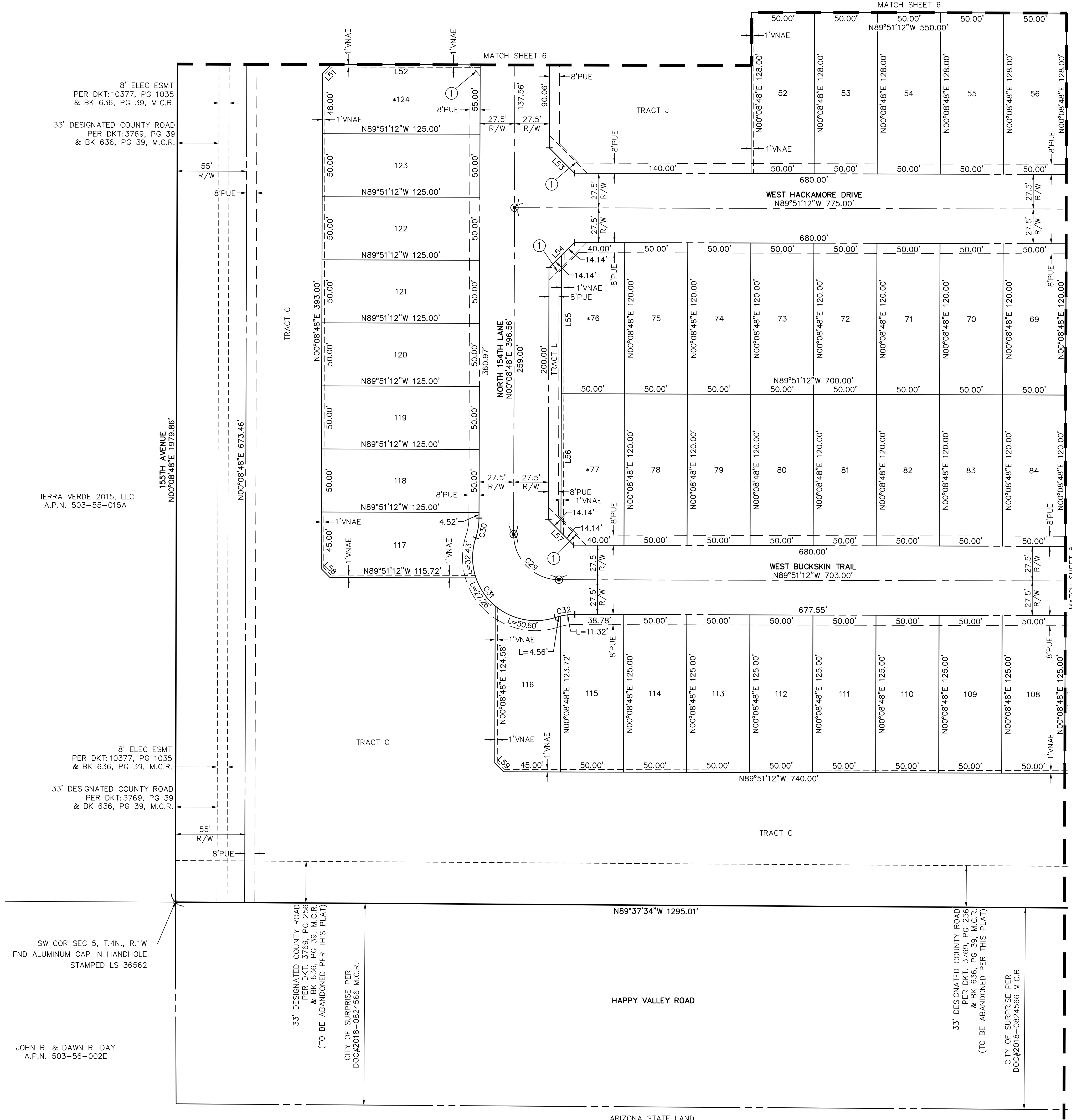
* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L34	N00°08'48"E	117.04'	L43	N24°17'42"W	9.30'
L35	N08°44'18"E	30.52'	L44	N72°40'53"W	105.80'
L36	N49°00'26"E	61.81'	L45	N57°27'01"E	30.79'
L37	N89°16'34"E	30.52'	L46	N82°51'26"W	42.41'
L38	N59°38'52"E	111.54'	L47	N00°08'48"E	396.56'
L39	N71°43'26"W	9.25'	L48	N41°21'59"W	29.95'
L40	N44°51'12"W	28.28'	L49	N45°08'48"E	28.28'
L41	N45°08'48"E	28.28'	L50	N00°08'48"E	673.46'
L42	N44°51'12"W	28.28'			

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C20	115.78'	227.50'	029°09'29"
C21	123.86'	172.50'	041°08'22"
C22	143.60'	200.00'	041°08'22"
C23	163.35'	227.50'	041°08'22"
C24	146.43'	227.50'	036°52'45"
C25	21.37'	175.00'	006°59'46"
C26	85.62'	727.50'	006°44'34"
C27	85.47'	700.00'	006°59'46"
C28	78.88'	672.50'	006°43'13"



FS19-227



LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
52	6400	0.147	50.0	83	6000	0.138	50.0
53	6400	0.147	50.0	84	6000	0.138	50.0
54	6400	0.147	50.0	108	6250	0.143	50.0
55	6400	0.147	50.0	109	6250	0.143	50.0
56	6400	0.147	50.0	110	6250	0.143	50.0
69	6000	0.138	50.0	111	6250	0.143	50.0
70	6000	0.138	50.0	112	6250	0.143	50.0
71	6000	0.138	50.0	113	6250	0.143	50.0
72	6000	0.138	50.0	114	6250	0.143	50.0
73	6000	0.138	50.0	115	6245	0.143	50.0
74	6000	0.138	50.0	116	6359	0.146	52.0
75	6000	0.138	50.0	117	6331	0.145	52.0
* 76	5950	0.137	50.0	118	6250	0.143	50.0
* 77	5950	0.137	50.0	119	6250	0.143	50.0
78	6000	0.138	50.0	120	6250	0.143	50.0
79	6000	0.138	50.0	121	6250	0.143	50.0
80	6000	0.138	50.0	122	6250	0.143	50.0
81	6000	0.138	50.0	123	6250	0.143	50.0
82	6000	0.138	50.0	*124	6850	0.157	55.0

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE		
LINE #	DIRECTION	LENGTH
L51	N45°08'48"E	9.90'
L52	N89°51'12"W	118.00'
L53	N44°51'12"W	28.28'
L54	N45°08'48"E	28.28'
L55	N00°08'48"E	110.00'
L56	N00°08'48"E	110.00'
L57	N44°51'12"W	28.28'
L58	N44°51'12"W	9.90'
L59	N44°51'12"W	9.90'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C29	56.55'	36.00'	090°00'00"
C30	15.88'	50.00'	018°11'42"
C31	110.30'	50.00'	126°23'23"
C32	15.88'	50.00'	018°11'42"



ATWELL
866.850.4200 www.atwell-group.com
4700 E. SOUTHERN AVENUE
MESA, AZ 85206
460.216.6651

COUNTY: MARICOPA

SECTION: 5

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

FINAL PLAT

TIERRA VERDE EAST
PHASE 1

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

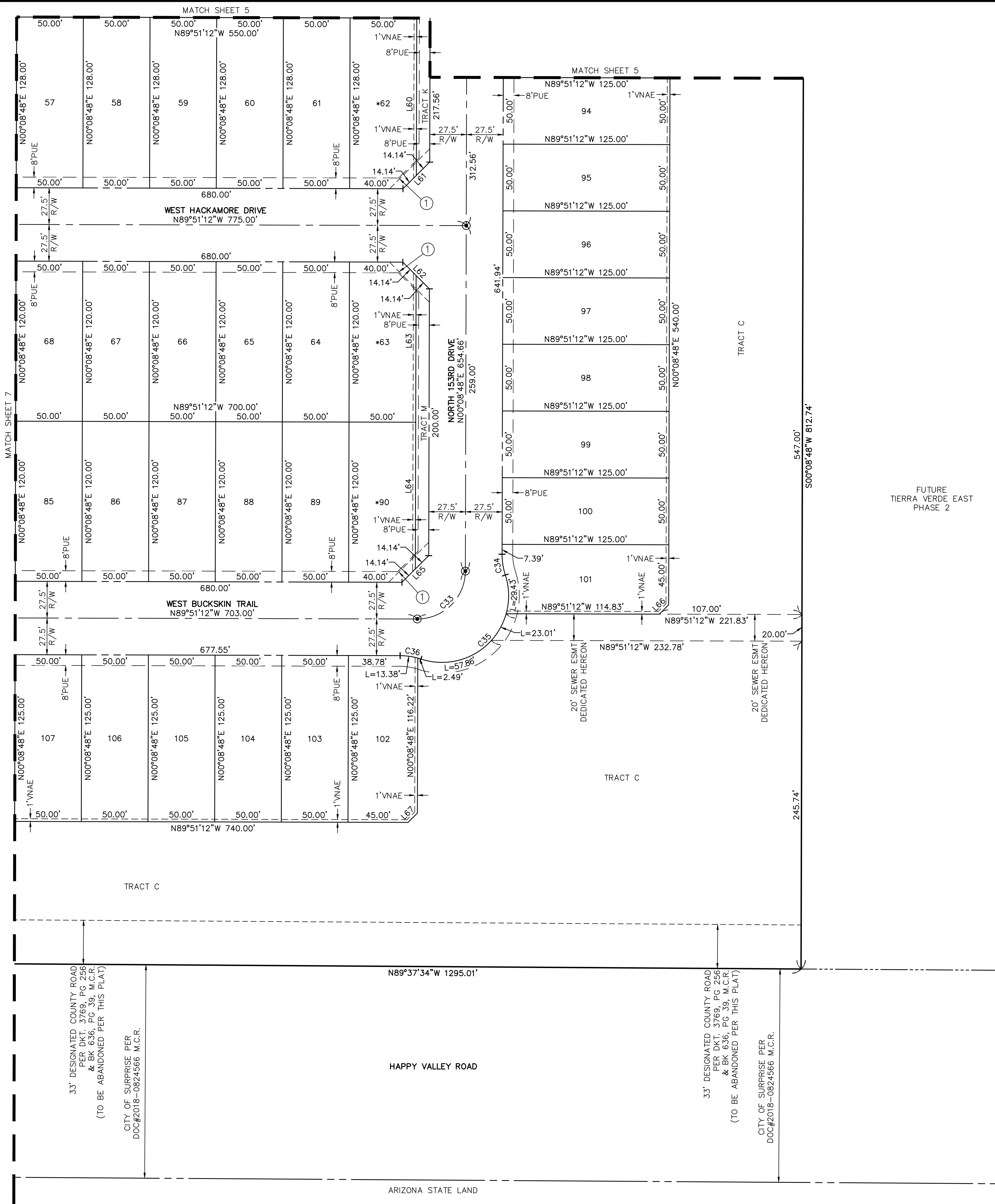
REVISIONS:

PM. J. SPRING
DR. T. SIEVERDING
JOB NO.
18000163

SCALE
0 20 40
1" = 40 FEET

18000163 THE FP PH.DWG

SHEET NO.
7 OF 8



LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
57	6400	0.147	50.0	89	6000	0.138	50.0
58	6400	0.147	50.0	* 90	5950	0.137	50.0
59	6400	0.147	50.0	94	6250	0.143	50.0
60	6400	0.147	50.0	95	6250	0.143	50.0
61	6400	0.147	50.0	96	6250	0.143	50.0
* 62	6350	0.146	50.0	97	6250	0.143	50.0
* 63	5950	0.137	50.0	98	6250	0.143	50.0
64	6000	0.138	50.0	99	6250	0.143	50.0
65	6000	0.138	50.0	100	6250	0.143	50.0
66	6000	0.138	50.0	101	6339	0.146	52.0
67	6000	0.138	50.0	102	6468	0.148	52.0
68	6000	0.138	50.0	103	6250	0.143	50.0
85	6000	0.138	50.0	104	6250	0.143	50.0
86	6000	0.138	50.0	105	6250	0.143	50.0
87	6000	0.138	50.0	106	6250	0.143	50.0
88	6000	0.138	50.0	107	6250	0.143	50.0

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE		
LINE #	DIRECTION	LENGTH
L60	N00°08'48"E	118.00'
L61	N45°08'48"E	28.28'
L62	N44°51'12"W	28.28'
L63	N00°08'48"E	110.00'
L64	N00°08'48"E	110.00'
L65	N45°08'48"E	28.28'
L66	N45°08'48"E	9.90'
L67	N45°08'48"E	9.90'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C33	56.55'	36.00'	090°00'00"
C34	15.88'	50.00'	018°11'42"
C35	110.30'	50.00'	126°23'23"
C36	15.88'	50.00'	018°11'42"



FS19-227

COUNTY: MARICOPA

SECTION: 5

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

FINAL PLAT

TERRA VERDE EAST
PHASE 1

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

22282
JAMES G.
SPRING

One Signed

ATWELL

PM. J. SPRING

DR. T. SIEVERDING

JOB NO.
18000163

SCALE 0 20 40
1" = 40 FEET

18000163 THE FP PH.DWG

SHEET NO.

8 OF 8

ATWELL

866.850.4200 www.atwell-group.com

4700 E. SOUTHERN AVENUE
MESA, AZ 85206
480.216.6651

Page 1020 of 1138

RESOLUTION # 2020-157

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, CONDITIONALLY APPROVING A FINAL PLAT ENTITLED "FINAL PLAT OF TIERRA VERDE EAST PHASE 1," GENERALLY LOCATED NORTH OF HAPPY VALLEY ROAD AND EAST OF 155TH AVENUE.

WHEREAS, on July 19, 2017, the Rancho Mercado Supplemental Development Agreement was recorded with the office of the Recorder for Maricopa County, Arizona;

WHEREAS, on October 16, 2018, the Mayor and City Council approved the Zoning Amendment for Tierra Verde East;

WHEREAS, on October 16, 2018, the Mayor and City Council approved the Tierra Verde East Preliminary Plat;

WHEREAS, on September 15, 2020, the Mayor and City Council approved the First Amendment to the Rancho Mercado Supplemental Development Agreement, pursuant to which properties located within the defined "Benefited Area" are required to pay certain buy-in fees for infrastructure improvements constructed by William Lyons Homes, Inc. (Happy Valley Road East, Happy Valley Road West, Sewer, and/or Water, as applicable) as a condition for final plat, site plat, and/or building permit approval by the City;

WHEREAS, Tierra Verde East is located within the Benefited Area and is required to pay the Happy Valley Road West, Happy Valley Road East, Water, and/or Sewer Buy-in Fees, as applicable, as defined in the First Amendment to the Rancho Mercado Supplemental Agreement, as a condition to City Council approval and then recordation of this Final Plat;

WHEREAS, an additional condition to approval and recordation of this Final Plat is the posting of required financial assurances for the completion of certain subdivision improvements pursuant to the Surprise City Code;

WHEREAS, the proposed Final Plat conforms to the Tierra Verde East Preliminary Plat approved by City Council, on October 16, 2018;

WHEREAS, the proposed Final Plat does not create any substandard or nonconforming lots; and

WHEREAS, the proposed Final Plat complies with the Surprise General Plan and Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. The Final Plat entitled “Final Plat of Tierra Verde East Phase 1” dated November 2019 is approved subject to the following conditions:

- A. The Final Plat of Tierra Verde East Phase 1 will not be recorded until the owner of the property has posted with the City the financial assurances for completion of subdivision improvements required by the Surprise City Code.
- B. The Final Plat of Tierra Verde East Phase 1 will not be recorded until the City has received from the owner of the property a Notice of Payment executed by William Lyon Homes, Inc. that all Buy-in Fees (Happy Valley Road East, Happy Valley Road West, Sewer, and/or Water) required to be paid by the Rancho Mercado Supplemental Development Agreement have been paid.

Section 2. If the Final Plat has not been recorded within sixty (60) days of the approval of this Resolution because the financial assurances required by Section 1(A) have not been posted with the City and/or the Notice of Payment required by Section 1(B) has not been received by the City, the City may, in lieu of recording, schedule this Final Plat for a public hearing for consideration and possible action by the City Council to revoke, repeal, and nullify the approval of the Final Plat.

APPROVED AND ADOPTED this _____ day of _____ 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney



Tierra Verde East Ph. 1

Final Plat

FS19-227

City Council

December 15, 2020



VICINITY MAP



FINAL PLAT



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C7	18.88'	50.00'	0.0871742°
C8	118.30'	50.00'	1.2823723°
C9	15.08'	50.00'	0.0871742°
C10	88.88'	38.60'	0.8000700°
C11	18.88'	38.60'	0.7720728°
C12	183.94'	55.00'	1.0720728°
C13	88.88'	38.60'	0.8000700°



ATWELL
tel: 0161 420 0000 www.atwell-group.com
info: 1-800-NEW-ATWELL

country: australia

FINAL PLAT
TIERRA VERDE EAST
PHASE 1
CITY OF EL PASO, TEXAS

RECEIVED: 2001-01-22



P/N. 2. SPENDING
 DR. 7. SPENDING
 JED NO.
 TRACED 1/53
 Model 9
 Y² = 63 FE
 MODEL 10 P. 10
 SP. 1.7
 100.
 4. 0. 0. 0.

DATE: 11/11/2016 11:11:11 AM
 PROJECT: 11/11/2016 11:11:11 AM
 DRAWING: 11/11/2016 11:11:11 AM
 SHEET: 11/11/2016 11:11:11 AM

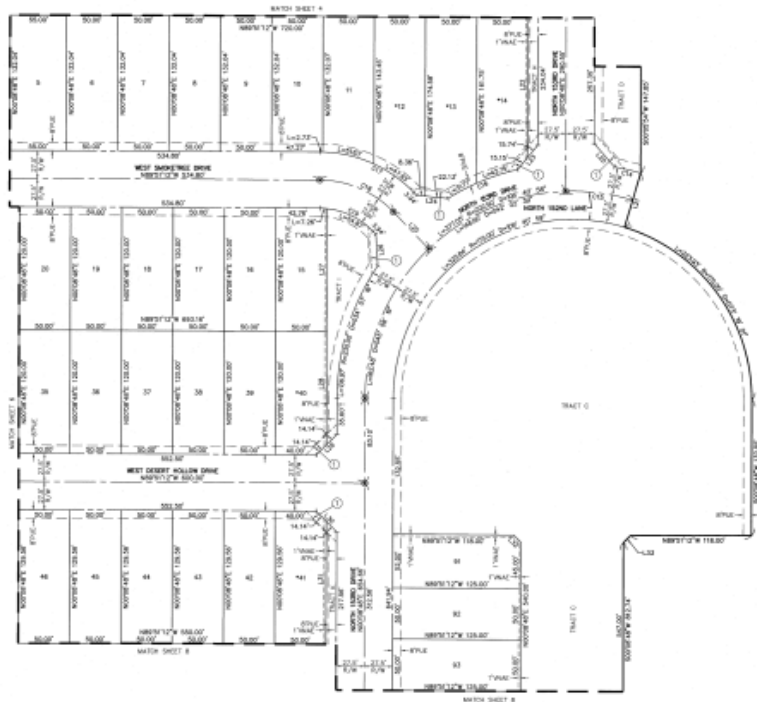


FIGURE
 TERRA VERDE EAST
 PHASE 1

LOT TABLE (WIDTH BASED ON PBL)				LOT TABLE (WIDTH BASED ON PBL)			
LOT	AREA SQ. FT.	AREA ACRES	WIDTH	LOT	AREA SQ. FT.	AREA ACRES	WIDTH
1	7250	0.167	50.0	26	4000	0.092	50.0
2	8800	0.202	50.0	27	4000	0.092	50.0
3	8800	0.202	50.0	28	4000	0.092	50.0
4	8800	0.202	50.0	29	4000	0.092	50.0
5	8800	0.202	50.0	30	4000	0.092	50.0
6	8800	0.202	50.0	31	4000	0.092	50.0
7	8800	0.202	50.0	32	4000	0.092	50.0
8	8800	0.202	50.0	33	4000	0.092	50.0
9	8800	0.202	50.0	34	4000	0.092	50.0
10	8800	0.202	50.0	35	4000	0.092	50.0
11	8800	0.202	50.0	36	4000	0.092	50.0
12	8800	0.202	50.0	37	4000	0.092	50.0
13	8800	0.202	50.0	38	4000	0.092	50.0
14	8800	0.202	50.0	39	4000	0.092	50.0
15	8800	0.202	50.0	40	4000	0.092	50.0
16	8800	0.202	50.0	41	4000	0.092	50.0
17	8800	0.202	50.0	42	4000	0.092	50.0
18	8800	0.202	50.0	43	4000	0.092	50.0
19	8800	0.202	50.0	44	4000	0.092	50.0
20	8800	0.202	50.0	45	4000	0.092	50.0

* LOTS ATTACHED BY DOTTED VISIBILITY TRIANGLE INTO BUILDING CHAINLINE

LINE TABLE				LINE TABLE			
LINE #	DIRECTION	LENGTH	AREA	DIRECTION	LENGTH	AREA	AREA
100	N 89° 57' 17" W	30.00	1.27	N 89° 57' 17" W	119.84	119.84	119.84
101	N 89° 57' 17" W	88.00	1.28	N 89° 57' 17" W	119.84	119.84	119.84
102	N 89° 57' 17" W	158.19	1.29	N 89° 57' 17" W	28.34	28.34	28.34
103	N 89° 57' 17" W	30.00	1.30	N 89° 57' 17" W	28.34	28.34	28.34
104	N 89° 57' 17" W	30.00	1.31	N 89° 57' 17" W	119.84	119.84	119.84
105	N 89° 57' 17" W	49.79	1.32	N 89° 57' 17" W	8.97	8.97	8.97
106	N 89° 57' 17" W	30.00	1.33	N 89° 57' 17" W	8.97	8.97	8.97

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
014	38.40	230.00	00° 28' 11"
015	65.87	230.00	01° 42' 07"
016	74.87	230.00	04° 07' 17"
017	102.30	127.50	04° 58' 30"
018	80.24	100.00	04° 58' 30"
019	58.17	70.00	04° 58' 30"



FIG 202



DATE: 11/11/2016
 SECTION: 11/11/2016
 TERRA VERDE EAST
 PHASE 1

FINAL PLAT
 TERRA VERDE EAST
 PHASE 1

NOVEMBER 2016



DATE: 11/11/2016
 SECTION: 11/11/2016
 TERRA VERDE EAST
 PHASE 1

FINAL PLAT

ATWELL & ASSOCIATES, INC. 1000 N. GAVIN AVENUE, SUITE 100, PHOENIX, AZ 85015-4000 TEL: 602.998.1000 FAX: 602.998.1001 WWW.ATWELL-INC.COM

K&L LLC
A.P.A. 883-18-007

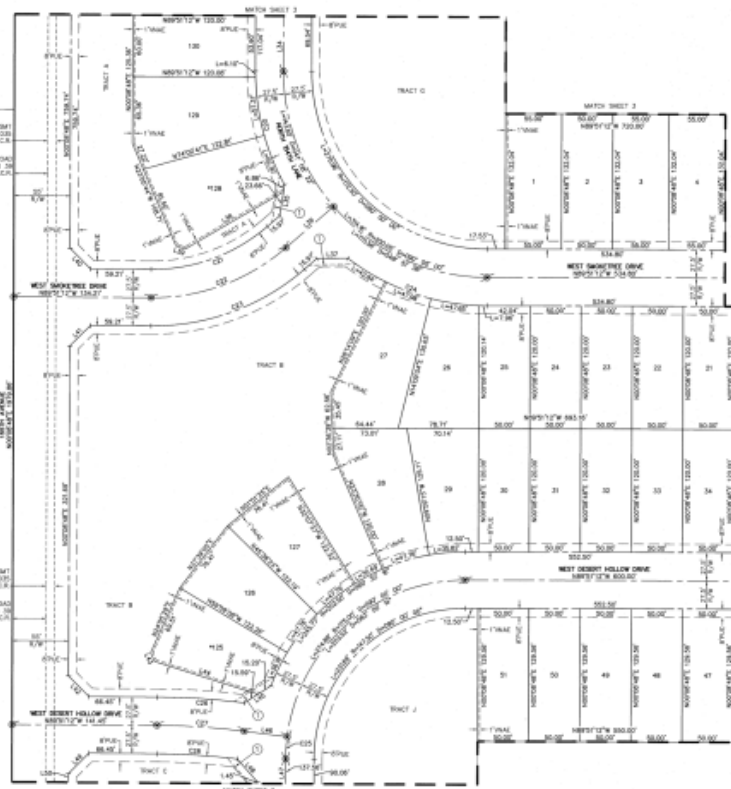
IF ELEC 80MT
FOR 247-10000, PG 1028
& 8M 83M, PG 36, 40, 42

33' SCHWARTZ COUNTY ROAD
FOR 247-10000, PG 36
& 8M 83M, PG 36, 40, 42

TIERRA VERDE 225, LLC
A.P.A. 300-00-004

IF ELEC 80MT
FOR 247-10000, PG 1028
& 8M 83M, PG 36, 40, 42

33' SCHWARTZ COUNTY ROAD
FOR 247-10000, PG 36
& 8M 83M, PG 36, 40, 42



LOT TABLE/ACRES BASED ON 1998				LOT TABLE/ACRES BASED ON 1998			
LOT	AREA SQ FT	AREA ACRES	WEIR	LOT	AREA SQ FT	AREA ACRES	WEIR
1	7982	0.187	50.0	26	8993	0.138	50.0
2	8993	0.138	50.0	27	8993	0.138	50.0
3	7982	0.187	50.0	28	8993	0.138	50.0
4	7982	0.187	50.0	29	8993	0.138	50.0
5	8993	0.138	50.0	30	8993	0.138	50.0
6	8993	0.138	50.0	31	8993	0.138	50.0
7	8993	0.138	50.0	32	8993	0.138	50.0
8	8993	0.138	50.0	33	8993	0.138	50.0
9	8993	0.138	50.0	34	8993	0.138	50.0
10	8993	0.138	50.0	35	8993	0.138	50.0
11	8993	0.138	50.0	36	8993	0.138	50.0
12	8993	0.138	50.0	37	8993	0.138	50.0
13	8993	0.138	50.0	38	8993	0.138	50.0
14	8993	0.138	50.0	39	8993	0.138	50.0
15	8993	0.138	50.0	40	8993	0.138	50.0
16	8993	0.138	50.0	41	8993	0.138	50.0
17	8993	0.138	50.0	42	8993	0.138	50.0
18	8993	0.138	50.0	43	8993	0.138	50.0
19	8993	0.138	50.0	44	8993	0.138	50.0
20	8993	0.138	50.0	45	8993	0.138	50.0
21	8993	0.138	50.0	46	8993	0.138	50.0
22	8993	0.138	50.0	47	8993	0.138	50.0
23	8993	0.138	50.0	48	8993	0.138	50.0
24	8993	0.138	50.0	49	8993	0.138	50.0
25	8993	0.138	50.0	50	8993	0.138	50.0

* LOTS AFFECTED BY SIGHT TRIANGLE INTO DRIVING ENVELOPE

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
1.01	N 89° 54' 15" E	111.34	1.03	N 89° 54' 15" E	9.30
1.02	N 89° 54' 15" E	30.00	1.04	N 89° 54' 15" E	100.00
1.03	N 89° 54' 15" E	6.30	1.05	N 89° 54' 15" E	30.00
1.04	N 89° 54' 15" E	50.00	1.06	N 89° 54' 15" E	42.47
1.05	N 89° 54' 15" E	111.34	1.07	N 89° 54' 15" E	20.00
1.06	N 89° 54' 15" E	20.00	1.08	N 89° 54' 15" E	20.00
1.07	N 89° 54' 15" E	20.00	1.09	N 89° 54' 15" E	20.00
1.08	N 89° 54' 15" E	20.00	1.10	N 89° 54' 15" E	20.00
1.09	N 89° 54' 15" E	20.00	1.11	N 89° 54' 15" E	20.00
1.10	N 89° 54' 15" E	20.00	1.12	N 89° 54' 15" E	20.00
1.11	N 89° 54' 15" E	20.00	1.13	N 89° 54' 15" E	20.00
1.12	N 89° 54' 15" E	20.00	1.14	N 89° 54' 15" E	20.00
1.13	N 89° 54' 15" E	20.00	1.15	N 89° 54' 15" E	20.00
1.14	N 89° 54' 15" E	20.00	1.16	N 89° 54' 15" E	20.00
1.15	N 89° 54' 15" E	20.00	1.17	N 89° 54' 15" E	20.00
1.16	N 89° 54' 15" E	20.00	1.18	N 89° 54' 15" E	20.00
1.17	N 89° 54' 15" E	20.00	1.19	N 89° 54' 15" E	20.00
1.18	N 89° 54' 15" E	20.00	1.20	N 89° 54' 15" E	20.00
1.19	N 89° 54' 15" E	20.00	1.21	N 89° 54' 15" E	20.00
1.20	N 89° 54' 15" E	20.00	1.22	N 89° 54' 15" E	20.00
1.21	N 89° 54' 15" E	20.00	1.23	N 89° 54' 15" E	20.00
1.22	N 89° 54' 15" E	20.00	1.24	N 89° 54' 15" E	20.00
1.23	N 89° 54' 15" E	20.00	1.25	N 89° 54' 15" E	20.00
1.24	N 89° 54' 15" E	20.00	1.26	N 89° 54' 15" E	20.00
1.25	N 89° 54' 15" E	20.00	1.27	N 89° 54' 15" E	20.00
1.26	N 89° 54' 15" E	20.00	1.28	N 89° 54' 15" E	20.00
1.27	N 89° 54' 15" E	20.00	1.29	N 89° 54' 15" E	20.00
1.28	N 89° 54' 15" E	20.00	1.30	N 89° 54' 15" E	20.00
1.29	N 89° 54' 15" E	20.00	1.31	N 89° 54' 15" E	20.00
1.30	N 89° 54' 15" E	20.00	1.32	N 89° 54' 15" E	20.00
1.31	N 89° 54' 15" E	20.00	1.33	N 89° 54' 15" E	20.00
1.32	N 89° 54' 15" E	20.00	1.34	N 89° 54' 15" E	20.00
1.33	N 89° 54' 15" E	20.00	1.35	N 89° 54' 15" E	20.00
1.34	N 89° 54' 15" E	20.00	1.36	N 89° 54' 15" E	20.00
1.35	N 89° 54' 15" E	20.00	1.37	N 89° 54' 15" E	20.00
1.36	N 89° 54' 15" E	20.00	1.38	N 89° 54' 15" E	20.00
1.37	N 89° 54' 15" E	20.00	1.39	N 89° 54' 15" E	20.00
1.38	N 89° 54' 15" E	20.00	1.40	N 89° 54' 15" E	20.00
1.39	N 89° 54' 15" E	20.00	1.41	N 89° 54' 15" E	20.00
1.40	N 89° 54' 15" E	20.00	1.42	N 89° 54' 15" E	20.00
1.41	N 89° 54' 15" E	20.00	1.43	N 89° 54' 15" E	20.00
1.42	N 89° 54' 15" E	20.00	1.44	N 89° 54' 15" E	20.00
1.43	N 89° 54' 15" E	20.00	1.45	N 89° 54' 15" E	20.00
1.44	N 89° 54' 15" E	20.00	1.46	N 89° 54' 15" E	20.00
1.45	N 89° 54' 15" E	20.00	1.47	N 89° 54' 15" E	20.00
1.46	N 89° 54' 15" E	20.00	1.48	N 89° 54' 15" E	20.00
1.47	N 89° 54' 15" E	20.00	1.49	N 89° 54' 15" E	20.00
1.48	N 89° 54' 15" E	20.00	1.50	N 89° 54' 15" E	20.00
1.49	N 89° 54' 15" E	20.00	1.51	N 89° 54' 15" E	20.00
1.50	N 89° 54' 15" E	20.00	1.52	N 89° 54' 15" E	20.00
1.51	N 89° 54' 15" E	20.00	1.53	N 89° 54' 15" E	20.00
1.52	N 89° 54' 15" E	20.00	1.54	N 89° 54' 15" E	20.00
1.53	N 89° 54' 15" E	20.00	1.55	N 89° 54' 15" E	20.00
1.54	N 89° 54' 15" E	20.00	1.56	N 89° 54' 15" E	20.00
1.55	N 89° 54' 15" E	20.00	1.57	N 89° 54' 15" E	20.00
1.56	N 89° 54' 15" E	20.00	1.58	N 89° 54' 15" E	20.00
1.57	N 89° 54' 15" E	20.00	1.59	N 89° 54' 15" E	20.00
1.58	N 89° 54' 15" E	20.00	1.60	N 89° 54' 15" E	20.00
1.59	N 89° 54' 15" E	20.00	1.61	N 89° 54' 15" E	20.00
1.60	N 89° 54' 15" E	20.00	1.62	N 89° 54' 15" E	20.00
1.61	N 89° 54' 15" E	20.00	1.63	N 89° 54' 15" E	20.00
1.62	N 89° 54' 15" E	20.00	1.64	N 89° 54' 15" E	20.00
1.63	N 89° 54' 15" E	20.00	1.65	N 89° 54' 15" E	20.00
1.64	N 89° 54' 15" E	20.00	1.66	N 89° 54' 15" E	20.00
1.65	N 89° 54' 15" E	20.00	1.67	N 89° 54' 15" E	20.00
1.66	N 89° 54' 15" E	20.00	1.68	N 89° 54' 15" E	20.00
1.67	N 89° 54' 15" E	20.00	1.69	N 89° 54' 15" E	20.00
1.68	N 89° 54' 15" E	20.00	1.70	N 89° 54' 15" E	20.00
1.69	N 89° 54' 15" E	20.00	1.71	N 89° 54' 15" E	20.00
1.70	N 89° 54' 15" E	20.00	1.72	N 89° 54' 15" E	20.00
1.71	N 89° 54' 15" E	20.00	1.73	N 89° 54' 15" E	20.00
1.72	N 89° 54' 15" E	20.00	1.74	N 89° 54' 15" E	20.00
1.73	N 89° 54' 15" E	20.00	1.75	N 89° 54' 15" E	20.00
1.74	N 89° 54' 15" E	20.00	1.76	N 89° 54' 15" E	20.00
1.75	N 89° 54' 15" E	20.00	1.77	N 89° 54' 15" E	20.00
1.76	N 89° 54' 15" E	20.00	1.78	N 89° 54' 15" E	20.00
1.77	N 89° 54' 15" E	20.00	1.79	N 89° 54' 15" E	20.00
1.78	N 89° 54' 15" E	20.00	1.80	N 89° 54' 15" E	20.00
1.79	N 89° 54' 15" E	20.00	1.81	N 89° 54' 15" E	20.00
1.80	N 89° 54' 15" E	20.00	1.82	N 89° 54' 15" E	20.00
1.81	N 89° 54' 15" E	20.00	1.83	N 89° 54' 15" E	20.00
1.82	N 89° 54' 15" E	20.00	1.84	N 89° 54' 15" E	20.00
1.83	N 89° 54' 15" E	20.00	1.85	N 89° 54' 15" E	20.00
1.84	N 89° 54' 15" E	20.00	1.86	N 89° 54' 15" E	20.00
1.85	N 89° 54' 15" E	20.00	1.87	N 89° 54' 15" E	20.00
1.86	N 89° 54' 15" E	20.00	1.88	N 89° 54' 15" E	20.00
1.87	N 89° 54' 15" E	20.00	1.89	N 89° 54' 15" E	20.00
1.88	N 89° 54' 15" E	20.00	1.90	N 89° 54' 15" E	20.00
1.89	N 89° 54' 15" E	20.00	1.91	N 89° 54' 15" E	20.00
1.90	N 89° 54' 15" E	20.00	1.92	N 89° 54' 15" E	20.00
1.91	N 89° 54' 15" E	20.00	1.93	N 89° 54' 15" E	20.00
1.92	N 89° 54' 15" E	20.00	1.94	N 89° 54' 15" E	20.00
1.93	N 89° 54' 15" E	20.00	1.95	N 89° 54' 15" E	20.00
1.94	N 89° 54' 15" E	20.00	1.96	N 89° 54' 15" E	20.00
1.95	N 89° 54' 15" E	20.00	1.97	N 89° 54' 15" E	20.00
1.96	N 89° 54' 15" E	20.00	1.98	N 89° 54' 15" E	20.00
1.97	N 89° 54' 15" E	20.00	1.99	N 89° 54' 15" E	20.00
1.98	N 89° 54' 15" E	20.00	2.00	N 89° 54' 15" E	20.00
1.99	N 89° 54' 15" E	20.00			
2.00	N 89° 54' 15" E	20.00			

CURVE TABLE			
CURVE #	LENGTH	CHORD	BEARING
C01	115.19	227.30	S 89° 54' 15" E
C02	123.88	170.80	S 89° 54' 15" E
C03	143.80	205.00	S 89° 54' 15" E
C04	163.50	227.30	S 89° 54' 15" E
C05	183.17	227.30	S 89° 54' 15" E
C06	202.84	227.30	S 89° 54' 15" E
C07	222.51	227.30	S 89° 54' 15" E
C08	242.18	227.30	S 89° 54' 15" E
C09	261.85	227.30	S 89° 54' 15" E
C10	281.52	227.30	S 89° 54' 15" E
C11	301.19	227.30	S 89° 54' 15" E
C12	320.86	227.30	S 89° 54' 15" E



COUNTY: MARICOPA
SECTION: 3
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT
TIERRA VERDE EAST
PHASE 1
CITY OF PHOENIX, ARIZONA

NOVEMBER 2019

REVISIONS



ATWELL

PA. J. SPRING

DR. T. SEARNS

2019-11-13

SCALE
1" = 40 FEET

MADE IN U.S.A.

PER-227

8 OF 8

FINAL PLAT



LOT TABLES—BASED ON FEET				LOT TABLES—BASED ON METERS			
LOT AREA	LOT AREA AC	LOT AREA AC	FEET	LOT AREA SQ M	LOT AREA AC	FEET	FEET
57	8400	0.147	50.0	80	9000	0.136	58.5
58	8400	0.147	50.0	80	9000	0.137	58.5
59	8400	0.147	50.0	80	9000	0.137	58.5
60	8400	0.147	50.0	80	9000	0.137	58.5
61	8400	0.147	50.0	80	9000	0.137	58.5
62	8400	0.147	50.0	80	9000	0.137	58.5
63	8400	0.147	50.0	80	9000	0.137	58.5
64	8400	0.147	50.0	80	9000	0.137	58.5
65	8400	0.147	50.0	80	9000	0.137	58.5
66	8400	0.147	50.0	80	9000	0.137	58.5
67	8400	0.147	50.0	80	9000	0.137	58.5
68	8400	0.147	50.0	80	9000	0.137	58.5
69	8400	0.147	50.0	80	9000	0.137	58.5
70	8400	0.147	50.0	80	9000	0.137	58.5
71	8400	0.147	50.0	80	9000	0.137	58.5
72	8400	0.147	50.0	80	9000	0.137	58.5
73	8400	0.147	50.0	80	9000	0.137	58.5
74	8400	0.147	50.0	80	9000	0.137	58.5
75	8400	0.147	50.0	80	9000	0.137	58.5
76	8400	0.147	50.0	80	9000	0.137	58.5
77	8400	0.147	50.0	80	9000	0.137	58.5
78	8400	0.147	50.0	80	9000	0.137	58.5
79	8400	0.147	50.0	80	9000	0.137	58.5
80	8400	0.147	50.0	80	9000	0.137	58.5
81	8400	0.147	50.0	80	9000	0.137	58.5
82	8400	0.147	50.0	80	9000	0.137	58.5
83	8400	0.147	50.0	80	9000	0.137	58.5
84	8400	0.147	50.0	80	9000	0.137	58.5
85	8400	0.147	50.0	80	9000	0.137	58.5
86	8400	0.147	50.0	80	9000	0.137	58.5
87	8400	0.147	50.0	80	9000	0.137	58.5
88	8400	0.147	50.0	80	9000	0.137	58.5
89	8400	0.147	50.0	80	9000	0.137	58.5
90	8400	0.147	50.0	80	9000	0.137	58.5
91	8400	0.147	50.0	80	9000	0.137	58.5
92	8400	0.147	50.0	80	9000	0.137	58.5
93	8400	0.147	50.0	80	9000	0.137	58.5
94	8400	0.147	50.0	80	9000	0.137	58.5
95	8400	0.147	50.0	80	9000	0.137	58.5
96	8400	0.147	50.0	80	9000	0.137	58.5
97	8400	0.147	50.0	80	9000	0.137	58.5
98	8400	0.147	50.0	80	9000	0.137	58.5
99	8400	0.147	50.0	80	9000	0.137	58.5
100	8400	0.147	50.0	80	9000	0.137	58.5

* LOTS AFFECTED BY NIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE		
LINE #	DIRECTION	LENGTH
180	N00°08'48"E	118.00'
181	N45°08'40"E	28.28'
182	N44°30'12"W	28.28'
183	N00°08'48"E	118.00'
184	N00°08'48"E	118.00'
185	N45°08'48"E	28.28'
186	N45°08'40"E	8.90'
187	N45°08'40"E	8.90'

CURVE #	LENGTH	RADIUS	DELTA
C50	58.55'	34.08'	090°50'
C34	15.66'	50.08'	0°00'00"
C35	112.30'	60.08'	126°02'
C36	15.88'	50.08'	0°00'00"



F06-02

ATWELL
800.453.4330 www.atwell-group.com

Schmidt, M.

FINAL PLAT
TIERRA VERDE EAST
PHASE 1

WOLFFMUTH, SCH



PM. J. SPRING
DR. T. SEVERING
JOB NO.
18003183
SCALE 0 25
1" = 40 FEET

SCALE 0 25
1" = 40 FEET
SHEET NO. 8 OF 8

FINAL PLAT



QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Sergio Angulo
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Final Plat entitled, "Tierra Verde East Phase 2", generally located on the northwest corner of Happy Valley Road and 151st Avenue; Resolution # 2020-158.

Motion:

I move to approve Resolution # 2020-158.

Background:

Atwell, LLC, on behalf of Tierra Verde 2015, LLC, seeks approval of a Final Plat for a 144-lot single-family residential subdivision in Parcel 3 of the Tierra Verde East PAD. This property is located within the "Benefited Area" defined by the Rancho Mercado Supplemental Development Agreement and is required to pay the Buy-in Fees for Happy Valley Road East, Happy Valley Road West, Water, and/or Sewer, as applicable, as a condition to approval and recordation of the final plat. Resolution 2020-158 allows for approval of the plat conditioned upon payment of the applicable Buy-in Fees and the posting of financial assurances for the completion of subdivision improvements required by the Surprise City Code.

Objective Analysis:

Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Policy Compliant:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which supports the proposed Final Plat.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staffing levels.

ATTACHMENTS:

1. 00 20.11.30 EVR TVE Ph 2 Staff Report
 2. 01 -FS19-334 - Vicinity Map
 3. 02 - 18000163 TVE FP PH2
 4. 03 - 20.11.18 EVR Res 2020-158 TVE Ph 2 - Final Plat
 5. FS19-334 - PowerPoint
-

Case: FS19-334

Project Name: Tierra Verde East Final Plat Phase 2

Council District: 1

City Council Date: December 15, 2020

Planner: Sergio Angulo, Planner II

Owner: Tierra Verde 2015, LLC

Applicant: Dennis Roberts of Atwell, LLC

Request: Final Plat for a 144-lot, single-family subdivision in Parcel 3 of the Tierra Verde East PAD.

Site Location: Northwest corner of Happy Valley Road and 151st Avenue.

Site Size: 39.47 acres (approx.)

Density: 3.6 DU/Ac

Findings:

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the most recent amendment to the Tierra Verde East PAD as approved under case FS18-249.
- The Final Plat is consistent with the Preliminary Plat approved under case FS18-249.

Alternative Actions: **Approve** – Approval of the proposed Final Plat will allow the applicant the ability to subdivide the property as proposed.

Deny – Denial of the requested Final Plat will prevent the applicant from subdividing the property as proposed.

Additional Information:

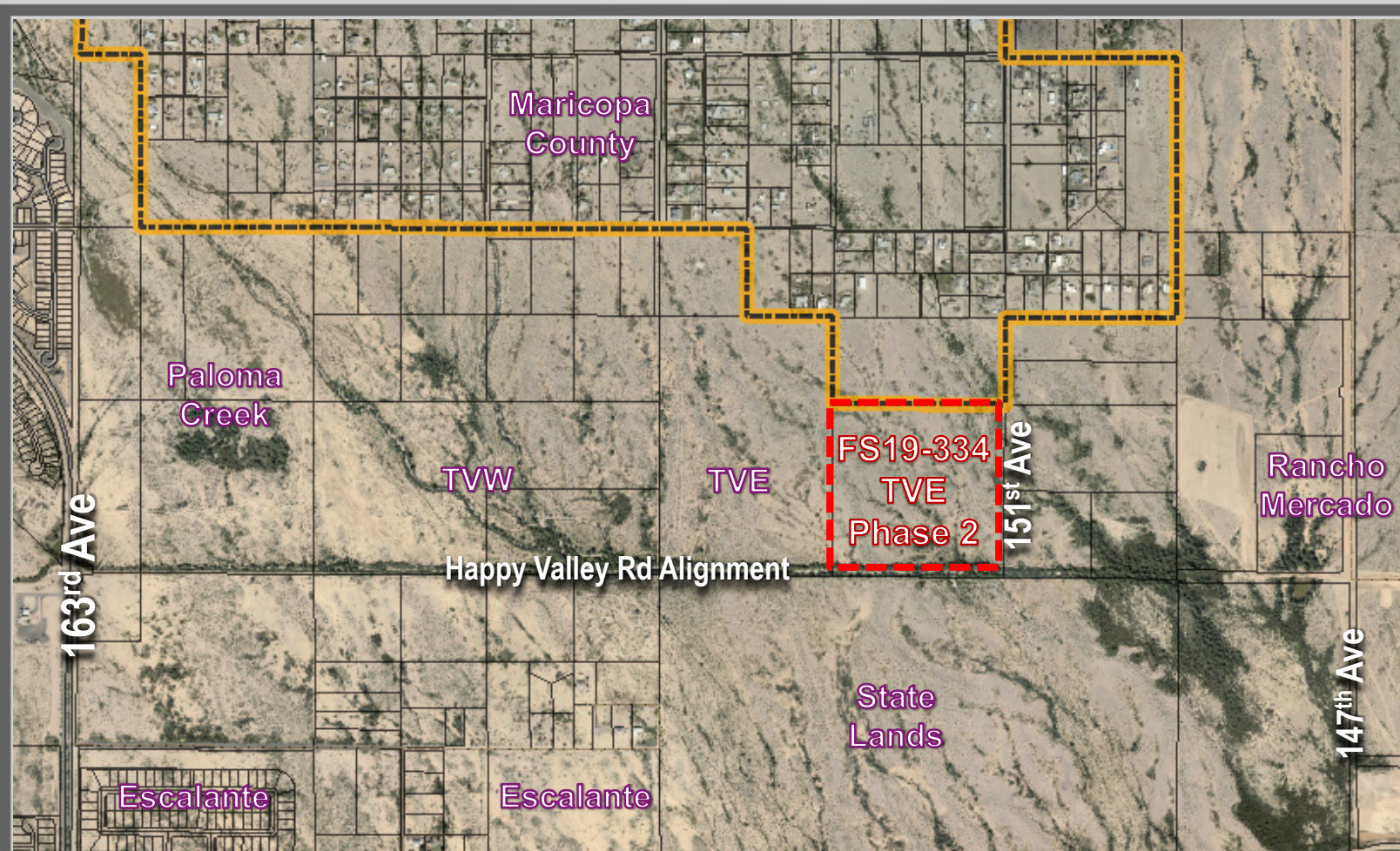
Atwell, LLC, on behalf of Tierra Verde 2015, LLC, requests approval of the Final Plat of Tierra Verde East Phase 2. The subject property is approximately 39.47 acres and it is located on the northwest corner of Happy Valley Road and 151st Avenue. Access to this site will be from 151st and through an internal connection to Tierra Verde East Phase 1 to the west. Happy Valley Road along the site is currently under construction and is estimated to be completed by the time the first home is built in this subdivision.

Tierra Verde East and Tierra Verde West are both within the “Benefited Area” defined by the Rancho Mercado Supplemental Development Agreement, as amended, and are required to pay the Buy-In Fees for Happy Valley Road East, Happy Valley Road West, Water, and/or Sewer, as applicable, per that Development Agreement. This plat is being approved conditionally by Resolution such that the plat, if approved by the City Council, will not be recorded until the City receives a Notice of Payment that all applicable Buy-In Fees have been paid to William Lyon Homes and the developer has posted the financial assurances for completion of subdivision improvements required by the Surprise City Code. If both do not happen within 60 days of approval, this final plat will be returned to the City Council for reconsideration and possible action to void and rescind the approval.

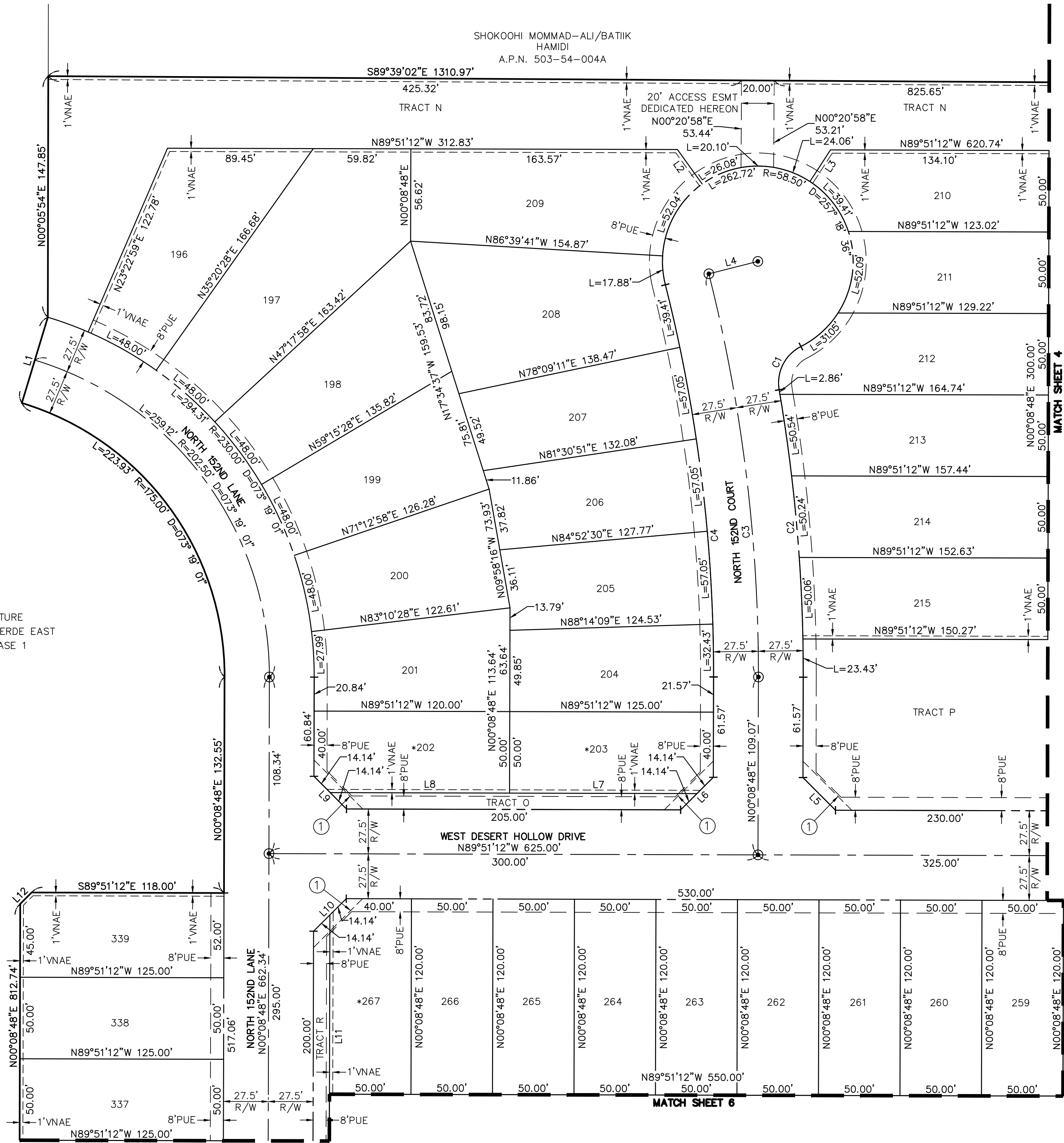
The subject property is zoned PAD and has a land use designation of Low Density Residential. Onsite the applicant proposes a total of 144 single-family lots for a total density of 3.6 dwelling units per acre. The typical lot proposed is 50’ x 120’. This plat includes a total of 9.4 acres of open space that includes a 5.7-acre open space tract (Tract W), which includes playground equipment, a ramada, an open turf area for recreation, and a public trail with connectivity to the future developments to the east and west. The proposed final plat is in compliance with the most recent amendment to the Tierra Verde East PAD (case FS18-249) and the preliminary plat approved under case FS18-249.

Attachments:

- 01 Vicinity Map
- 02 Final Plat
- 03 Resolution



VICINITY MAP



LOT TABLE				LOT TABLE			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
196	8977	0.206	50.0	212	7633	0.175	50.0
197	12341	0.283	50.0	213	8044	0.185	50.5
198	9390	0.216	50.0	214	7741	0.178	50.2
199	7982	0.183	50.0	215	7562	0.174	50.1
200	7495	0.172	50.0	259	6000	0.138	50.0
201	6772	0.155	50.0	260	6000	0.138	50.0
202	5950	0.137	50.0	261	6000	0.138	50.0
203	6200	0.142	50.0	262	6000	0.138	50.0
204	6486	0.149	53.7	263	6000	0.138	50.0
205	6698	0.154	56.5	264	6000	0.138	50.0
206	6899	0.158	56.5	265	6000	0.138	50.0
207	7192	0.165	56.5	266	6000	0.138	50.0
208	11003	0.253	60.5	267	5950	0.137	50.0
209	10111	0.232	64.8	337	6250	0.143	50.0
210	6765	0.155	50.0	338	6250	0.143	50.0
211	6112	0.140	50.3	339	6475	0.149	52.0

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N16°49'47"E	55.00'
L2	N35°41'30"W	26.00'
L3	N33°06'28"E	23.14'
L4	N75°49'52"E	31.00'
L5	N44°51'12"W	28.28'
L6	N45°08'48"E	28.28'
L7	N89°51'12"W	115.00'
L8	N89°51'12"W	110.00'
L9	N44°51'12"W	28.28'
L10	N45°08'48"E	28.28'
L11	N00°08'48"E	110.00'
L12	N45°08'48"E	9.90'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	31.80'	25.00'	072°52'16"
C2	177.12'	1027.50'	009°52'36"
C3	249.85'	1000.00'	014°18'56"
C4	242.98'	972.50'	014°18'56"



ATWELL

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MESA, AZ 85206
480.216.8651

COUNTY: MARICOPA

SECTION: 5

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

FINAL PLAT

TIERRA VERDE EAST
PHASE 2

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

PM. J. SPRING

DR. T. SIEVERDING

JOB NO.
18000163

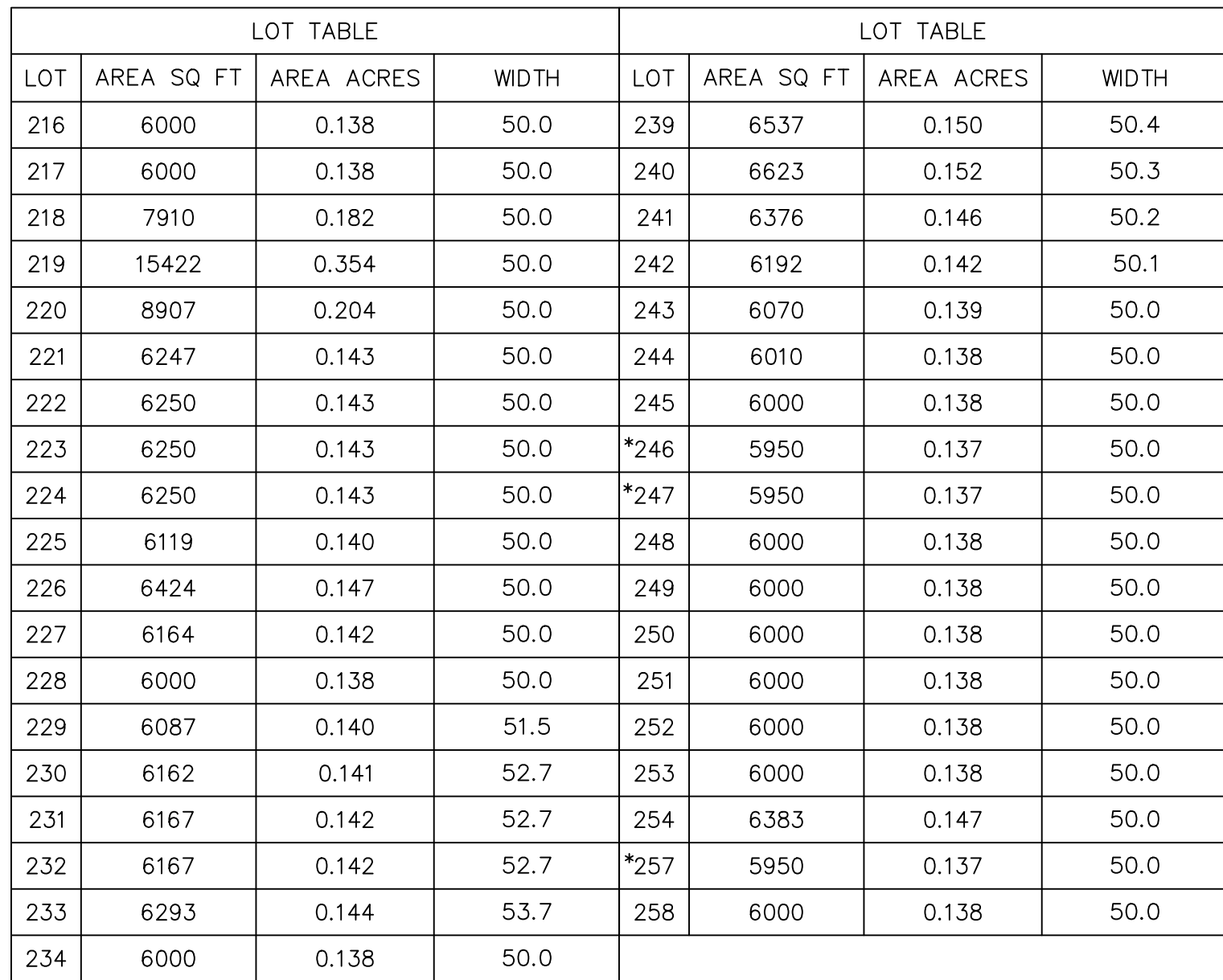
SCALE 0 20 40
1" = 40 FEET

18000163 TVE FP PH2.DWG

SHEET NO.

FS19-334

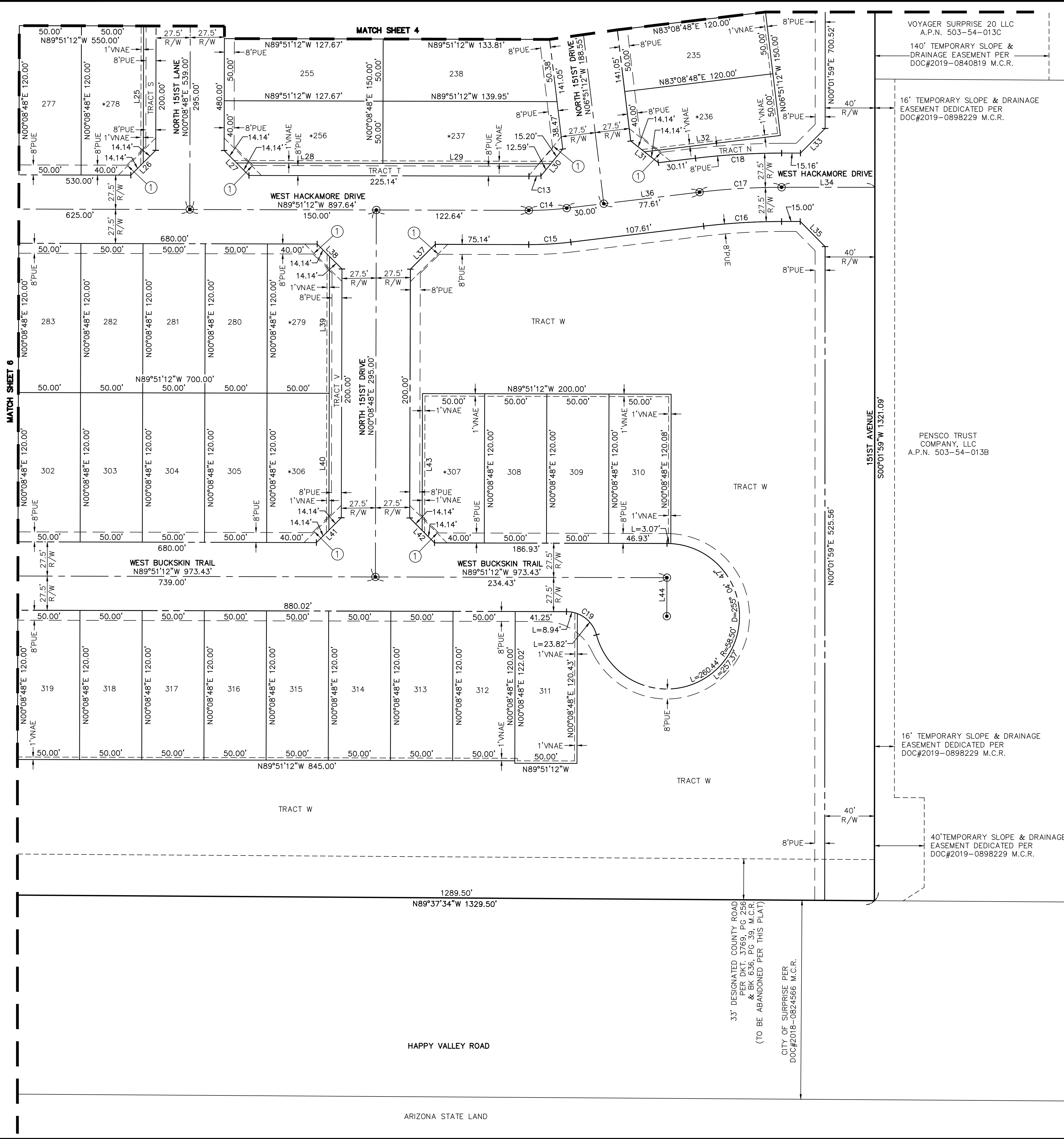
3 OF 6



LINE TABLE		
LINE #	DIRECTION	LENGTH
L13	N00°08'48"E	110.00'
L14	N44°51'12"W	28.28'
L15	N45°08'48"E	28.28'
L16	N45°08'48"E	28.28'
L17	N89°51'12"W	110.00'
L18	N89°51'12"W	110.00'
L19	N44°51'12"W	28.28'
L20	N51°06'06"E	29.37'
L21	N00°08'48"E	102.60'
L22	S00°08'48"W	150.00'
L23	N06°51'12"W	188.55'
L24	N06°51'12"W	150.00'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C5	15.88'	50.00'	018°11'42"
C6	110.30'	50.00'	126°23'23"
C7	15.88'	50.00'	018°11'42"
C8	56.55'	36.00'	090°00'00"
C9	56.55'	36.00'	090°00'00"
C10	15.88'	50.00'	018°11'42"
C11	110.30'	50.00'	126°23'23"
C12	15.88'	50.00'	018°11'42"





LOT TABLE				LOT TABLE			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
235	6000	0.138	50.0	305	6000	0.138	50.0
236	5950	0.137	50.0	306	5950	0.137	50.0
237	7086	0.163	50.0	307	5950	0.137	50.0
238	6844	0.157	50.4	308	6000	0.138	50.0
255	6383	0.147	50.0	309	6000	0.138	50.0
256	6333	0.145	50.0	310	6000	0.138	50.0
277	6000	0.138	50.0	311	6096	0.140	50.0
278	5950	0.137	50.0	312	6000	0.138	50.0
279	5950	0.137	50.0	313	6000	0.138	50.0
280	6000	0.138	50.0	314	6000	0.138	50.0
281	6000	0.138	50.0	315	6000	0.138	50.0
282	6000	0.138	50.0	316	6000	0.138	50.0
283	6000	0.138	50.0	317	6000	0.138	50.0
302	6000	0.138	50.0	318	6000	0.138	50.0
303	6000	0.138	50.0	319	6000	0.138	50.0
304	6000	0.138	50.0				

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L25	N00°08'48"E	110.00'	L35	N44°44'36"W	28.40'
L26	N45°08'48"E	28.28'	L36	N83°08'48"E	107.61'
L27	N44°51'12"W	28.28'	L37	N45°08'48"E	28.28'
L28	N89°51'12"W	117.67'	L38	N44°51'12"W	28.28'
L29	N89°51'12"W	135.07'	L39	N00°08'48"E	110.00'
L30	N39°07'58"E	27.79'	L40	N00°08'48"E	110.00'
L31	N51°51'12"W	28.28'	L41	N45°08'48"E	28.28'
L32	N83°08'48"E	110.00'	L42	N44°51'12"W	28.28'
L33	N45°01'59"E	28.06'	L43	N00°08'48"E	110.00'
L34	N89°58'01"W	75.00'	L44	N00°08'48"E	31.00'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C13	9.68'	222.50'	002°29'31"
C14	30.54'	250.00'	007°00'00"
C15	33.90'	277.50'	007°00'00"
C16	62.80'	522.50'	006°53'11"
C17	66.10'	550.00'	006°53'11"
C18	69.41'	577.50'	006°53'11"
C19	32.76'	25.00'	075°04'45"



ATWELL
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MESA, AZ 85206
460.216.6651

COUNTY: MARICOPA
SECTION: 5
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT

TIERRA VERDE EAST
PHASE 2
CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

ATWELL
PM. J. SPRING
DR. T. SIEVERDING
JOB NO.
18000163
SCALE 0 20 40
1" = 40 FEET
18000163 TVE FP PH2.DWG
SHEET NO.
5 OF 6

RESOLUTION # 2020-158

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, CONDITIONALLY APPROVING A FINAL PLAT ENTITLED "FINAL PLAT OF TIERRA VERDE EAST PHASE 2," GENERALLY LOCATED NORTH OF HAPPY VALLEY ROAD AND WEST OF 151ST AVENUE.

WHEREAS, on July 19, 2017, the Rancho Mercado Supplemental Development Agreement was recorded with the office of the Recorder for Maricopa County, Arizona;

WHEREAS, on October 16, 2018, the Mayor and City Council approved the Zoning Amendment for Tierra Verde East;

WHEREAS, on October 16, 2018, the Mayor and City Council approved the Tierra Verde East Preliminary Plat;

WHEREAS, on September 15, 2020, the Mayor and City Council approved the First Amendment to the Rancho Mercado Supplemental Development Agreement, pursuant to which properties located within the defined "Benefited Area" are required to pay certain buy-in fees for infrastructure improvements constructed by William Lyons Homes, Inc. (Happy Valley Road East, Happy Valley Road West, Sewer, and/or Water) as a condition for final plat, site plat, and/or building permit approval by the City;

WHEREAS, Tierra Verde East is located within the Benefited Area and is required to pay the Happy Valley Road West, Happy Valley Road East, Water and/or Sewer Buy-in Fees, as applicable, as defined in the First Amendment to the Rancho Mercado Supplemental Agreement, as a condition to City Council approval and then recordation of this Final Plat;

WHEREAS, an additional condition to approval and recordation of this Final Plat is the posting of required financial assurances for the completion of certain subdivision improvements pursuant to the Surprise City Code;

WHEREAS, the proposed Final Plat conforms to the Tierra Verde East Preliminary Plat approved by City Council, on October 16, 2018;

WHEREAS, the proposed Final Plat does not create any substandard or nonconforming lots; and

WHEREAS, the proposed Final Plat complies with the Surprise General Plan and Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. The Final Plat entitled “Final Plat of Tierra Verde East Phase 2” dated November 2019 is approved subject to the following conditions:

- A. The Final Plat of Tierra Verde East Phase 2 will not be recorded until the owner of the property has posted with the City the financial assurances for completion of subdivision improvements required by the Surprise City Code.
- B. The Final Plat of Tierra Verde East Phase 2 will not be recorded until the City has received from the owner of the property a Notice of Payment executed by William Lyon Homes, Inc. that all Buy-in Fees (Happy Valley Road East, Happy Valley Road West, Sewer, and/or Water) required to be paid by the Rancho Mercado Supplemental Development Agreement have been paid.

Section 2. If the Final Plat has not been recorded within sixty (60) days of the approval of this Resolution because the financial assurances required by Section 1(A) have not been posted with the City and/or the Notice of Payment required by Section 1(B) has not been received by the City, the City may, in lieu of recording, schedule this Final Plat for a public hearing for consideration and possible action by the City Council to revoke, repeal, and nullify the approval of the Final Plat.

APPROVED AND ADOPTED this _____ day of _____ 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

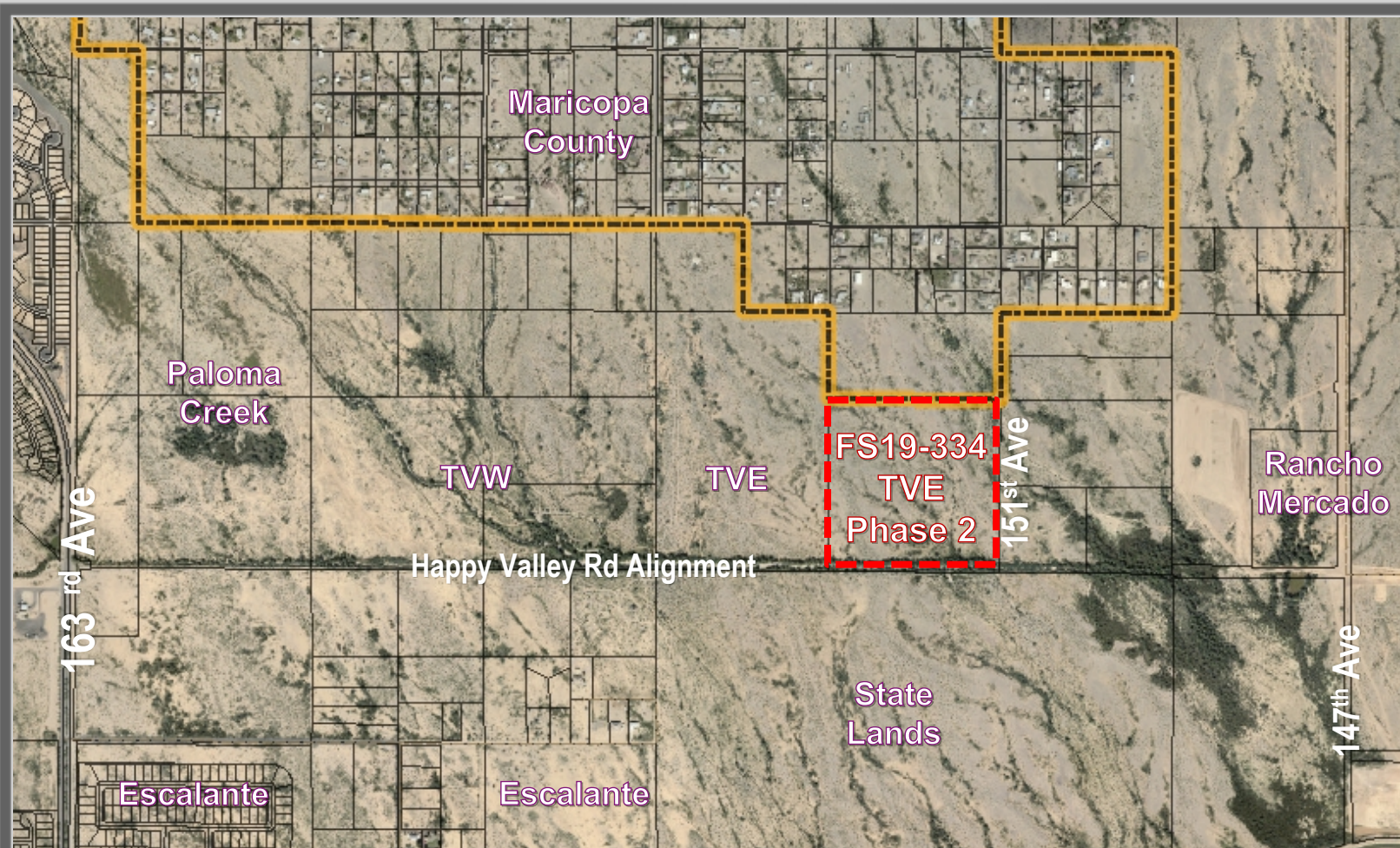
Sherry Aguilar, City Clerk

Robert Wingo, City Attorney



FS19-334
Tierra Verde East Ph. 2
Final Plat

City Council
December 15, 2020



VICINITY MAP



LINE TABLE		
LINE #	CORRECTION	WAVE IN
L1	N48W47.8°E	55.00
L2	N48W47.8°E	26.00
L3	N43W50.2°E	23.14
L4	N44W49.2°E	31.88
L5	N44W47.0°E	26.38
L6	N45W48.8°E	26.38
L7	N45W47.0°E	115.88
L8	N44W47.0°E	110.88
L9	N44W47.0°E	26.38
L10	N45W48.8°E	26.38
L11	N45W48.8°E	110.88
L12	N45W48.8°E	8.88

CUPE #	LONGITUDE	RADIUS	DELTA
01	35.85°	25.00°	87°32'16"N
02	177.12°	1823.50°	059°52'36"E
03	149.85°	1588.00°	8°41'57"N
04	142.88°	871.50°	8°41'57"N

* LANE AFFECTED BY RIGHT VISIBILITY TRIANGLE INTO BUILDING CORNER



ATWELL
 800.850.4300 www.atwell-group.com
 1000 E. Southline Avenue
 Spring, AL 36082
 800.850.4300

COUNTY: MARICOPA

SECTION: 5

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

FINAL PLAT
ERRA VERDE EAST
PHASE 2
CITY OF BIRMINGHAM, ALABAMA

NOVEMBER 2009



FIG. 1. DIVING
DR. T. DIVING
JOB NO.
18050162
WIND 0 10 20
T² = 42 FEET
WIND TO 17 FEET
SHEET
NO.
3 OF 6

FINAL PLAT





- LOTS AFFECTED BY SUNT VISIONARY TRIANGLE INTO BLACKING OVERLAP

TYPE	LENGTH	PERIOD	DELTA
C10	15.80	50.38	045°14'
C11	15.80	50.38	128°23'33"
C12	16.86	50.38	018°14'
C13	96.55	50.38	330°00'00"



9819-334

County: Madison

SECTION: 3

TOWNSHIP: 4 NORTH

RANGE: 1 WEST

FINAL PLAY
TIERRA VERDE EAST
PHASE 2
CITY OF SANFEE, ARIZONA

10/10/2019 10:10



PM. 4. SPRING
OP. 1. SEVERING

2000 VOL.
UNIVERSITY

SCALE 0 25
1" = 40 FEET

STANDARD OF REVIEW.

Number	100
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6 OF 6

FINAL PLAT



QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020

Contact Person: Andrea Davis, DIRECTOR -
FINANCE

Submitting Department: Finance

District: Citywide

Staff Recommendations: None

Consent: Yes

Regular: No

Public Hearing: No

Report/Discussion: No

Agenda Wording:

Consideration and action to approve an amendment to the Fiscal Year 2020 budget by reallocating appropriations required to close the Fiscal Year 2020 budget, inter-fund cash transfers and loans; Resolution #2020-161.

Motion:

I move to approve Resolution #2020-161.

Background:

As part of closing fiscal year 2020 and in preparation for the annual audit, adjustments occur which may cause expenditures to exceed budget. Expenditure budgets and actuals are reviewed during close out to ensure that the City is in compliance with budget amendment policies. Specifically, fund, capital improvement plan (CIP) projects, grants, and departments within each fund cannot have actual expenditures exceeding the budget amounts. When this does occur, approval of the Mayor and Council is necessary to increase the budgeted amounts.

For FY2020, three main categories of corrections have been identified.

The first category is budget adjustments for fund/department combinations that have exceeded their personnel and/or non-personnel operating budget. In each case, the fund had sufficient contingency to make an amendment, had savings in another department or received unforeseen revenue that allowed an increase in authority.

The second category involves Street Light improvement Districts (SLIDs). Appropriation will be reallocated to SLID funds that are new for FY2020. Typically, property taxes cannot be levied on a SLID until the SLID has been recognized and assessed by the county. Once this has occurred property taxes will be levied and the expenses will be recouped for each of the new SLIDs.

The third category are projects (capital and grants). During the year, grant programs or capital projects revenues and expenditures exceeded budget.

Inter-fund cash transfers and loans are also presented to Council at year end as required by financial policies. They do not represent an outflow of funds from the city, but rather a reallocation of funds within the city. As such, they are not subject to state expenditure limitation rules and are not part of the adopted expenditure limit budget. Cash transfers are used to fund vehicle replacement, general capital,

account for indirect costs, franchise fees, and in-lieu property tax payments for city provided utilities, debt service payments to the debt service fund and close out inactive funds.

Inter-fund loans are used to account for instances where one fund loans money to another.

Objective Analysis:

City Council adopts the annual budget by department in each fund and by project in capital funds per the Comprehensive Financial Management Policies effective July 1, 2020. The Budget Amendment Policies and Procedures are designed to place any amendments to the budget that cross those categories back before the City Council for approval. This action accomplishes that aim and ensures that each of those categories do not have actual expenditures that exceed the budget. Inter-fund cash transfers and loans are not subject to the city's Budget Amendment Policies and Procedures, but rather are approved by the City Council based on the requirements of the Comprehensive Financial Management Policies. This approval does not change the amount of the FY2020 adopted budget.

Policy Compliant:

This action is compliant with the Budget Amendment Policies and the Comprehensive Financial Management Policies.

Financial Impact:

This action has no direct financial impact, the approval of the change in revenues and expenditures is one-time and necessary to complete the FY2020 Comprehensive Annual Financial Report (CAFR) and related audit.

Budget Impact:

This action reallocates spending authority in multiple funds without increasing or decreasing the total budget for FY2020.

FTE Impact:

There is no impact on FTEs of this item.

ATTACHMENTS:

1. Res 2020-161 Budget Amendment Year-End final
-

RESOLUTION # 2020-161

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2020 BUDGET BY REALLOCATING APPROPRIATIONS BETWEEN PROJECTS AND FUNDS TO CLOSE OUT THE FISCAL YEAR AND AUTHORIZING INTER-FUND CASH TRANSFERS AND LOANS.

WHEREAS, in the course of preparing the FY2020 Comprehensive Annual Financial Report (CAFR), various adjustments were identified and are required to ensure compliance with state law for appropriations. These legally required amendments will allow the City to close out the fiscal year's budgetary accounts and proceed with the annual independent audit. These are standard, end-of-year processes which are required to close the books and the bottom line budget amounts do not change;

WHEREAS, FY2020 inter-fund cash transfers and loans are necessary to comply with adopted City ordinances, resolutions, policies, and Generally Accepted Accounting Principles (GAAP);

WHEREAS, movement of authority between projects is necessary for tracking purposes and, in the course of daily operations, various adjustments were identified which are necessary amendments to the FY2020 Adopted Budget;

WHEREAS, the FY2020 budget was adopted by Council Resolution #2019-75 on June 4, 2019;

WHEREAS, this action will necessitate a budget amendment;

WHEREAS, these amendments will allow the City to have current and updated budgetary amounts and help departments manage their project and line item expenditures; and

WHEREAS, the City of Surprise Comprehensive Financial Management Policies require the approval of the Mayor and Council for budget amendments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows.

Section 1. That the statements and schedules attached as *Exhibit A* and incorporated by reference are adopted, amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2019 through June 30, 2020.

Section 2. That the statements and schedules attached as *Exhibit B* and incorporated by reference are adopted, amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2019 through June 30, 2020.

Section 3. That the statements and schedules attached as *Exhibit C* and incorporated by reference are adopted, approving inter-fund cash transfers and loans for the City of Surprise, Arizona for the fiscal year July 1, 2019 through June 30, 2020.

APPROVED AND ADOPTED this _____ day of _____, 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2020-161
Exhibit A

The FY2020 Annual Budget is amended by reallocating appropriations among lawfully available appropriations to ensure the continued operations of the City of Surprise in the payment of necessary expenditures. These allocations do not represent an actual transfer of funds, but only a transfer of budget authority. Additionally, these reallocations do not increase or decrease the total budget.

1. Appropriation – Grants Fund: HSCV Services exceeded budget due to budget being placed in the CDBG Fund, rather than the Grants Fund. The CDBG appropriation is being moved back to the Grants Fund and the Contingency will cover the slight rounding adjustment.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Grants	Human Svcs and Comm Vitality	#G51690 FY20 Maricopa Homelessness Grant	E	40,500	11,800	52,300
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51690 FY20 Maricopa Homelessness Grant	E	4,025,900	(11,700)	4,014,200
Contingency	General Operations	Contingency	E	4,043,100	(100)	4,043,000
Expense Total				8,109,500	-	8,109,500

2. Appropriation – Ground Ambulance Service Fund exceeded budget due to personnel being higher than anticipated, the Ground Ambulance Service Fund has enough savings in Supplies to cover the overage.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Ground Ambulance Service	Fire - Medical	Personnel Services	E	2,647,200	44,800	2,692,000
Ground Ambulance Service	Fire - Medical	Supplies	E	304,400	(44,800)	259,600
Expense Total				2,951,600	-	2,951,600

3. Appropriation – Neighborhood Revitalization Fund: Human Services and Community Vitality (HSCV) has exceeded budget in personnel, the Neighborhood Revitalization Fund has sufficient appropriations in Services to cover the overage.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Neighborhood Revitalization	Human Svcs and Comm Vitality	Personnel Services	E	151,300	7,800	159,100
Neighborhood Revitalization	Human Svcs and Comm Vitality	Services	E	4,025,900	(7,800)	4,018,100
Expense Total				4,177,200	-	4,177,200

4. Appropriation – Parks/Rec Development Impact Fee 2020: General Operations exceeded budget on a developer reimbursement, this overage will be covered by the general contingency.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Parks/Rec Dev Fee 2020	General Operations	Services	E	50,000	15,100	65,100
Contingency	General Operations	Contingency	E	4,043,100	(15,100)	4,028,000
Expense Total				4,093,100	-	4,093,100

5. Appropriation – Water Systems SPA 2 Development Impact Fee 2014 Law: General Operations was over budget in the Services line item due to a developer reimbursement requiring \$38,400 more in appropriation than originally budgeted. The Water Systems SPA 2 Development Impact Fee 2014 Law Fund Contingency has sufficient appropriations to cover this overage.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Wtr Sys SPA 2 Dev Fee 2014 Law	General Operations	Services	E	2,900	38,400	41,300
Wtr Sys SPA 2 Dev Fee 2014 Law	General Operations	Contingency	E	43,500	(38,400)	5,100
Expense Total				46,400	-	46,400

6. Appropriation – Sewer Operations Fund: General Operations was over budget in the Services line due to a developer reimbursement requiring approximately \$121,000 more in appropriation than budgeted. The Sewer Operations Fund Water Resource Management Supplies line has sufficient appropriations to cover this overage.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Sewer Operations	General Operations	Services	E	590,600	121,000	711,600
Sewer Operations	Water Resource Management	Supplies	E	1,440,000	(121,000)	1,319,000
Expense Total				2,030,600	-	2,030,600

7. Appropriation – Street Light Improvement District Funds (SLIDs) – Eleven SLID funds require a budget amendment. The city received an electrical bill for the first time in FY2020 for two of these SLIDs. The remaining nine SLIDs are over budget due to budget being calculated assuming less electricity usage than actual expenses. Once property valuations are assessed for the new SLIDs property taxes will be assessed to recover expenses for the respective new SLIDs.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
SLID-Westgate No122 11-62	General Operations	Services	E	700	600	1,300
SLID-Marley Park Ph 4 #140	General Operations	Services	E	3,200	4,200	7,400
SLID-Marley Park Ph 3 #134	General Operations	Services	E	20,600	900	21,500
SLID-Autoshow East 2 #127	General Operations	Services	E	800	100	900
SLID-Sycamore Farm Pcl 12 N146	General Operations	Services	E	3,300	1,200	4,500
SLID-Desert Oasis L13B	General Operations	Services	E	-	4,400	4,400
SLID-Hilton Garden Inn	General Operations	Services	E	-	1,600	1,600
Austin Ranch W Parcel 6	General Operations	Services	E	-	3,500	3,500
Dysart Mini Storage #145	General Operations	Services	E	-	700	700
Zanjero Trail Pcl 16 & 17 #162	General Operations	Services	E	-	3,700	3,700
SLID-Highland Prep SU	General Operations	Services	E	-	300	300
Contingency	General Operations	Contingency	E	4,043,100	(21,200)	4,021,900
Expense Total				4,071,700	-	4,071,700

8. Project Ledger – The following projects or projects were either over budget on the expense side at the end of FY2020 and are coming to Council to approve movement from funds to right-size these overages.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51650 FFY18 CDBG Emergency Repair	E	149,600	300	149,900
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51670 FFY18 CDBG Neighborhood Improvement	E	500,000	600	500,600
Solid Waste Capital	Public Works	#P61480 Public Works Yard	E	1,998,800	20,000	2,018,800
Contingency	General Operations	Contingency	E	4,043,100	(900)	4,042,200
Solid Waste Capital	General Operations	Contingency	E	182,800	(20,000)	162,800
Expense Total				6,874,300	-	6,874,300

RESOLUTION # 2020-161
Exhibit B

The FY2020 Annual Budget is amended by reallocating appropriations among lawfully available appropriations to ensure the continued operations of the City of Surprise in the payment of necessary expenditures. These allocations do not represent an actual transfer of funds, but only a transfer of budget authority. Additionally, these reallocations do not increase or decrease the total budget.

1. Appropriation: Grant Carry Forward – To adjust budget authority for items previously approved by Council which require adjustment from what was originally estimated during the FY2020 budget process due to expenditure activity in the prior fiscal year.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Grants	City Attorney	#G13070 FFY 18 Pros Office VOCA	E	184,000	(29,900)	154,100
Grants	Police	#G31054 FY19 WalMart Community Grant #4955	E	500	(500)	-
Grants	Police	#G31221 FFY18 CBRNE Sustainment	E	18,900	(14,500)	4,400
Grants	Police	#G31241 FFY 19 DEA Task Force	E	19,000	(9,500)	9,500
Grants	Police	#G31261 FFY19 GOHS DUI Enforcement	E	20,000	(20,000)	-
Grants	Police	#G31311 FFY19 GOHS STEP OT + Supplies	E	22,600	5,200	27,800
Grants	Police	#G31321 FFY19 GOHS Ped & Bike OT & Supplies	E	23,500	(22,200)	1,300
Grants	Police	#G31330 FFY18 Ped & Bike Enforce & Training	E	-	600	600
Grants	Police	#G31351 FFY19 GOHS Occupant Protection OT	E	1,600	(800)	800
Grants	Police	#G31352 FFY19 GOHS Occupant Protection Equi	E	10,400	(400)	10,000
Grants	Police	#G31361 FY19 JLEO Task Force OT	E	7,800	(3,900)	3,900
Grants	Police	#G31381 FFY19 GOHS Buckle Up AZ	E	4,000	(4,000)	-
Grants	Police	#G31390 FFY19 GOHS Motorcycle Enforcement	E	22,400	(19,800)	2,600
Grants	Fire - Medical	#G34121 FY19 GOHS DUI *DO NOT USE*	E	6,500	(2,400)	4,100
Ground Ambulance Capital Fund	Fire - Medical	#G34150 AFG Vehicle Acquisition	E	307,800	(2,600)	305,200

Grants	Fire - Medical	#G34181 FFY18 AZDOHS CERT Sust *CLOSED*	E	8,000	(3,700)	4,300
Grants	Fire - Medical	#G34191 FFY18 AZDOHS CBRNE *CLOSED*	E	12,100	(2,500)	9,600
Grants	Fire - Medical	#G34240 FFY18 UASI Deployment *CLOSED*	E	2,100	(200)	1,900
Grants	Community Development	#G42010 FY17 SRTS Studies - Parkview & Asht	E	3,800	(1,000)	2,800
General Fund	Community Development	#G42030 FY 17 SRTS Crosswalk Safety	E	-	700	700
General Fund	Community Development	#G42040 FY17 SRTS Dysart Walking/Biking Map	E	2,700	100	2,800
Grants	Community Development	#G42040 FY17 SRTS Dysart Walking/Biking Map	E	43,000	100	43,100
Grants	Community Development	#G42100 SRTS FY 18 Kingswood-West	E	15,700	(700)	15,000
Grants	Community Development	#G42110 SRTS FY 18 Grant ACA, Imagine Prep	E	15,700	(600)	15,100
Grants	Community Development	#G42150 SRTS FY18 Grant Ashton- Countryside	E	15,700	(600)	15,100
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51210 FY 16 CDBG Administration	E	2,300	(2,300)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51220 FY 16 CDBG Public Service	E	1,300	(1,300)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51230 FY 16 CDBG AZTC Improv	E	2,600	(2,600)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51260 2013 CDBG Emergency Repair	E	13,700	(7,300)	6,400
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51270 2015 CDBG Publ Svc	E	9,600	(9,600)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51290 2015 CDBG Util Feas Study	E	21,500	(21,500)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51300 2012 HOME Funds	E	2,700	(2,700)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51310 2013 HOME	E	15,800	(15,800)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51340 NSP 1 - Admin	E	500	(500)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51350 NSP 1 Program Income	E	162,700	(1,400)	161,300
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51400 2017 CDBG Administration	E	-	(11,400)	(11,400)
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51420 2017 CDBG Public Service	E	-	(39,100)	(39,100)

Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51430 2017 CDBG Econ Dev - Business Dev	E	-	(15,900)	(15,900)
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51440 2017 CDBG Emergency Home Repair	E	-	(59,000)	(59,000)
Grants	Human Svcs and Comm Vitality	#G51460 GRIC Surprise Veterans Job Club	E	600	100	700
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51560 2017 HOME	E	-	200	200
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51580 2017CDBG TechCelerator Bldg A Renov	E	-	(5,500)	(5,500)
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51630 FFY 18 CDBG Admin	E	32,800	2,900	35,700
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51640 FFY 18 CDBG Admin - Advertising	E	3,800	(3,800)	-
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51650 FFY18 CDBG Emergency Repair	E	150,000	(400)	149,600
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51660 FFY18 CDBG Public Services	E	49,000	(48,700)	300
Neighborhood Revitalization	Human Svcs and Comm Vitality	#G51680 CDBG	E	671,200	179,600	850,800
Contingency	General Operations	Contingency	E	4,043,100	199,100	4,242,200
Expense Total				5,951,000	-	5,951,000

2. Appropriation: Capital Project Carry Forward – To adjust budget authority for items previously approved by Council which require adjustment from what was originally estimated during the FY2020 budget process due to expenditure activity in the prior fiscal year.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Vehicle Replacement	Fire - Medical	#A34100 Ford F-550 BR303 Replacement	E	424,900	100	425,000
Vehicle Replacement	Fire - Medical	#A34110 Eone Hush CS4028 Replacement	E	453,600	(31,400)	422,200
Sewer Utility Capital	Public Works	#A61070 Asset Repl_Vehicle and Equipment	E	945,200	100	945,300
Solid Waste Capital	Public Works	#A61070 Asset Repl_Vehicle and Equipment	E	1,741,500	(10,700)	1,730,800
Vehicle Replacement	Public Works	#A61070 Asset Repl_Vehicle and Equipment	E	3,207,800	(100,400)	3,107,400
Water Utility Capital	Public Works	#A61070 Asset Repl_Vehicle and Equipment	E	383,200	(36,400)	346,800
Highway User Revenue Capital	Public Works	#A61070 Asset Repl_Vehicle and Equipment	E	21,100	(800)	20,300
General Fund	Human Svcs and Comm Vitality	#N51010 Workforce Development Services	E	99,000	(6,300)	92,700
Water Utility Capital	Finance	#P15010 City Wide AMI Replacement	E	4,974,000	(120,100)	4,853,900
Public Safety Election 2017	Police	#P31030 Public Safety Evidence & Readiness	E	1,542,700	100	1,542,800
Public Safety Election 2017	Fire - Medical	#P34070 Land-Police Substation/Fire & Park	E	2,439,900	100	2,440,000
Public Safety Election 2017	Fire - Medical	#P34080 Fire Station 304	E	6,237,300	(174,300)	6,063,000
Public Safety Election 2017	Fire - Medical	#P34090 Fire Station 308	E	1,024,600	(46,100)	978,500
General Capital Projects Fund	Fire - Medical	#P34110 GRPSTC Partner Maintenance & Repair	E	44,500	(32,000)	12,500
General Capital Projects Fund	Economic Development	#P41020 AZTC Campus Upgrades	E	990,800	(117,200)	873,600
General Capital Projects Fund	Community Development	#P42010 OTS Land Acquisition	E	129,100	100	129,200

General Capital Projects Fund	Community Development	#P42020 Surprise LongRng Transit Plan Updat	E	61,400	(28,600)	32,800
General Capital Projects Fund	Parks and Recreation	#P54080 Shade Structures	E	187,400	(1,200)	186,200
Library Dev Fee	Parks and Recreation	#P54120 City Library #3 Asante	E	3,788,200	(938,000)	2,850,200
General Capital Projects Fund	Parks and Recreation	#P54140 Tennis Court Lighting	E	375,000	(222,400)	152,600
Transportation Improvement	Public Works	#P61320 Bullard Ave (Greenway to Peoria)	E	15,500	100	15,600
Stormwater Capital	Public Works	#P61410 Peoria & Litchfield Drainage Improv	E	204,500	(2,400)	202,100
General Capital Projects Fund	Public Works	#P61420 City Center Public Infrastructure	E	872,900	(43,900)	829,000
Traffic Election 2017	Public Works	#P61440 Waddell Rd (SR303-Reems Rd)	E	6,921,700	(218,400)	6,703,300
Traffic Election 2017	Public Works	#P61450 Litchfield Rd (Waddell Rd-Peoria)	E	4,026,400	(36,500)	3,989,900
Pavmnt Preservtn Election 2017	Public Works	#P61460 Bond Pavement Preservation	E	5,409,400	(526,900)	4,882,500
Traffic Election 2017	Public Works	#P61470 Greenway Rd Cotton Ln-Sarival	E	1,011,400	(43,000)	968,400
Public Works Dev Fee	Public Works	#P61480 Public Works Yard	E	8,152,400	(1,071,500)	7,080,900
Solid Waste Capital	Public Works	#P61480 Public Works Yard	E	2,006,900	(8,100)	1,998,800
Public Safety Election 2017	Public Works	#P61480 Public Works Yard	E	3,138,900	(36,700)	3,102,200
Transportation Improvement	Public Works	#P61520 Sweetwater Ave.104th to Litchfield	E	369,400	(128,000)	241,400
Rds Reg. Sig. SPA 2 4 and 6	Public Works	#P61530 Geometric Improvements - 163rd/Jomax	E	2,456,200	(52,200)	2,404,000
Water Utility Capital	Water Resource Management	#P71020 Desert Oasis WSF-Phs 2	E	935,500	(14,400)	921,100
Wtr Sys SPA 2 Dev Fee 2014 Law	Water Resource Management	#P71020 Desert Oasis WSF-Phs 2	E	1,356,500	(43,500)	1,313,000
Sewer Utility Capital	Water Resource Management	#P71190 SPA1 Recharge Expansion	E	4,004,500	(28,500)	3,976,000

Water Utility Capital	Water Resource Management	#P71230 SPA 1 Rancho Gabriela WSF-Arsenic	E	1,090,900	(48,100)	1,042,800
Water Utility Capital	Water Resource Management	#P71240 Water Acquisitions	E	2,088,300	(1,600)	2,086,700
Sewer Utility Capital	Water Resource Management	#P71250 Digester Modifications/SPA1	E	476,500	(10,800)	465,700
Water Utility Capital	Water Resource Management	#P71260 Circle City Water Acquisition	E	1,237,800	(64,600)	1,173,200
Sewer Utility Capital	Water Resource Management	#P71280 Partial Closure of Plant 1&2 Basin	E	54,100	(13,100)	41,000
Vehicle Replacement	General Operations	Contingency	E	278,900	131,700	410,600
Sewer Utility Capital	General Operations	Contingency	E	100,000	52,300	152,300
Solid Waste Capital	General Operations	Contingency	E	-	18,800	18,800
Water Utility Capital	General Operations	Contingency	E	200,000	285,200	485,200
Highway User Revenue	General Operations	Contingency	E	698,500	800	699,300
General Fund	General Operations	Contingency	E	-	6,300	6,300
Public Safety Election 2017	General Operations	Contingency	E	45,100	256,900	302,000
General Capital Projects Fund	General Operations	Contingency	E	2,493,900	445,200	2,939,100
Library Dev Fee	General Operations	Contingency	E	-	938,000	938,000
Stormwater Capital	General Operations	Contingency	E	-	2,400	2,400
Public Works Dev Fee	General Operations	Contingency	E	-	1,071,500	1,071,500
Transportation Improvement	General Operations	Contingency	E	1,565,400	127,900	1,693,300
Traffic Election 2017	General Operations	Contingency	E	98,600	297,900	396,500
Pavmnt Preservtn Election 2017	General Operations	Contingency	E	52,800	526,900	579,700
Rds Reg. Sig. SPA 2 4 and 6	General Operations	Contingency	E	-	52,200	52,200
Wtr Sys SPA 2 Dev Fee 2014 Law	General Operations	Contingency	E	-	43,500	43,500
Expense Total				80,434,100	-	80,434,100

* Increases and decreases in Grant Fund contingency are referenced in multiple tables, above.
The total adjustment, for FY2020, is as follows:

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Contingency	General Operations	Contingency	E	4,043,100	199,100	4,242,200

RESOLUTION # 2020-161**Exhibit C**

**City of Surprise, Arizona
Schedule of Budget Changes of Inter-Fund Transfers and
Loans Fiscal Year 2020**

Transfers Between	Description	Revised Budget	Actual Amount
Transfers from General Fund to:			
Refund Gov Debt Service 2015	Debt Service Payment	844,000	844,456
Stadium Debt 2015	Debt Service Payment	1,132,600	1,067,923
Net Premium Seating	Covers \$150,000 annual capital stadium improvements less previous years net premium seating revenue	125,800	127,563
Sports and Tourism	Funding for lost spring training revenue	860,100	1,255,743
General Capital Projects Fund	Funding for asset replacement, pavement preservation, various projects, and to maintain minimum fund balance	1,635,700	1,635,700
Vehicle Replacement	Funding for vehicle replacement	1,000,000	1,000,000
Worker's Compensation	Worker's Compensation Allocation	-	7,293
Total Transfers from General Fund		5,598,200	5,938,678
Transfers from General Capital Projects Fund to:			
Municipal Arts Fund	For Art Projects	10,400	10,400
Sewer SPA 1 Dev Fund	Land Sale adjustment	-	141,196
Total Transfers from General Capital Projects Fund		10,400	151,596
Transfers from Ground Ambulance Service Fund to:			
General Fund	Indirect Cost Allocation	389,300	389,300
General Fund	PILOT	1,100	1,301
Ground Ambulance Capital	Operating to Capital Project Fund	622,200	622,200
Worker's Compensation	Worker's Compensation Allocation	-	307
Total Transfers from Ground Ambulance Service Fund		1,012,600	1,013,108

Transfers from SPD Towing Fund to:

Worker's Compensation	Worker's Compensation Allocation	-	1
Total Transfers from SPD Towing Fund		-	1

Transfers from Wildland Fire Fund to:

Worker's Compensation	Worker's Compensation Allocation	-	21
Total Transfers from Wildland Fire Fund		-	21

Transfers from Tourism Fund to:

Stadium Debt 2015	Debt Service Payment	448,300	511,696
Total Transfers from Tourism Fund		448,300	511,696

Transfers from Sports and Tourism Fund to:

Worker's Compensation	Worker's Compensation Allocation	-	83
Total Transfers from Sport and Tourism Fund		-	83

Transfers from Transportation Improvement Fund to:

Worker's Compensation	Worker's Compensation Allocation	-	10
Total Transfers from Transportation Improvement Fund		-	10

Transfers from Highway User Revenue Fund to:

Highway User Revenue Capital	Operating to Capital Project Fund	2,215,600	2,319,269
Worker's Compensation	Worker's Compensation Allocation	-	809
Total Transfers from Highway User Revenue Fund		2,215,600	2,320,078

Transfers from Highway User Revenue Capital Fund to:

Vehicle Replacement	Funding for vehicle replacement	-	103,669
Total Transfers from Highway User Revenue Capital Fund		-	103,669

Transfers from Fire/EMS Dev Fee Fund to:

Fire Development Fee Fund 2020	Fund Consolidation	-	8,150,149
Refund Gov Debt Service 2015	Debt Service Payment	66,900	66,877
Sewer Operations	Advance not transfer	771,200	-
Total Transfers from Fire/EMS Dev Fee Grandfathered Fund		838,100	8,217,026

Transfers from Gen Govt Dev Fee Grandfathered Fund to:

Refund Gov Debt Service 2015	Debt Service Payment	367,200	367,028
Sewer Operations	Debt Service Payment	70,500	-
Total Transfers from Gen Govt Dev Fee Fund		437,700	367,028

Transfers from Park/Rec Dev Fee Grandfathered Fund to:

Refund Gov Debt Service 2015	Debt Service Payment	437,600	437,354
Parks 2020 Dev Fee Fund	Fund Consolidation	-	13,638
Total Transfers from Park/Rec Dev Fee Grandfathered Fund		437,600	450,992

**Transfers from Police Dev
Fee Fund to:**

Refund Gov Debt Service 2015	Debt Service Payment	135,400	135,346
Total Transfers from Police Dev Fee Grandfathered Fund		135,400	135,346

**Transfers from Library Dev
Fee Fund to:**

Fire Development Fee Fund 2020	Funds disbursement	-	434
Parks 2020 Dev Fee Fund	Funds disbursement	-	434
Police Dev Fee Fund	Funds disbursement	-	434
Total Transfers from Library Dev Fee Fund		-	1,302

Transfers from Roads of Regional Sig 2,4,6 Fund to:

Fire Development Fee Fund 2020	Funds disbursement	-	7,080
Parks 2020 Dev Fee Fund	Funds disbursement	-	7,080

Police Dev Fee Fund	Funds disbursement	-	7,080
Total Transfers from Roads of Regional Sig 2,4,6 Fund		-	21,240

Transfers from Roads of Regional Sig 3,5 Fund to:			
Fire Development Fee Fund 2020	Funds disbursement	-	8,191
Parks 2020 Dev Fee Fund	Funds disbursement	-	8,191
Police Dev Fee Fund	Funds disbursement	-	8,191
Total Transfers from Roads of Regional Sig 3,5 Fund		-	24,573

Transfers from Public Works Dev Fee Fund to:			
Sewer SPA 1 Dev Fund	Land Sale adjustment	-	331,969
Total Transfers from Police Dev Fee Grandfathered Fund		-	331,969

Transfers from Royal Ranch U2P7 SLID Fund to:			
Royal Ranch U2P5.6.9 SLID	Revenue Correction	-	54,650
Total Transfers from Public Works Dev Fee Fund		-	54,650

Transfers from Water Utility Capital Fund to:			
Municipal Arts Fund	For Art Projects	57,400	57,400
Total Transfers from Water Utility Capital Fund		57,400	57,400

Transfers from Water Operations Fund to:			
General Fund	Indirect Cost Allocation	1,552,500	1,552,500
General Fund	PILOT	176,400	175,526
General Fund	Franchise Fee in Lieu	344,700	356,690
Water Utility Capital	Operating to Capital Project Fund	8,143,300	8,143,300
Worker's Compensation	Worker's Compensation Allocation	-	306
Total Transfers from Water Operations Fund		10,216,900	10,228,322

Transfers from Water Resource 14 Fund to:			
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Water Res 2020 Fund	Fund Consolidation	-	130,535
Total Transfers from Water Resource 14 Fund		-	130,535

Transfers from Water Resource 20 Fund to:

Water Res SPA 1	Fund Consolidation	-	1,196,312
Water Res 14	Fund Consolidation	-	1,069,655
Total Transfers from Water Resource 20 Fund		-	2,265,967

Transfers from Water Resource 6 Fund to:

Water Res 2020 Fund	Fund Consolidation	-	6
Total Transfers from Water Resource 6 Fund		-	6

Transfers from Sewer Operations Fund to:

General Fund	Indirect Cost Allocation	1,680,100	1,680,100
General Fund	PILOT	386,100	393,104
General Fund	Franchise Fee in Lieu	376,400	389,064
Water Capital	Transfer Water Credits	-	1,386,867
Sewer Utility Capital	Operating to Capital Project Fund	5,131,800	5,131,800
Sewer SPA1 Dev Fee 2014	Advance not transfer	1,064,600	-
Sewer SPA2 Dev Fee 2014	Advance not transfer	7,000	-
Worker's Compensation	Worker's Compensation Allocation	-	400
Total Transfers from Sewer Operations Fund		8,646,000	8,981,335

Transfers from Sewer Utility Capital Fund to:

Municipal Arts Fund	For Art Projects	4,700	4,700
Total Transfers from Sewer Utility Capital Fund		4,700	4,700

Transfers from Sewer SPA1 Dev Fee 2014 Fund to:

Refund Sewer Debt 2015	Debt Service Payment	812,700	802,790
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Sr. Lien Debt 2018	Debt Service Payment	2,152,500	2,151,500
Total Transfers from Sewer SPA1 Dev Fee 2014 Fund		2,965,200	2,954,290
Transfers from Solid Waste Operations Fund to:			
General Fund	Indirect Cost Allocation	1,798,700	1,798,700
General Fund	PILOT	11,100	12,949
General Fund	Sanitation haulers license fee	28,000	27,000
Solid Waste Capital	Operating to Capital Project Fund	249,200	249,200
Worker's Compensation	Worker's Compensation Allocation	-	681
Total Transfers from Solid Waste Operations Fund		2,087,000	2,088,530
Transfers from Solid Waste Capital Fund to:			
Sewer SPA1 Dev Fund	Land Sale Adjustment	-	303,279
Municipal Arts Fund	For Art Projects	13,600	13,600
Total Transfers from Solid Waste Capital Fund		13,600	316,879
Transfers from Stormwater Operations Fund to:			
General Fund	Indirect Cost Allocation	170,500	170,500
Stormwater Capital	Operating to Capital Project Fund	1,038,600	1,038,600
Worker's Compensation	Worker's Compensation Allocation	-	89
General Fund	PILOT	900	1,714
Total Transfers from Stormwater Operations Fund		1,210,000	1,210,903
Total Transfers for FY2020		36,334,700	47,881,933



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020 Contact Person: Sergio Angulo
Submitting Department: Community Development District: District 1
Staff Recommendations: None

Consent: No Regular: Yes Public Hearing: No Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of the Final Plat entitled, "Tierra Verde West" located in the Tierra Verde West PAD; Resolution #2020-162.

Motion:

I move to approve/disapprove Resolution 2020-162 for the Final Plat entitled "Final Plat of Tierra Verde West".

Background:

Atwell, LLC, on behalf of Tierra Verde 2015, LLC, seeks approval of a Final Plat for a single-family residential development for 238 lots in the Tierra Verde West PAD. This property is located within the "Benefited Area" defined by the Rancho Mercado Supplemental Development Agreement and is required to pay the Buy-in Fees for Happy Valley Road East, Happy Valley Road West, Water, and/or Sewer, as applicable, as a condition to approval and recordation of the final plat. Resolution 2020-162 allows for approval of the plat conditioned upon payment of the applicable Buy-in Fees and the posting of financial assurances for the completion of subdivision improvements required by the Surprise City Code.

Objective Analysis:

This Final Plat will create 238 single-family residential lots which is consistent with the approved Tierra Verde West PAD and the approved preliminary plat under case FS16-334.

Policy Compliant:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which supports uses such as that proposed.

Financial Impact:

While this item does not have an immediate or direct financial impact, ongoing development activity in the City will inevitably have a future financial impact as additional resources are needed to provide city services.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

This item does not have an impact on current staffing levels.

ATTACHMENTS:

1. 00 20.11.30 EVR TV West Staff Report
 2. 01 - FS17-266 - Vicinity Map
 3. 02 - 16000368 TVW FP
 4. 03 - FS17-266 - Resolution 2020-162
 5. FS17-266 - PowerPoint
-

FINAL PLAT

REPORT TO THE CITY COUNCIL

1 **Case:** **FS17-266**

2
3 **Project Name:** Tierra Verde West Final Plat

4
5 **Council District:** 1

6
7 **City Council Date:** **December 15, 2020**

8
9
10 **Planner:** Sergio Angulo, Planner II

11
12
13 **Owner:** Tierra Verde 2015, LLC

14
15 **Applicant:** Jared Gardner of Atwell, LLC

16
17 **Request:** Final Plat for a 238-lot, single-family subdivision in the Tierra Verde
18 West PAD.

19
20 **Site Location:** Northwest corner of Happy Valley Road and 155th Avenue.

21
22 **Site Size:** 79.56 acres (approx.)

23
24 **Density:** 2.99 DU/Ac

25
26 **Findings:**

- 27
- 28 • The proposed Final Plat is consistent with the Surprise General Plan 2035.
 - 29 • The proposed Final Plat is consistent with the most recent amendment to the Tierra Verde
 - 30 West PAD as approved under case FS16-334.
 - 31 • The Final Plat is consistent with the Preliminary Plat approved under case FS16-334.

32
33 **Alternative Actions:** **Approve** – Approval of the proposed Final Plat will allow the applicant
34 the ability to subdivide the property as proposed.

35
36 **Deny** – Denial of the requested Final Plat will prevent the applicant
37 from subdividing the property as proposed.

38 **Additional Information:**

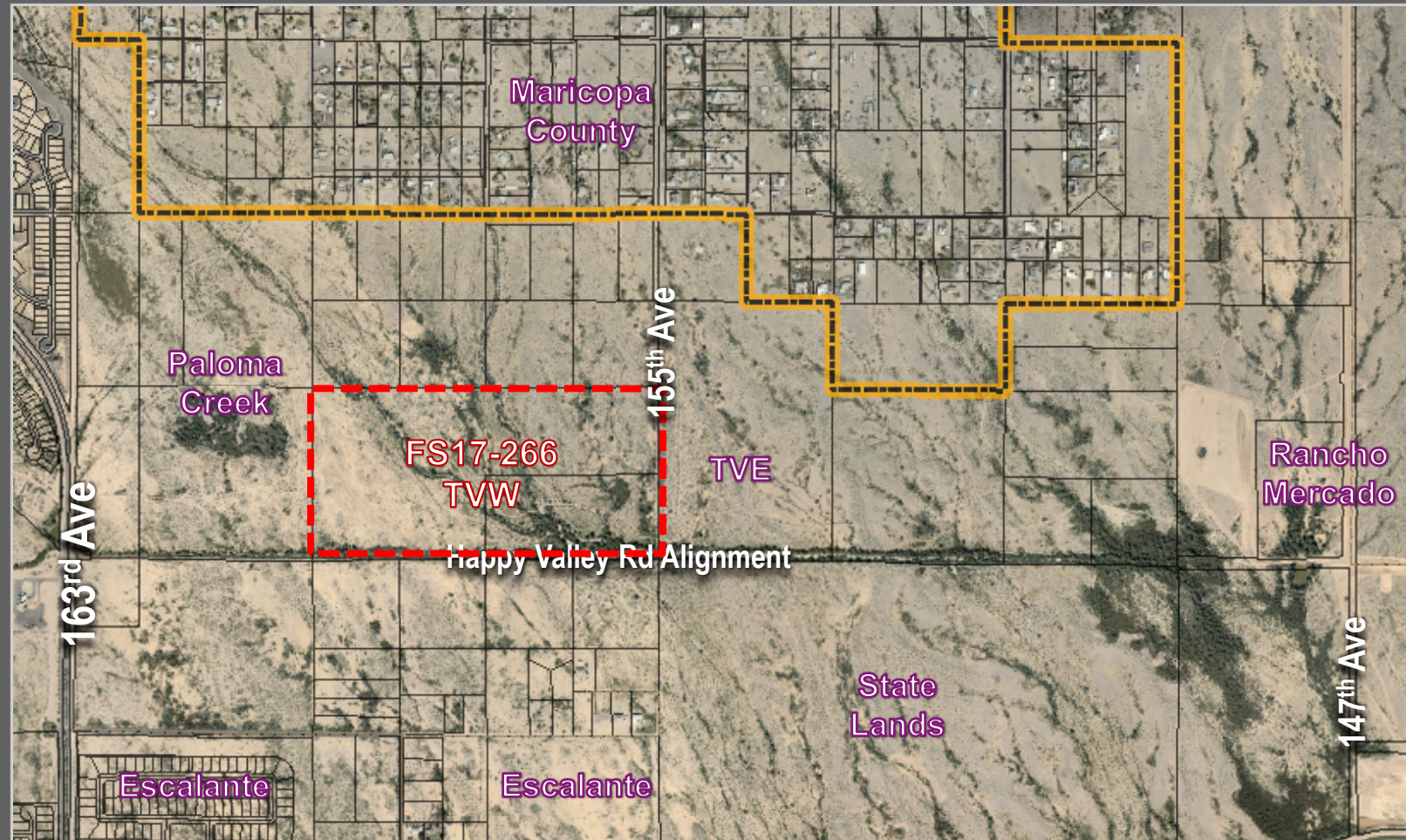
Atwell, LLC, on behalf of Tierra Verde 2015, LLC, requests approval of the Final Plat of Tierra Verde West. The subject property is approximately 79.56 acres and it is located on the northwest corner of Happy Valley Road and 155th Avenue. Access to this site will be from 155th Avenue on the east and 159th Lane on the west. Both 155th Avenue and 159th Lane will have direct access to Happy Valley Road. Happy Valley Road along the site is currently under construction and it is estimated to be completed by the time the first home is built in this subdivision.

Tierra Verde East and Tierra Verde West are both within the “Benefited Area” defined by the Rancho Mercado Supplemental Development Agreement, as amended, and are required to pay the Buy-In Fees for Happy Valley Road East, Happy Valley Road West, Water, and/or Sewer, as applicable, per that Development Agreement. This plat is being approved conditionally by Resolution such that the plat, if approved by the City Council, will not be recorded until the City receives a Notice of Payment that all applicable Buy-In Fees have been paid to William Lyon Homes and the developer has posted the financial assurances for completion of subdivision improvements required by the Surprise City Code. If both do not happen with 60 days of approval, this final plat will be returned to the City Council for reconsideration and possible action to void and rescind the approval.

The subject property is zoned PAD and has a land use designation of Low Density Residential. Onsite the applicant proposes a total of 238 single-family lots for a total density of 2.99 dwelling units per acre. The typical lot proposed is 48’ x 115’ and 63’ x 120’. This plat includes a total of 25.28 acres of open space that includes a 1-acre open space tract (Tract J), which includes playground equipment, a ramada, BBQ area, and an open turf area for recreation. There are additional shaded seating areas in Tracts I and P. This development also provides a public trail with connectivity to the future developments to the east and west. The proposed final plat is in compliance with the most recent amendment to the Tierra Verde West PAD (case FS16-334) and the preliminary plat approved under case FS16-334.

Attachments:

- 01 Vicinity Map
- 02 Final Plat
- 03 Resolution



VICINITY MAP

FINAL PLAT
OF
TIERRA VERDE WEST

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP
4 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND
MERIDIAN, CITY OF SURPRISE, MARICOPA COUNTY, ARIZONA

DEDICATION

STATE OF ARIZONA: }
COUNTY OF MARICOPA: } SS

KNOW ALL PERSONS BY THESE PRESENTS:

- THAT CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, HEREINAFTER "OWNER", HAS SUBDIVIDED UNDER THE NAME "TIERRA VERDE WEST", A SUBDIVISION LOCATED WITHIN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, CITY OF SURPRISE, MARICOPA COUNTY, ARIZONA AND HEREBY DOES DECLARE THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF EACH LOT, TRACT, STREET, AND EASEMENT CONSTITUTING SAME, AND THAT EACH LOT, TRACT, STREET, AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.
- "OWNER" HEREBY DEDICATES TO THE CITY OF SURPRISE FEE TITLE TO ALL PUBLIC RIGHTS--OF--WAY AS SHOWN ON THE PLAT.
- "OWNER" HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL NON--EXCLUSIVE EASEMENT OVER, UNDER, UPON, AND ACROSS ALL AREAS DESIGNATED ON THE PLAT AS SEWER LINES AND MANHOLES FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING, AND UTILIZING THE SEWER LINES AND MANHOLES.
- ALL IMPROVEMENTS, FOR STREETS AND PUBLIC UTILITIES OWNED AND OPERATED BY THE CITY, INSTALLED OR CONSTRUCTED BY "OWNER" WITHIN THE PUBLIC RIGHTS--OF--WAY, THE EASEMENTS, OR ANY TRACTS OR PARCELS HEREBY DEDICATED TO THE CITY OF SURPRISE SHALL BE DEEMED TO HAVE BEEN DEDICATED BY OWNER TO THE CITY UPON THEIR COMPLETION; HOWEVER, SUCH TRANSFER SHALL NOT OCCUR UNTIL THE CITY COUNCIL FOR THE CITY OF SURPRISE MANIFESTS ITS ACCEPTANCE BY SEPARATE FORMAL COUNCIL ACTION.
- "OWNER" HEREBY GRANTS TO THE PUBLIC A PERPETUAL NON--EXCLUSIVE EASEMENT IN, UPON, OVER, UNDER, THROUGH, AND ACROSS THE AREAS DESIGNATED AS PUBLIC UTILITY EASEMENTS AS SHOWN ON THE FINAL PLAT FOR THE PURPOSE OF ACCESSING, INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING AND UTILIZING PUBLIC UTILITIES.
- "OWNER" HEREBY GRANTS TO THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE ("USAF") AN AVIGATION EASEMENT OVER AND ACROSS THIS FINAL PLAT AND EVERY LOT AND PARCEL THEREOF, WHICH EASEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT OF FLIGHT OF AIRCRAFT OVER THIS FINAL PLAT, TOGETHER WITH ITS ATTENDANT NOISE, VIBRATIONS, FUMES, DUST, FUEL AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT OR ON LUKE AIR FORCE BASE AND AUXILIARY FIELD.
- "OWNER" HEREBY GRANTS TO THE CITY OF SURPRISE AN ODOR EASEMENT OVER, UPON AND ACROSS THIS FINAL PLAT AND EVERY LOT AND PARCEL THEREOF, WHICH EASEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE RIGHT TO INVADE WITH ODORS, FUMES, SMELLS, AND PHYSICAL AIRBORNE PARTICULATES CAUSED BY THE OPERATION AND MAINTENANCE OF THE CITY'S WATER RECLAMATION FACILITIES.
- THE EASEMENTS GRANTED WITHIN THIS DEDICATION ARE PERMANENT AND PERPETUAL AND SHALL RUN WITH THE LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS FINAL PLAT OR ANY PARCEL OR LOT THEREOF.
- "OWNER" HEREBY WARRANTS AND REPRESENTS TO THE CITY OF SURPRISE THAT IT IS THE SOLE OWNER OF THE PROPERTY COVERED BY THIS FINAL PLAT, AND THAT EVERY LENDER, EASEMENT HOLDER OR OTHER PERSON OR ENTITY HAVING ANY INTEREST THAT IS ADVERSE TO OR INCONSISTENT WITH THE FOREGOING DEDICATION, OR ANY OTHER REAL PROPERTY INTEREST CREATED OR TRANSFERRED BY THIS FINAL PLAT, HAS CONSENTED TO OR JOINED IN THIS FINAL PLAT AS EVIDENCED BY INSTRUMENTS WHICH ARE RECORDED WITH THE MARICOPA COUNTY RECORDERS OFFICE OR WHICH OWNER WILL RECORD NOT LATER THAN THE DATE ON WHICH THIS FINAL PLAT IS RECORDED.
- "OWNER" HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL NON--EXCLUSIVE EASEMENT OVER, UPON AND ACROSS THE AREAS DESIGNATED AS SIGHT VISIBILITY TRIANGLES FOR THE PURPOSE OF ENSURING THAT THESE AREAS REMAIN FREE OF SIGHT VISIBILITY OBSTRUCTIONS.
- THE VEHICULAR NON ACCESS EASEMENTS " VNAE " ARE HEREBY DEDICATED TO THE TIERRA VERDE 2015 COMMUNITY ASSOCIATION, ITS SUCCESSORS AND ASSIGNS AND IS INTENDED TO PREVENT VEHICULAR TRAFFIC BETWEEN TRACTS AND LOTS WITH THE EXCEPTION OF PUBLIC UTILITY USES. SAID " VNAE " AS DEDICATED HEREON WILL CROSS PUBLIC UTILITY EASEMENTS "PUE" ALSO GRANTED HEREON, IN MULTIPLE LOCATIONS. THESE " VNAE " ARE NOT INTENDED TO PREVENT AUTHORIZED AGENTS OF THE PUBLIC UTILITY COMPANIES FROM CROSSING SAID " VNAE " DURING THE COURSE OF INSTALLATION, USE, MAINTENANCE AND REPAIR OF THE UTILITIES LOCATED IN SAID PUBLIC UTILITY EASEMENT "PUE".
- ALL TRACTS ARE NOT DEDICATED TO THE PUBLIC, BUT ARE PLATTED AS COMMON PROPERTY FOR THE USE AND ENJOYMENT OF THE TIERRA VERDE WEST HOMEOWNERS ASSOCIATION, AS MORE FULLY SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.
- TRACTS PLATTED HEREON ARE DEDICATED FOR THE PURPOSES AS NOTED IN THE TRACT TABLE ON THIS FINAL PLAT AND SHALL BE MAINTAINED BY TIERRA VERDE WEST HOMEOWNERS ASSOCIATION.
- "OWNER" HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL CROSS ACCESS EASEMENT ACROSS THE FINAL PLAT INCLUDING ROADS AND STREETS, OPEN SPACES, COMMUNITY FACILITIES, TRACTS, SIDEWALKS, DRAINAGE BASINS AND ANY PROPERTY WITHIN THE FINAL PLAT OWNED BY THE HOMEOWNERS ASSOCIATION FOR THE PURPOSE OF PROVIDING CONTINUOUS AND UNINTERRUPTED INGRESS AND EGRESS FOR EMERGENCY VEHICLES.
- "OWNER" HEREBY GRANTS TO THE CITY OF SURPRISE A PERPETUAL EASEMENT ACROSS THE FINAL PLAT INCLUDING ROADS AND STREETS, OPEN SPACES, COMMUNITY FACILITIES, TRACTS, SIDEWALKS, DRAINAGE BASINS AND ANY PROPERTY WITHIN THE FINAL PLAT OWNED BY THE HOMEOWNERS ASSOCIATION FOR THE PURPOSE OF PROVIDING CONTINUOUS AND UNINTERRUPTED INGRESS AND EGRESS FOR TRASH COLLECTION VEHICLES.
- "OWNER" HEREBY GRANTS TO THE CITY OF SURPRISE, A PUBLIC RECREATION/TRAIL EASEMENT FOR PEDESTRIAN ACCESS, EQUINE ACCESS, BICYCLING, AND OTHER NON--MOTORIZED FORMS OF ACCESS OVER AND ACROSS OWNER'S PROPERTY, INCLUDING THE RIGHT OF INGRESS AND EGRESS ALONG AND ACROSS THE EASEMENT PREMISES, AS SHOWN ON THIS PLAT.
- "OWNER" HEREBY GRANTS TO THE PUBLIC AN EASEMENT FOR RECREATION OVER, UPON, AND ACROSS THOSE AREAS DESIGNATED AS RECREATION TRAILS OR AREAS FOR THE PURPOSE OF ALLOWING THE PUBLIC ACCESS TO THE TRAIL SYSTEM.

IN WITNESS WHEREOF, "OWNER" HAS HEREUNTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS DAY OF _____, 2020.

CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY.

BY: _____

ITS:DIVISION PRESIDENT

NOTARY ACKNOWLEDGEMENT

STATE OF ARIZONA: }
COUNTY OF MARICOPA: } SS

ON THIS _____ DAY OF _____, 2020, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC APPEARED ERIC MONTGOMERY OF CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, WHO ACKNOWLEDGED HIMSELF TO BE THE DIVISION PRESIDENT, AND THAT HE EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL.

BY: _____ MY COMMISSION EXPIRES _____ DATE _____

TIERRA VERDE WEST HOMEOWNERS ASSOCIATION RATIFICATION

BY THIS RATIFICATION, ERIC MONTGOMERY, DULY ELECTED PRESIDENT OF THE TIERRA VERDE WEST HOMEOWNERS ASSOCIATION ACKNOWLEDGES THE RESPONSIBILITIES DEDICATED HEREON.

BY: _____ ITS PRESIDENT

NOTARY ACKNOWLEDGEMENT

STATE OF ARIZONA: }
COUNTY OF MARICOPA: } SS

ON THIS _____ DAY OF _____, 2020, ERIC MONTGOMERY PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, WHO ACKNOWLEDGED HIMSELF TO BE THE PRESIDENT OF THE TIERRA VERDE WEST HOMEOWNERS ASSOCIATION, AND THAT HE, AS PRESIDENT, EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL.

BY: _____ MY COMMISSION EXPIRES _____ DATE _____

APPROVALS

CITY OF SURPRISE ENGINEER APPROVAL

DATA ON THIS PLAT REVIEWED AND APPROVED THIS _____ DAY OF _____, 2020, BY THE CITY ENGINEER OF SURPRISE, ARIZONA.

APPROVED _____ DATE _____

CITY OF SURPRISE COUNCIL APPROVAL

APPROVED BY THE CITY COUNCIL OF THE CITY OF SURPRISE, ARIZONA. THIS _____ DAY OF _____, 2020.

ATTEST:

MAYOR DATE _____

CITY CLERK DATE _____

CITY OF SURPRISE CASE ZONING

DEVELOPMENT STANDARDS ARE PER CITY OF SURPRISE ZONING CASE FS16--334 OR AS SUBSEQUENTLY AMENDED.

LOTS

63' LOTS = 121
48' LOTS = 117
NON--CONFORMING LOTS = 0
TOTAL = 238

AREA CALCULATIONS

TRACTS	1,101,228 SQ.FT.	25.280 AC
LOTS = 238	1,666,143 SQ.FT.	38.250 AC
RIGHT OF WAY	698,419 SQ.FT.	16.033 AC
TOTAL	3,465,790 SQ.FT.	79.564 AC

SHEET INDEX

DESCRIPTION	SHEET NO
COVER SHEET	1
KEY MAP, LEGAL DESCRIPTION	2
PLAT SHEETS	3--8

PUBLIC NOTICE

THE LOTS DEPICTED ON THIS PLAT ARE LOCATED WITHIN THE VICINITY OF LUKE AIR FORCE BASE AND MAY BE SUBJECT TO OVERFLIGHTS BY JET AIRCRAFT. ALL STRUCTURES WITHIN THIS PLAT SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE SOUND ATTENUATION STANDARDS ADOPTED BY THE CITY OF SURPRISE. A MAP DEPICTING THE MOST CURRENT ADOPTED MAG NOISE CONTOURS IN RELATION TO THIS PLAT SHALL BE DISPLAYED IN ALL SALES OFFICES. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE CITY OF SURPRISE COMMUNITY DEVELOPMENT DEPARTMENT.

OWNER/DEVELOPER

CENTURY COMMUNITIES OF ARIZONA, LLC,
AN ARIZONA LIMITED LIABILITY COMPANY
8390 E. CRESCENT PARKWAY, SUITE 650
GREENWOOD VILLAGE, COLORADO 80111
PHONE NO: 480--272--2142
CONTACT: ERIC MONTGOMERY

RELEASE OF LIABILITY

- CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, "OWNER" DOES HEREBY (1) RELEASE AND DISCHARGE THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIRFORCE ("USAF") AND THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE USAF AND THE CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH AIRCRAFT OVERFLIGHTS FROM AIRCRAFT UTILIZING LUKE AIR FORCE BASE, WHETHER SUCH DAMAGE SHALL ORIGINATE FROM NOISE, VIBRATION, FUMES, DUST, FUEL AND LUBRICANT PARTICLES, AND ALL OTHER EFFECTS THAT MAY BE CAUSED BY THE OPERATION OF AIRCRAFT LANDING AT, OR TAKING OFF FROM, OR OPERATING AT OR ON LUKE AIR FORCE BASE AND ITS AUXILIARY FIELDS. THIS INSTRUMENT SHALL RUN WITH THE LAND AND BE BINDING UPON OWNER AND ITS HEIRS, ASSIGNS, AND SUCCESSORS IN INTEREST TO THIS PLAT OR ANY PARCEL OR LOT THEREOF. THIS INSTRUMENT DOES NOT RELEASE THE USAF FROM LIABILITY FOR DAMAGE OR INJURY TO PERSON OR PROPERTY CAUSED BY FALLING AIRCRAFT OR FALLING PHYSICAL OBJECTS FROM AIRCRAFT, EXCEPT AS STATED HEREIN WITH RESPECT TO NOISE, FUMES, DUST, FUEL, AND LUBRICANT PARTICLES.
- CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, "OWNER" DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE NEWLY DEDICATED RIGHT--OF--WAY AS DEPICTED ON THIS PLAT UNTIL SUCH TIME THE RIGHT--OF--WAY IS IMPROVED TO CITY STANDARDS AND THOSE IMPROVEMENTS ARE APPROVED AND ACCEPTED BY THE CITY COUNCIL. THE MAINTENANCE OF THE AREA WITHIN ANY NEWLY DEDICATED RIGHT--OF--WAY AS SHOWN ON THIS PLAT SHALL BE THE RESPONSIBILITY OF THE ADJACENT OWNER/OR SUBSEQUENT ADJACENT OWNERS WITHIN THE BOUNDARY OF SAID PLAT UNTIL SUCH TIME THAT THE AREA WITHIN THE RIGHT--OF--WAY IS IMPROVED TO CITY STANDARD AND ACCEPTED BY THE CITY OF SURPRISE.
- CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, "OWNER" HEREBY FURTHER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE FROM ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY LOCATED WITHIN THE RIGHT OF WAY THAT MAY ARISE IN CONNECTION WITH THE USE OF THE SIDEWALKS LOCATED WITHIN THE RIGHT OF WAY, UNTIL SUCH TIME THE CITY OF SURPRISE HAS ACCEPTED THE SIDEWALKS.
- THE CITY OF SURPRISE AGREES TO INDEMNIFY CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, "OWNER", ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS OR THOSE OF AND ITS SUCCESSORS AND ASSIGNS FOR ANY AND ALL DIRECT DAMAGES TO THE PERSONAL PROPERTY OR FOR THE PHYSICAL INJURY TO OR DEATH OF PERSONS OCCURRING ON THE AREA OF THIS EASEMENT CAUSED BY OR ARISING AS THE PROXIMATE RESULT OF THE ACTIVITIES OF THE CITY OF SURPRISE, EXCEPT FOR SUCH INJURY OR DAMAGES CAUSED BY OR ARISING SOLELY FROM THE NEGLIGENT, WILLFUL, MALICIOUS OR GROSSLY NEGLIGENT CONDUCT OF CENTURY COMMUNITIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, "OWNER", ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS OR THOSE OF AND ITS SUCCESSORS AND ASSIGNS THAT WAS THE DIRECT CAUSE OF THE INJURY TO THE USER.

100 YEAR ASSURED WATER SUPPLY LANGUAGE

THE AREA PLATTED HEREON LIES WITHIN THE DOMESTIC WATER SERVICE AREA OF CITY OF SURPRISE, AWS NO. 2010--012, WHICH IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT A.R.S. §45--576.

GENERAL NOTES

- IN ACCORDANCE WITH A.R.S. §9--461.07, THE CITY OF SURPRISE HAS DETERMINED THAT ALL DEDICATIONS OCCURRING WITH THIS PLAT ARE IN CONFORMANCE WITH THE CITY OF SURPRISE GENERAL PLAN.
- PURSUANT TO A.R.S. §42--11102, THE CITY OF SURPRISE, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, IS EXEMPT FROM ALL TAXES AND ASSESSMENTS BASED ON ASSESSED VALUE EXCEPT FOR SPECIAL DISTRICTS #14751 AND #14710, WHEN APPLICABLE.
- NO ON--SITE GRADING OR EXCAVATION SHALL OCCUR WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
- HAPPY VALLEY ROAD WILL BECOME A 6 LANE MAJOR ARTERIAL AT SOME FUTURE POINT.
- SPRINKLERS ARE REQUIRED IN ALL ONE AND TWO FAMILY DWELLINGS BUILT IN AREAS WHICH DO NOT HAVE AN ADEQUATE WATER SUPPLY OF 2000 GPM @ 2 HOURS @ 20 PSI RESIDUAL.
- THIS FINAL PLAT IS IN SUBSTANTIAL CONFORMANCE WITH THE PRELIMINARY PLAT APPROVED BY THE CITY OF SURPRISE UNDER CASE FS16--334.
- A PORTION OF THE PROPERTY IS LOCATED WITHIN THE AREA HAVING FLOOD ZONES "X", "A" AND "AE", BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, ON FLOOD INSURANCE RATE MAP NO. 04013C1210L WITH A DATE OF IDENTIFICATION OF OCTOBER 16, 2013, FOR COMMUNITY NO. 040053, IN CITY OF SURPRISE, STATE OF ARIZONA, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITUATED, AS MAY BE AMENDED FROM TIME TO TIME.
- THE MAINTENANCE OF LANDSCAPING WITHIN THE OPEN SPACES, LANDSCAPED TRACTS, RETENTION BASINS AND PARKS SHALL BE THE RESPONSIBILITY OF THE OWNER OR THE HOMEOWNERS' ASSOCIATION FORMED BY THE OWNER.
- THE MAINTENANCE OF LANDSCAPING WITHIN THE ADJACENT PUBLIC RIGHTS--OF--WAY, INCLUDING LANDSCAPED MEDIANS WITHIN COLLECTORS AND LOCAL STREETS AND LANDSCAPED AREAS BETWEEN THE CURB AND THE DETACHED SIDEWALK, SHALL BE THE RESPONSIBILITY OF THE ADJACENT PROPERTY OWNER OR THE HOMEOWNERS' ASSOCIATION FORMED BY THE ADJACENT PROPERTY.
- LANDSCAPING MAINTENANCE OF THE MEDIANS WITHIN THE PUBLIC RIGHT--OF--WAY WITHIN ANY ARTERIAL OR PARKWAY STREET CLASSIFICATION SHALL BE RESPONSIBILITY OF THE CITY OF SURPRISE AFTER ACCEPTANCE.
- DEVELOPMENT STANDARDS ARE PER CITY OF SURPRISE ZONING CASE FS16--334 OR AS SUBSEQUENTLY AMENDED.

BASIS OF BEARING

THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN WHICH BEARS N89°44'45"W A DISTANCE OF 2625.84'. THIS POSITION WAS DERIVED FROM THE ESTABLISHED NGS POINTS DV0080 & AJ3867. PROJECT THEN SCALED TO GROUND AT A COMBINED SCALE FACTOR OF 1.00013766895 AND VERIFIED AGAINST GDACS BOOK 834, PG 1. HORIZONTAL ERROR = (0.12') ANGLE ERROR = (00°00'26")

SURVEYOR'S CERTIFICATION

I, JAMES G. SPRING, PLS 22282, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT CONSISTING OF EIGHT SHEETS REPRESENTS A SURVEY PREPARED UNDER MY SUPERVISION DURING THE MONTH OF DECEMBER, 2020; THAT THE SURVEY IS CORRECT AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT THE EXTERIOR BOUNDARY MONUMENTS ACTUALLY EXIST AS SHOWN AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

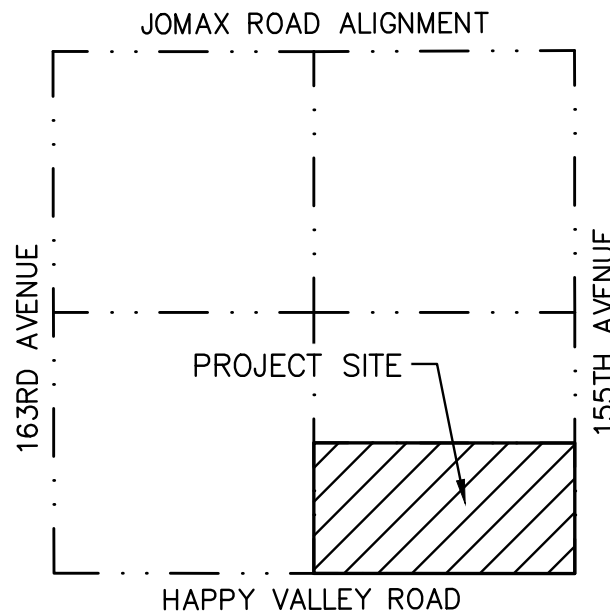
JAMES G. SPRING, PLS 22282
ATWELL, LLC
4700 EAST SOUTHERN AVENUE
MESA, ARIZONA 85206

NOTE:

A.R.S. 32--151 STATES THAT THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A PERSON OR FIRM THAT IS REGISTERED OR CERTIFIED BY THE BOARD IS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING FACTS OR FINDINGS THAT ARE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE AN EXPRESS OR IMPLIED WARRANTY OR GUARANTEE.

FS17--266

N.T.S.
VICINITY MAP
SECTION 6, T.4N., R.1W.



COUNTY: MARICOPA

SECTION: 6

TOWNSHIP: 4 NORTH

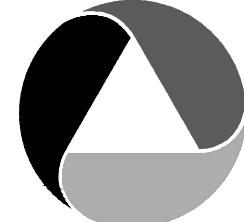
RANGE: 1 WEST

FINAL PLAT

TIERRA VERDE WEST
CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:



PM. J. SPRING
DR. R. GILES

JOB NO.
16000368

N.T.S.

16000368 TFW IJWG

SHEET NO.

1 OF 8

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 2" ALUMINUM CAP, STAMPED RLS 36562 ACCEPTED AS THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 1 WEST,

THENCE, ALONG THE SOUTH LINE OF SAID SECTION 6, N89°44'45"W A DISTANCE OF 2625.84' TO A FOUND 3" BRASS CAP ACCEPTED AS THE SOUTH QUARTER CORNER OF SAID SECTION 6;

THENCE, ALONG THE SOUTH-NORTH MID-SECTION LINE OF SAID SECTION 6, N00°00'15"W A DISTANCE OF 1318.10 FEET;

THENCE, LEAVING SAID SOUTH-NORTH MID-SECTION LINE OF SAID SECTION 6, S89°47'09"E A DISTANCE OF 2629.31 FEET TO THE EAST LINE OF SAID SECTION 6;

THENCE, ALONG THE EAST LINE OF SAID SECTION 6, S00°08'48"W A DISTANCE OF 1319.93 FEET TO THE POINT OF BEGINNING.

LEGEND	
	SUBDIVISION BOUNDARY
	RIGHT OF WAY LINE
	EXISTING RIGHT OF WAY LINE
	CENTERLINE
	FLOOD ZONE AE
	PROPOSED EASEMENT LINE
	SECTION LINE
	SUBDIVISION CORNER TO BE SET
	LOT CORNER TO BE SET
	FOUND MONUMENT AS NOTED
	CENTERLINE MONUMENT
	(TO BE SET BY CITY OF SURPRISE STANDARDS)
	30'x30' SIGHT VISIBILITY EASEMENT
	LOTS THAT ARE AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE
	VNAE
	PUE
	M.C.R.
	M.O.D.
	R/W
	FBSL
	D
	C1
	L1
	VEHICULAR NON-ACCESS EASEMENT
	PUBLIC UTILITY EASEMENT
	MARICOPA COUNTY RECORDS
	MAP OF DEDICATION
	RIGHT-OF-WAY
	FRONT BUILDING SETBACK LINE
	DELTA
	CURVE TABLE NUMBER
	LINE TABLE NUMBER

FLOOD PLAIN NOTE

LOTS ARE IN AN EXISTING FLOOD PLAIN AND WILL BE REMOVED PER THE APPROVED CLOMAR/LOMR

LOTS AFFECTED BY FLOOD PLAIN

- 15 TO 19
25 TO 48
65 TO 77
87 TO 89
95 TO 97
104 TO 108
113 TO 130
199 TO 227
232 TO 236

TRACT TABLE			
TRACT	AREA SQ FT	AREA ACRES	USAGES
TRACT A	219808	5.046	RETENTION, OPEN SPACE, DRAINAGE, PUE, PUBLIC TRAIL EASEMENT, RECREATION, AMENITIES
TRACT B	9301	0.214	OPEN SPACE, PUE
TRACT C	1050	0.024	OPEN SPACE, PUE
TRACT D	1050	0.024	OPEN SPACE, PUE
TRACT E	1050	0.024	OPEN SPACE, PUE
TRACT F	1050	0.024	OPEN SPACE, PUE
TRACT G	1050	0.024	OPEN SPACE, PUE
TRACT H	589436	13.532	RETENTION, OPEN SPACE, DRAINAGE, PUE, PUBLIC TRAIL EASEMENT, RECREATION, AMENITIES
TRACT I	40053	0.919	RETENTION, OPEN SPACE, DRAINAGE, PUE, RECREATION, AMENITIES
TRACT J	46689	1.072	RETENTION, OPEN SPACE, DRAINAGE, PUE, RECREATION, AMENITIES
TRACT K	2100	0.048	OPEN SPACE, PUE
TRACT L	4127	0.095	OPEN SPACE, PUE
TRACT M	10874	0.250	OPEN SPACE, PUE
TRACT N	2000	0.046	OPEN SPACE, PUE
TRACT O	7613	0.175	OPEN SPACE, PUE
TRACT P	113858	2.614	RETENTION, OPEN SPACE, DRAINAGE, PUE, RECREATION, AMENITIES
TRACT Q	50118	1.151	RETENTION, OPEN SPACE, DRAINAGE, PUE
TOTAL	1101228	25.281	



FS17-266



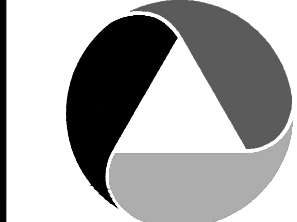
COUNTY: MARICOPA
SECTION: 6
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT

TERRA VERDE WEST
CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:



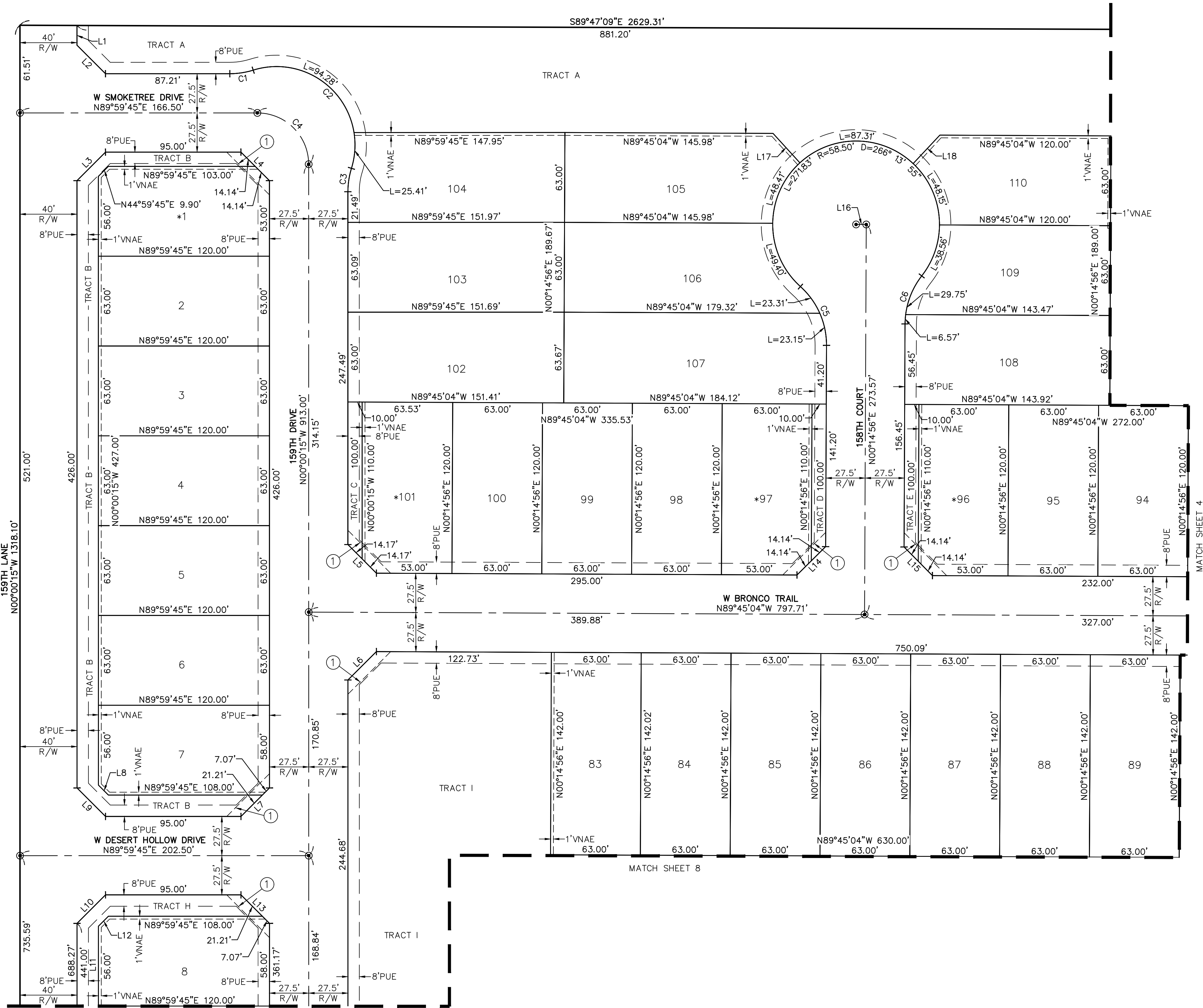
PM. J. SPRING
DR. R. GILES
JOB NO.
16000368

SCALE 0 50 100
1" = 100 FEET

16000368 TWP FP.DWG

SHEET NO.

2 OF 8

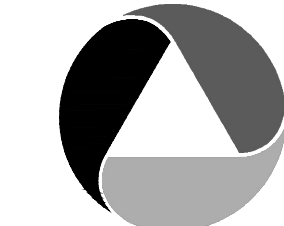


LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL					
LOT	AREA	SQ FT	AREA ACRES	WIDTH	LOT	AREA	SQ FT	AREA ACRES	WIDTH
*1	7485		0.172	63.0'	95	7560		0.174	63.0'
2	7560		0.174	63.0'	*96	7510		0.172	63.0'
3	7560		0.174	63.0'	*97	7510		0.172	63.0'
4	7560		0.174	63.0'	98	7560		0.174	63.0'
5	7560		0.174	63.0'	99	7560		0.174	63.0'
6	7560		0.174	63.0'	100	7560		0.174	63.0'
7	7523		0.173	63.0'	*101	7542		0.173	63.0'
8	7523		0.173	63.0'	102	9599		0.220	63.0'
83	8946		0.205	63.0'	103	9565		0.220	63.0'
84	8946		0.205	63.0'	104	9459		0.217	63.5'
85	8946		0.205	63.0'	105	9642		0.221	63.0'
86	8946		0.205	63.0'	106	9974		0.229	73.0'
87	8946		0.205	63.0'	107	11688		0.268	64.0'
88	8946		0.205	63.0'	108	9062		0.208	63.1'
89	8946		0.205	63.0'	109	8226		0.189	68.3'
94	7560		0.174	63.0'	110	7994		0.184	63.0'

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L1	N00°00'15"W	13.86'	L10	N44°59'45"E	28.28'
L2	N45°00'15"W	28.28'	L11	N00°00'15"W	439.00'
L3	N44°59'45"E	28.28'	L12	N44°59'45"E	9.90'
L4	N45°00'15"W	28.28'	L13	N45°00'15"W	28.28'
L5	N44°52'39"W	28.35'	L14	N45°14'56"E	28.28'
L6	N45°07'21"E	28.22'	L15	N44°45'04"W	28.28'
L7	N44°59'45"E	28.28'	L16	N89°45'04"W	7.14'
L8	N45°00'15"W	9.90'	L17	N42°21'29"W	27.91'
L9	N45°00'15"W	28.28'	L18	N43°09'33"E	27.42'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	16.65'	55.00'	017°20'29"
C2	119.69'	55.00'	124°40'58"
C3	16.65'	55.00'	017°20'29"
C4	56.55'	36.00'	090°00'00"
C5	46.46'	55.00'	048°23'51"
C6	36.32'	55.00'	037°50'05"



LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
39	7558	0.174	63.0'	128	5866	0.135	48.0'
72	9922	0.228	67.2'	129	5841	0.134	48.0'
90	8815	0.202	63.0'	130	5841	0.134	48.0'
91	8946	0.205	63.0'	131	6475	0.149	48.1'
92	8946	0.205	63.0'	132	6025	0.138	48.0'
*93	7510	0.172	63.0'	133	5520	0.127	48.0'
111	7873	0.181	68.5'	134	5520	0.127	48.0'
112	7992	0.183	64.3'	135	5520	0.127	48.0'
113	9181	0.211	68.5'	136	5520	0.127	48.0'
114	13072	0.300	67.3'	137	5520	0.127	48.0'
*115	7515	0.173	63.0'	167	5520	0.127	48.0'
116	9952	0.228	63.1'	168	5520	0.127	48.0'
117	11916	0.274	63.1'	169	5520	0.127	48.0'
118	10514	0.241	63.1'	170	5520	0.127	48.0'
119	8938	0.205	63.1'	171	5520	0.127	48.0'
120	8785	0.202	63.1'	172	6281	0.144	60.2'
121	7545	0.173	63.0'	173	6910	0.159	48.0'
122	5519	0.127	48.0'	174	6403	0.147	48.0'
123	5520	0.127	48.0'	175	6054	0.139	48.0'
124	5520	0.127	48.0'	176	5858	0.134	48.0'
125	5520	0.127	48.0'	177	5615	0.129	48.0'
126	5520	0.127	48.0'	195	5563	0.128	48.8'
127	5832	0.134	48.0'	196	5897	0.135	54.2'

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH
197	5897	0.135	54.2'
*198	7097	0.163	75.6'
*199	5480	0.126	48.0'
200	5520	0.127	48.0'

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L19	N45°14'56"E	28.28'	L27	N24°07'11"E	26.85'
L20	N44°45'04"W	28.28'	L28	N26°46'58"E	25.44'
L21	N89°45'04"W	21.87'	L29	N89°46'49"W	501.64'
L22	N21°16'51"E	28.28'	L30	N63°32'48"W	30.72'
L23	N68°43'09"W	28.28'	L31	N22°33'59"E	27.64'
L24	N21°16'51"E	28.28'	L32	N66°16'42"E	27.27'
L25	N68°43'09"W	28.28'	L33	N65°26'17"W	27.82'
L26	N65°42'01"W	29.74'			

CURVE TABLE				CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA	CURVE #	LENGTH	RADIUS	DELTA
C7	22.21'	54.37'	023°24'18"	C12	81.95'	927.50'	005°03'44"
C8	29.88'	25.00'	068°28'54"	C13	81.98'	872.50'	005°23'00"
C9	239.49'	572.50'	023°58'05"	C14	72.97'	222.50'	018°47'22"
C10	250.99'	600.00'	023°58'05"	C15	104.46'	250.00'	023°56'29"
C11	262.50'	627.50'	023°58'05"	C16	94.54'	277.50'	019°31'09"



FS17-266



COUNTY: MARICOPA
SECTION: 6
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT
TIERRA VERDE WEST
CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

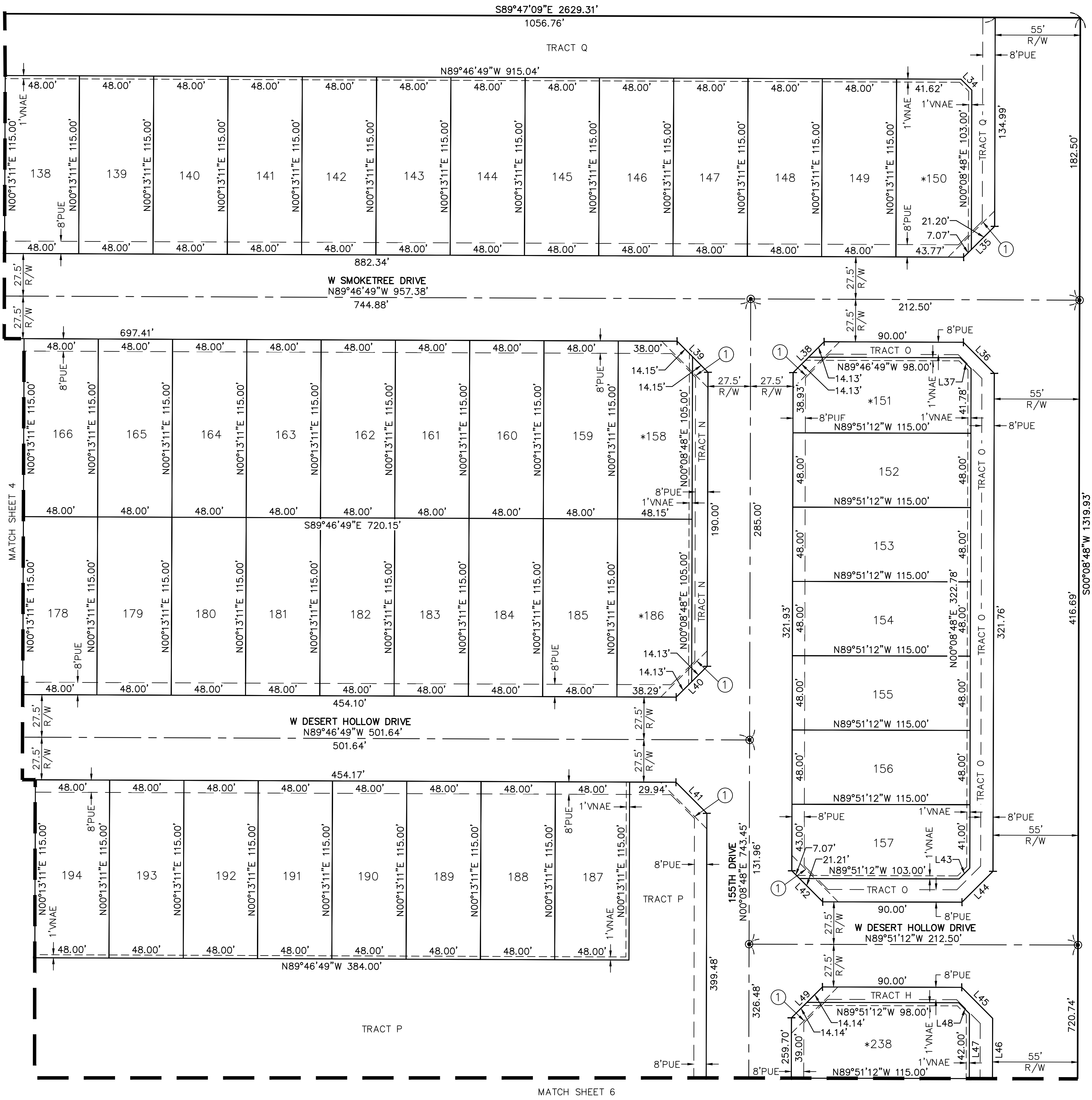


PM. J. SPRING
DR. R. GILES
JOB NO.
16000368

SCALE 0 20 40
1" = 40 FEET

16000368 TWP FP.DWG

SHEET NO.
4 OF 8



LOT TABLE\WIDTH BASED ON FBLS				LOT TABLE\WIDTH BASED ON FBLS			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
138	5520	0.127	48.0'	162	5520	0.127	48.0'
139	5520	0.127	48.0'	163	5520	0.127	48.0'
140	5520	0.127	48.0'	164	5520	0.127	48.0'
141	5520	0.127	48.0'	165	5520	0.127	48.0'
142	5520	0.127	48.0'	166	5520	0.127	48.0'
143	5520	0.127	48.0'	178	5520	0.127	48.0'
144	5520	0.127	48.0'	179	5520	0.127	48.0'
145	5520	0.127	48.0'	180	5520	0.127	48.0'
146	5520	0.127	48.0'	181	5520	0.127	48.0'
147	5520	0.127	48.0'	182	5520	0.127	48.0'
148	5520	0.127	48.0'	183	5520	0.127	48.0'
149	5520	0.127	48.0'	184	5520	0.127	48.0'
150	5563	0.128	48.8'	185	5520	0.127	48.0'
*151	5543	0.127	48.9'	*186	5495	0.126	48.3'
152	5520	0.127	48.0'	187	5520	0.127	48.0'
153	5520	0.127	48.0'	188	5520	0.127	48.0'
154	5520	0.127	48.0'	189	5520	0.127	48.0'
155	5520	0.127	48.0'	190	5520	0.127	48.0'
156	5520	0.127	48.0'	191	5520	0.127	48.0'
157	5483	0.126	48.0'	192	5520	0.127	48.0'
*158	5478	0.126	48.0'	193	5520	0.127	48.0'
159	5520	0.127	48.0'	194	5520	0.127	48.0'
160	5520	0.127	48.0'	*238	5560	0.128	49.0'
161	5520	0.127	48.0'				

* LOTS AFFECTED BY SIGHT VISIBILITY TRIANGLE INTO BUILDING ENVELOPE

LINE TABLE			LINE TABLE		
LINE #	DIRECTION	LENGTH	LINE #	DIRECTION	LENGTH
L34	N44°49'00"W	9.91'	L42	N44°51'12"W	28.28'
L35	N45°11'00"E	28.27'	L43	N45°08'48"E	9.90'
L36	N44°49'00"W	28.30'	L44	N45°08'48"E	28.28'
L37	N44°49'00"W	9.91'	L45	N44°51'12"W	28.28'
L38	N45°11'00"E	28.27'	L46	N00°08'48"E	673.13'
L39	N44°49'00"W	28.30'	L47	N00°08'48"E	331.00'
L40	N45°11'00"E	28.27'	L48	N44°51'12"W	9.90'
L41	N44°49'00"W	28.30'	L49	N45°08'48"E	28.28'

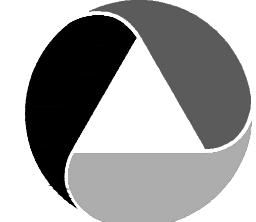


COUNTY: MARICOPA
SECTION: 6
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT
TIERRA VERDE WEST
CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

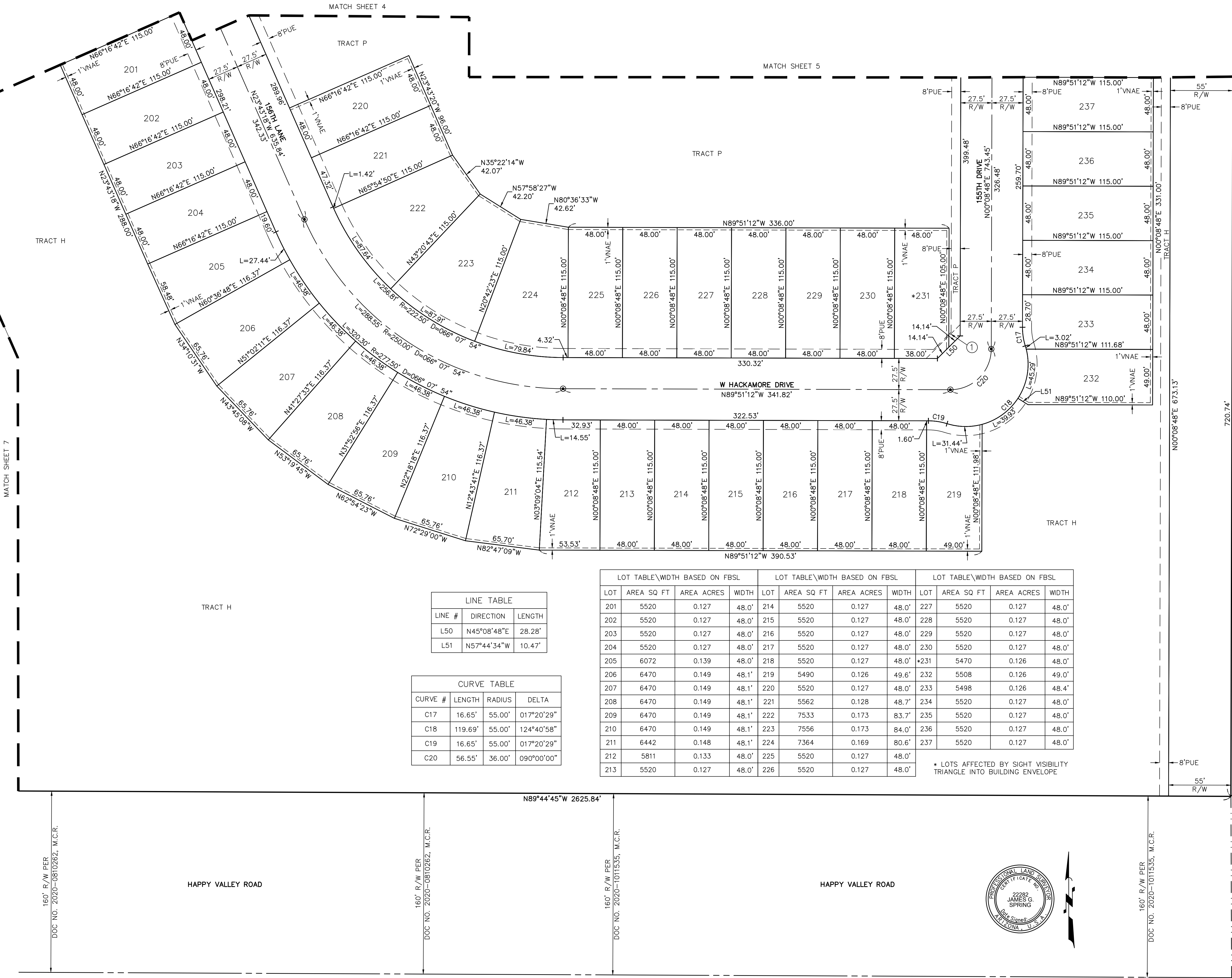


PM. J. SPRING
DR. R. GILES
JOB NO.
16000368

SCALE 0 20 40
1" = 40 FEET

16000368 TWR FP.DWG

SHEET NO.
5 OF 8



COUNTY:	MARICOPA
SECTION:	6
TOWNSHIP:	4 NORTH
RANGE:	1 WEST

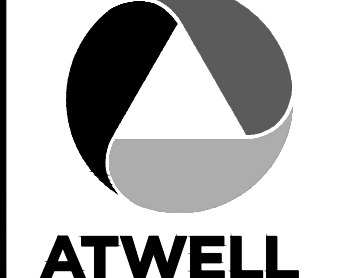
FINAL PLAT

TERRA VERDE WEST

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:

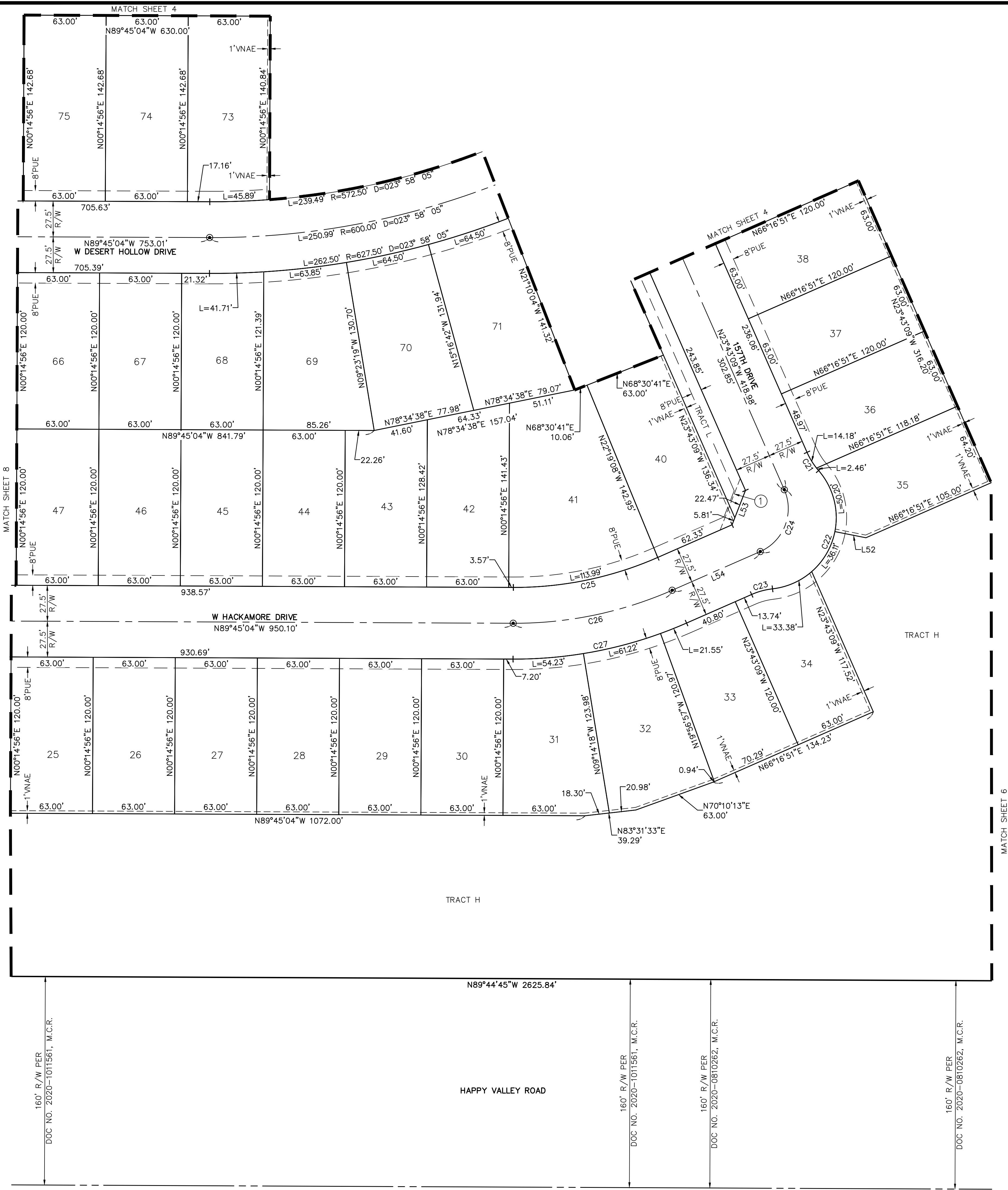


PM. J. SPRING
DR. R. GILES
JOB NO. 16000368

SCALE 0 20' 40'
1" = 40 FEET

16000368.TW.FP.DWG

SHEET NO. 6 OF 8



LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA	SQ FT	AREA ACRES	WIDTH	LOT	AREA	SQ FT
25	7560		0.174	63.0'	42	8500	0.195
26	7560		0.174	63.0'	43	7731	0.177
27	7560		0.174	63.0'	44	7560	0.174
28	7560		0.174	63.0'	45	7560	0.174
29	7560		0.174	63.0'	46	7560	0.174
30	7560		0.174	63.0'	47	7560	0.174
31	8696		0.200	63.9'	66	7560	0.174
32	8944		0.205	63.7'	67	7560	0.174
33	7966		0.183	63.0'	68	7579	0.174
34	7409		0.170	63.2'	69	9305	0.214
35	7503		0.172	64.2'	70	9305	0.214
36	7552		0.173	63.2'	71	9718	0.223
37	7560		0.174	63.0'	73	8961	0.206
38	7560		0.174	63.0'	74	8989	0.206
40	9160		0.210	66.2'	75	8989	0.206
41	12832		0.295	113.6'			

LINE TABLE		
LINE #	DIRECTION	LENGTH
L52	N78°45'44"W	24.31'
L53	N21°16'51"E	28.28'
L54	N66°16'51"E	73.83'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C21	16.65'	55.00'	017°20'29"
C22	119.69'	55.00'	124°40'58"
C23	16.65'	55.00'	017°20'29"
C24	56.55'	36.00'	090°00'00"
C25	113.99'	272.50'	023°58'05"
C26	125.50'	300.00'	023°58'05"
C27	137.00'	327.50'	023°58'05"



FS17-266

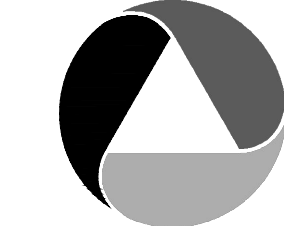


COUNTY: MARICOPA
SECTION: 6
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT
TIERRA VERDE WEST
CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:



PM. J. SPRING
DR. R. GILES
JOB NO. 16000368

SCALE 0 20 40
1" = 40 FEET

16000368 TWP FP.DWG

SHEET NO. 7 OF 8



LOT TABLE\WIDTH BASED ON FBSL				LOT TABLE\WIDTH BASED ON FBSL			
LOT	AREA SQ FT	AREA ACRES	WIDTH	LOT	AREA SQ FT	AREA ACRES	WIDTH
9	7560	0.174	63.0'	53	7560	0.174	63.0'
10	7560	0.174	63.0'	54	7560	0.174	63.0'
11	7560	0.174	63.0'	55	7560	0.174	63.0'
12	7560	0.174	63.0'	56	7542	0.173	63.0'
13	7555	0.173	63.1'	57	7605	0.175	64.0'
14	7914	0.182	61.1'	58	7560	0.174	63.0'
15	7501	0.172	55.7'	59	7560	0.174	63.0'
16	7530	0.173	63.5'	60	7560	0.174	63.0'
17	7560	0.174	63.0'	61	7560	0.174	63.0'
18	7560	0.174	63.0'	62	7560	0.174	63.0'
19	7560	0.174	63.0'	63	7560	0.174	63.0'
20	7560	0.174	63.0'	64	7560	0.174	63.0'
21	7560	0.174	63.0'	65	7560	0.174	63.0'
22	7560	0.174	63.0'	76	8989	0.206	63.0'
23	7560	0.174	63.0'	77	8989	0.206	63.0'
24	7560	0.174	63.0'	78	8989	0.206	63.0'
48	7560	0.174	63.0'	79	8989	0.206	63.0'
49	7560	0.174	63.0'	80	8989	0.206	63.0'
50	7560	0.174	63.0'	81	8989	0.206	63.0'
51	7560	0.174	63.0'	82	8989	0.206	63.0'
52	7560	0.174	63.0'				

LINE TABLE		
LINE #	DIRECTION	LENGTH
L55	N44°52'39"W	28.35'
L56	N45°07'21"E	28.22'
L57	N44°52'39"W	28.35'
L58	N47°05'31"E	25.77'
L59	N47°05'31"E	27.48'

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C28	16.68'	55.00'	017°22'48"
C29	119.48'	55.00'	124°28'06"
C30	16.65'	55.00'	017°20'29"
C31	56.39'	36.00'	089°44'49"



COUNTY: MARICOPA
SECTION: 6
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

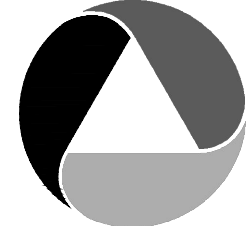
FINAL PLAT

TERRA VERDE WEST

CITY OF SURPRISE, ARIZONA

DECEMBER 2020

REVISIONS:



PM. J. SPRING
DR. R. GILES
JOB NO.
16000368

SCALE 0 20 40
1" = 40 FEET

16000368 TWP FP.DWG

SHEET NO.
8 OF 8

RESOLUTION # 2020-162

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, CONDITIONALLY APPROVING A FINAL PLAT ENTITLED “FINAL PLAT OF TIERRA VERDE WEST,” GENERALLY LOCATED NORTH OF HAPPY VALLEY ROAD AND WEST OF 155TH AVENUE.

WHEREAS, on May 11, 2006, the Mayor and City Council approved the Tierra Verde West Planned Area Development (“PAD”);

WHEREAS, on January 3, 2017, the Mayor and City Council approved the Tierra Verde West Preliminary Plat;

WHEREAS, on July 19, 2017, the Rancho Mercado Supplemental Development Agreement was recorded with the office of the Recorder for Maricopa County, Arizona;

WHEREAS, on September 15, 2020, the Mayor and City Council approved the First Amendment to the Rancho Mercado Supplemental Development Agreement, pursuant to which properties located within the defined “Benefited Area” are required to pay certain buy-in fees for infrastructure improvements constructed by William Lyon Homes, Inc. (Happy Valley Road East, Happy Valley Road West, Sewer, and/or Water) as a condition for final plat, site plat, and/or building permit approval by the City;

WHEREAS, Tierra Verde West is located within the Benefited Area and is required to pay the Happy Valley Road West, Happy Valley Road East, Water, and/or Sewer Buy-in Fees, as applicable, as defined in the First Amendment to the Rancho Mercado Supplemental Development Agreement, as a condition to City Council approval and then recordation of this Final Plat;

WHEREAS, an additional condition to approval and recordation of this Final Plat is the posting of required financial assurances for the completion of certain subdivision improvements pursuant to the Surprise City Code;

WHEREAS, the proposed Final Plat conforms to the Tierra Verde West Preliminary Plat approved by City Council, on January 3, 2017;

WHEREAS, the proposed Final Plat does not create any substandard or nonconforming lots; and

WHEREAS, the proposed Final Plat complies with the Surprise General Plan and Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Surprise, Arizona, as follows:

Section 1. The Final Plat entitled “Final Plat of Tierra Verde West” dated November 2020 is approved subject to the following conditions:

- A. The Final Plat of Tierra Verde West will not be recorded until the owner of the property has posted with the City the financial assurances for completion of subdivision improvements required by the Surprise City Code.
- B. The Final Plat of Tierra Verde West will not be recorded until the City has received from the owner of the property a Notice of Payment executed by William Lyon Homes, Inc. that all Buy-in Fees (Happy Valley Road East, Happy Valley Road West, Sewer, and/or Water) required to be paid by the Rancho Mercado Supplemental Development Agreement have been paid.

Section 2. If the Final Plat has not been recorded within sixty (60) days of the approval of this Resolution because the financial assurances required by Section 1(A) have not been posted with the City and/or the Notice of Payment required by Section 1(B) has not been received by the City, the City may, in lieu of recording, schedule this Final Plat for a public hearing for consideration and possible action by the City Council to revoke, repeal, and nullify the approval of the Final Plat.

APPROVED AND ADOPTED this _____ day of _____ 2020.

Skip Hall, Mayor

Attest:

Approved as to form:

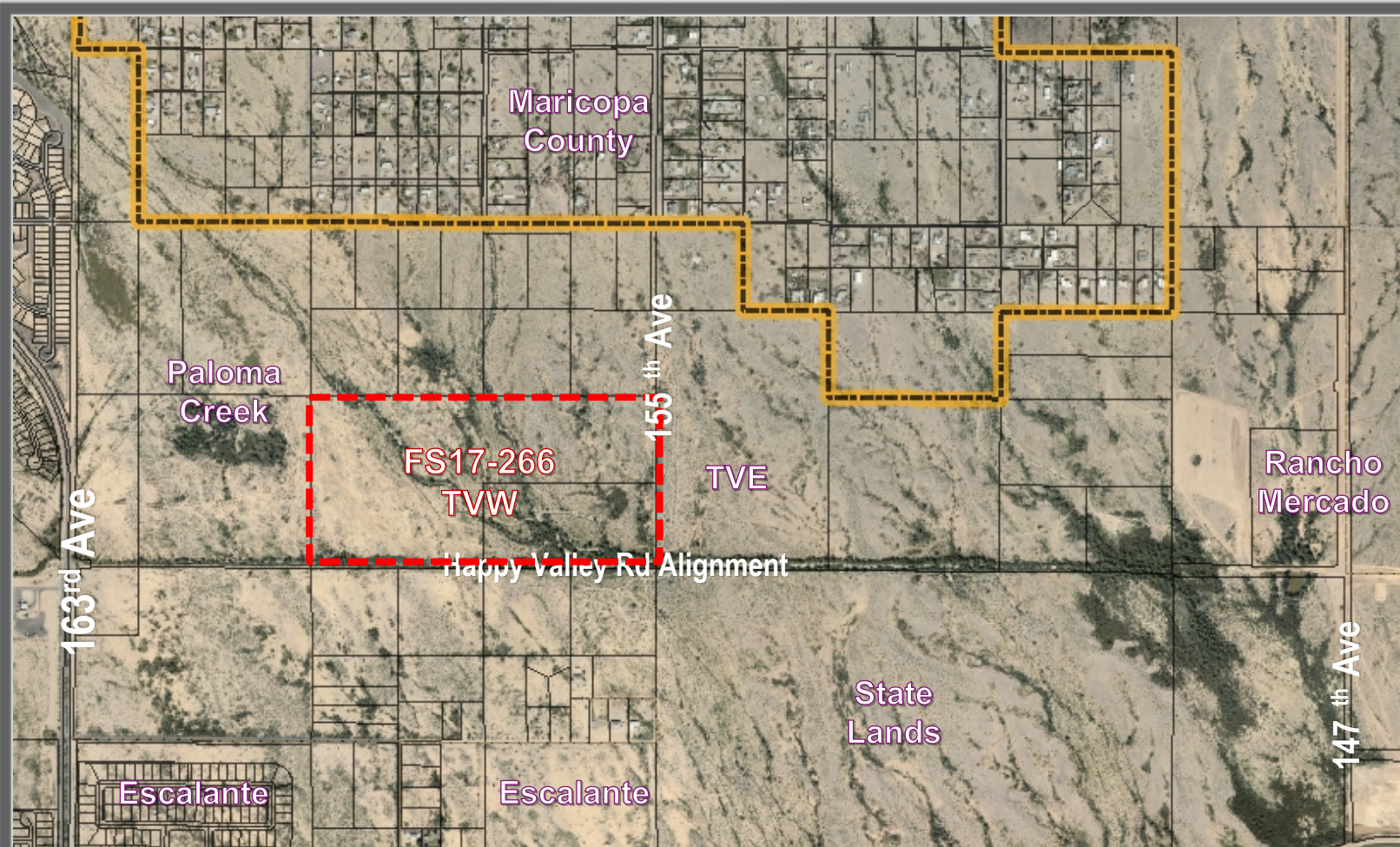
Sherry Aguilar, City Clerk

Robert Wingo, City Attorney



FS17-266
Tierra Verde West
Final Plat

City Council
December 15, 2020

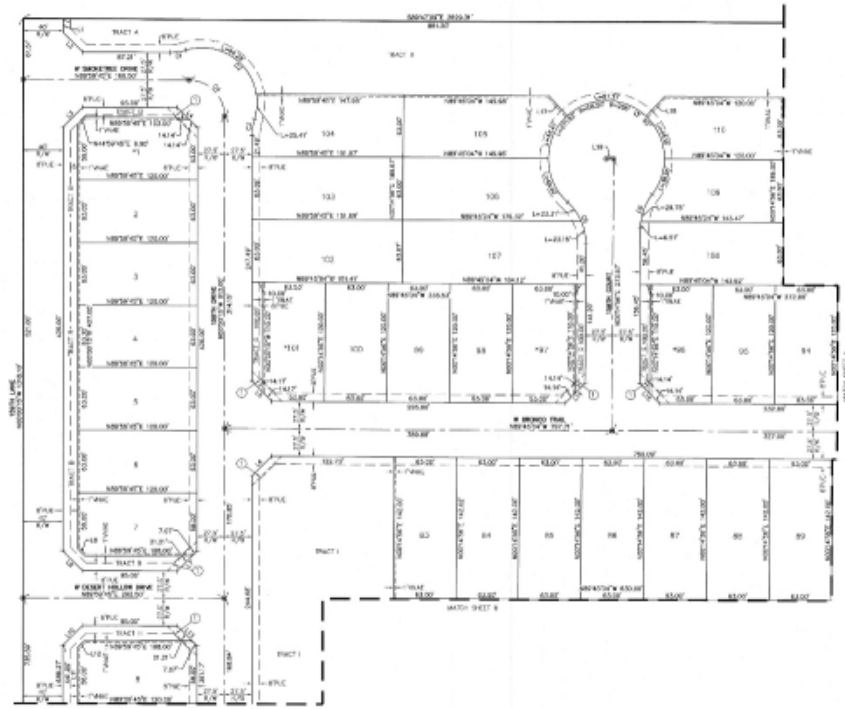


VICINITY MAP



UNLESS OTHERWISE NOTED, ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD OR RAILROAD. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD OR RAILROAD. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD OR RAILROAD.

1. THESE PLANS WERE PREPARED BY THE ENGINEER AND THE ENGINEER IS NOT RESPONSIBLE FOR THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT.



LOT TABLE (ORDINANCE 100)				LOT TABLE (ORDINANCE 100)			
LOT	AREA (SQ FT)	AREA (ACRS)	WETN	LOT	AREA (SQ FT)	AREA (ACRS)	WETN
1	7000	0.16	0.00	10	7000	0.16	0.00
2	7000	0.16	0.00	11	7000	0.16	0.00
3	7000	0.16	0.00	12	7000	0.16	0.00
4	7000	0.16	0.00	13	7000	0.16	0.00
5	7000	0.16	0.00	14	7000	0.16	0.00
6	7000	0.16	0.00	15	7000	0.16	0.00
7	7000	0.16	0.00	16	7000	0.16	0.00
8	7000	0.16	0.00	17	7000	0.16	0.00
9	7000	0.16	0.00	18	7000	0.16	0.00
10	7000	0.16	0.00	19	7000	0.16	0.00
11	7000	0.16	0.00	20	7000	0.16	0.00
12	7000	0.16	0.00	21	7000	0.16	0.00
13	7000	0.16	0.00	22	7000	0.16	0.00
14	7000	0.16	0.00	23	7000	0.16	0.00
15	7000	0.16	0.00	24	7000	0.16	0.00
16	7000	0.16	0.00	25	7000	0.16	0.00
17	7000	0.16	0.00	26	7000	0.16	0.00
18	7000	0.16	0.00	27	7000	0.16	0.00
19	7000	0.16	0.00	28	7000	0.16	0.00
20	7000	0.16	0.00	29	7000	0.16	0.00
21	7000	0.16	0.00	30	7000	0.16	0.00
22	7000	0.16	0.00	31	7000	0.16	0.00
23	7000	0.16	0.00	32	7000	0.16	0.00
24	7000	0.16	0.00	33	7000	0.16	0.00
25	7000	0.16	0.00	34	7000	0.16	0.00
26	7000	0.16	0.00	35	7000	0.16	0.00
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28	7000	0.16	0.00	37	7000	0.16	0.00
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32	7000	0.16	0.00	41	7000	0.16	0.00
33	7000	0.16	0.00	42	7000	0.16	0.00
34	7000	0.16	0.00	43	7000	0.16	0.00
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55	7000	0.16	0.00	64	7000	0.16	0.00
56	7000	0.16	0.00	65	7000	0.16	0.00
57	7000	0.16	0.00	66	7000	0.16	0.00
58	7000	0.16	0.00	67	7000	0.16	0.00
59	7000	0.16	0.00	68	7000	0.16	0.00
60	7000	0.16	0.00	69	7000	0.16	0.00
61	7000	0.16	0.00	70	7000	0.16	0.00
62	7000	0.16	0.00	71	7000	0.16	0.00
63	7000	0.16	0.00	72	7000	0.16	0.00
64	7000	0.16	0.00	73	7000	0.16	0.00
65	7000	0.16	0.00	74	7000	0.16	0.00
66	7000	0.16	0.00	75	7000	0.16	0.00
67	7000	0.16	0.00	76	7000	0.16	0.00
68	7000	0.16	0.00	77	7000	0.16	0.00
69	7000	0.16	0.00	78	7000	0.16	0.00
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158	7000	0.16	0.00	167	7000	0.16	0.00
159	7000	0.16	0.00	168	7000	0.16	0.00

FINAL PLAT



CONVEYANCE
SECTION 4
TOWNSHIP 4 NORTH
RANGE 1 WEST

FINAL PLAT
TIERRA VERDE WEST
CITY OF SAN ANTONIO, TEXAS

NOVEMBER 2020

NO RECORD



OK. A. SPENCE

OK. R. GILES

OK. M.

10000000

SCALE

1" = 40 FEET

SCALE FOR

4 OF 8



LINE TABLE	LINE TABLE
LINE #	LINE #
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103	104
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155	156
157	158

CURVE TABLE	CURVE TABLE
CURVE #	CURVE #
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97	98
99	100

LOT AREA TO PT	LOT AREA TO PT
LOT #	LOT #
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197	198
199	200

APPROVED FOR THE CITY OF TERRA VERDE WEST, TEXAS, BY THE BOARD OF CITY ENGINEERS, ON 11/05/2023, FOR THE REASONING SET FORTH HEREIN. APPROVED FOR THE CITY OF TERRA VERDE WEST, TEXAS, BY THE BOARD OF CITY ENGINEERS, ON 11/05/2023, FOR THE REASONING SET FORTH HEREIN.



LOT 1-10 (SUBJECT TO EASES ON FILE)				LOT 11-20 (SUBJECT TO EASES ON FILE)			
LOT	AREA SQ. FT.	AREA ACRES	LOF	LOT	AREA SQ. FT.	AREA ACRES	LOF
1	7000	0.176	0.000	11	7000	0.176	0.000
2	7000	0.176	0.000	12	7000	0.176	0.000
3	7000	0.176	0.000	13	7000	0.176	0.000
4	7000	0.176	0.000	14	7000	0.176	0.000
5	7000	0.176	0.000	15	7000	0.176	0.000
6	7000	0.176	0.000	16	7000	0.176	0.000
7	7000	0.176	0.000	17	7000	0.176	0.000
8	7000	0.176	0.000	18	7000	0.176	0.000
9	7000	0.176	0.000	19	7000	0.176	0.000
10	7000	0.176	0.000	20	7000	0.176	0.000

LINE TABLE	
LINE #	DESCRIPTION
1	1/4" SECTION 1
2	1/4" SECTION 2
3	1/4" SECTION 3
4	1/4" SECTION 4

CURVE TABLE	
CURVE #	DESCRIPTION
1	1/4" SECTION 1
2	1/4" SECTION 2
3	1/4" SECTION 3
4	1/4" SECTION 4



COUNTY: HARRIS
SECTION: 5
TOWNSHIP: 4 NORTH
RANGE: 1 WEST

FINAL PLAT
TIERRA VERDE WEST
CITY OF TERRA VERDE, TEXAS

NOVEMBER 2023

RECORDED



1/4" SECTION 5
TOWNSHIP 4 NORTH
RANGE 1 WEST

SCALE: 1" = 40' PLAT

DATE: 11/05/2023

7 CP 8



11/05/2023

FINAL PLAT

1. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A CONTRACT. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.



LOT	AREA (SQ. FT.)	AREA (ACRES)	WIDTH	LOT	AREA (SQ. FT.)	AREA (ACRES)	WIDTH
1	7800	0.178	63.0	10	7800	0.178	63.0
2	7800	0.178	63.0	11	7800	0.178	63.0
3	7800	0.178	63.0	12	7800	0.178	63.0
4	7800	0.178	63.0	13	7800	0.178	63.0
5	7800	0.178	63.0	14	7800	0.178	63.0
6	7800	0.178	63.0	15	7800	0.178	63.0
7	7800	0.178	63.0	16	7800	0.178	63.0
8	7800	0.178	63.0	17	7800	0.178	63.0
9	7800	0.178	63.0	18	7800	0.178	63.0
10	7800	0.178	63.0	19	7800	0.178	63.0
11	7800	0.178	63.0	20	7800	0.178	63.0
12	7800	0.178	63.0	21	7800	0.178	63.0
13	7800	0.178	63.0	22	7800	0.178	63.0
14	7800	0.178	63.0	23	7800	0.178	63.0
15	7800	0.178	63.0	24	7800	0.178	63.0

LINE	DESCRIPTION	LENGTH
1	844°52'30"W	28.00
2	844°52'30"W	28.00
3	844°52'30"W	28.00
4	844°52'30"W	28.00
5	844°52'30"W	28.00

CLINE	LENGTH	BEARING	AREA
1	18.00	84.00°	0.0000
2	18.00	84.00°	0.0000
3	18.00	84.00°	0.0000
4	18.00	84.00°	0.0000



ATWELL
REGISTERED PROFESSIONAL SURVEYOR
No. 123456
Exp. 12/31/2010

FINAL PLAT

TIERRA VERDE WEST

CITY OF SAN ANTONIO, TEXAS

NOVEMBER 2008

SECTION 8

TRACT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

SCALE: 1" = 40' (PLAT)

8' 10" = 8'



SURPRISE
ARIZONA

QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: December 15, 2020

Contact Person: Robert Wingo, CITY
ATTORNEY

Submitting Department: Legal

District: Internal

Staff Recommendations:

Consent: No	Regular: Yes	Public Hearing: No	Report/Discussion: No
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Agenda Wording:

Consideration and action pertaining to approval of the Restructuring Support Agreement (RSA) between Mallinckrodt PLC, each of its subsidiaries, and Governmental Entities holding Opioid Claims, including the City of Surprise.

Motion:

I move to approve the Restructuring Support Agreement and authorize legal counsel to execute the Agreement on behalf of the City.

Background:

Mallinckrodt PLC, a major opioid manufacturer, filed for bankruptcy in October of this year. Surprise's claims against Mallinckrodt and its related entities are automatically stayed under the Bankruptcy Code. The City's outside counsel will be negotiating the claims on Surprise's behalf in the bankruptcy court as an unsecured creditor.

There is no confirmed bankruptcy plan of reorganization yet. However, Surprise may have an opportunity to maximize the use of the funds Mallinckrodt has available for local governments through the attached Restructuring Support Agreement ("RSA"), which our outside bankruptcy counsel jointly with the Multi-State Governmental Entities ("MSGGE") Group has negotiated. The RSA will provide the MSGGE group with several rights and benefits in the bankruptcy negotiations which will be beneficial to the City of Surprise.

Objective Analysis:

The RSA will provide the City of Surprise, among other things, a "seat at the table", access to key documents, and a say in Mallinckrodt's settlements with other entities, but it doesn't bind the City to any particular outcome in the bankruptcy negotiations.

Policy Compliant:

Consideration by City Council of Agreement impacting litigation is compliant with the Surprise Municipal Code and state law.

Financial Impact:

None.

Budget Impact:

None.

FTE Impact:

None.

ATTACHMENTS:

1. Mallinckrodt RSA
-

THIS RESTRUCTURING SUPPORT AGREEMENT IS NOT AN OFFER OR ACCEPTANCE WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OF A CHAPTER 11 PLAN WITHIN THE MEANING OF SECTION 1125 OF THE BANKRUPTCY CODE. ANY SUCH OFFER OR SOLICITATION WILL COMPLY WITH ALL APPLICABLE SECURITIES LAWS AND/OR PROVISIONS OF THE BANKRUPTCY CODE. NOTHING CONTAINED IN THIS RESTRUCTURING SUPPORT AGREEMENT SHALL BE AN ADMISSION OF FACT OR LIABILITY OR, UNTIL THE OCCURRENCE OF THE AGREEMENT EFFECTIVE DATE ON THE TERMS DESCRIBED HEREIN, DEEMED BINDING ON ANY OF THE PARTIES HERETO.

RESTRUCTURING SUPPORT AGREEMENT

This RESTRUCTURING SUPPORT AGREEMENT (as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, this “***RSA***” and, together with the Term Sheet (as defined below), this “***Agreement***”), dated as of October 11, 2020, is entered into by and among the following parties:¹

(i) Mallinckrodt plc (the “***Parent***”) and each of its subsidiaries listed on **Annex 1** hereto (each, including the Parent, a “***Company Entity***,” and collectively, the “***Company***” or the “***Debtors***”; and the Company, together with any subsidiaries or affiliates of the Parent not identified on **Annex 1** hereto, “***Mallinckrodt***”);

(ii) the undersigned holders of Guaranteed Unsecured Notes, and such additional holders of Guaranteed Unsecured Notes who become party hereto from time to time pursuant to a Joinder Agreement (collectively, the “***Supporting Unsecured Noteholders***”); and

(iii) the Plaintiffs’ Executive Committee (defined below), the undersigned Governmental Entities, and any additional Governmental Entities holding Opioid Claims who become party hereto from time to time pursuant to a Joinder Agreement (collectively, the “***Supporting Governmental Opioid Claimants***,” and together with the Supporting Unsecured Noteholders, the “***Supporting Parties***,” and the Supporting Parties together with the Company, the “***Parties***”).²

WHEREAS, the Parties have in good faith and at arm’s length negotiated and agreed to the terms of a restructuring (the “***Restructuring***”) as set forth on the term sheet attached hereto as **Exhibit A** (including the Opioid Settlement Term Sheet (as defined below), the “***Term Sheet***,” and the chapter 11 plan based thereon, together with all exhibits, annexes, and schedules thereto, as each may be amended, restated, amended and restated, supplemented, or otherwise modified in accordance with its terms and this Agreement, the “***Plan***”) intended to be consummated through (a) voluntary cases under chapter 11 of the Bankruptcy Code (as defined below) (the “***Chapter 11***”

¹ Capitalized terms used but not defined in the preamble and recitals to this Agreement have the meanings ascribed to them in Section 1 or the Term Sheet, as applicable.

² For the avoidance of doubt, the term “Parties” or “Party” as and when used in this Agreement refers to the individual signatories to this Agreement, and not the Supporting Governmental Opioid Claimants, the Supporting Unsecured Noteholders, the Company or the Supporting Parties as a whole or in their capacity as groups.

Cases”) in the United States Bankruptcy Court for the District of Delaware (the “*Bankruptcy Court*”) on the terms set forth in this Agreement, (b) the examinership proceedings to be commenced by the directors of the Parent or any other Company Entity under the laws of Ireland (the “*Irish Examinership Proceedings*”), and (c) the Recognition Proceedings;

WHEREAS, the Company and the Supporting Governmental Opioid Claimants have in good faith and at arm’s length negotiated and agreed to the terms of a global settlement of all Opioid Claims against the Company to be facilitated through the Chapter 11 Cases as set forth on the settlement term sheet attached to the Term Sheet as **Schedule 1** (the “*Opioid Settlement Term Sheet*,” and the settlement based thereon, the “*Opioid Settlement*”);

WHEREAS, the Parties intend that additional Governmental Entities holding Opioid Claims, other Opioid Claimants (or representatives thereof), and holders of Guaranteed Unsecured Notes will be encouraged to join this Agreement and/or otherwise support the Opioid Settlement and the Restructuring, in accordance with the terms hereof; and

WHEREAS, the Parties desire to express to each other their mutual support and commitment in respect of the matters discussed in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **Certain Definitions.** Capitalized terms used but not defined in this Agreement have the meanings ascribed to them in the Term Sheet (including the Opioid Settlement Term Sheet). As used in this Agreement, the following terms have the following meanings:

a. “**105(a) Order**” means an order under section 105(a) of the Bankruptcy Code preliminarily enjoining any Person (or unit thereof) from pursuit of any Opioid Claim against Mallinckrodt, the form of which must be acceptable to the Governmental Plaintiff Ad Hoc Committee, and the Required Supporting Unsecured Noteholders.

b. “**Agreement Effective Date**” means the date on which (i) counterpart signature pages to this Agreement shall have been executed and delivered to Latham & Watkins LLP by (A) each Company Entity, (B) the holders of at least 66.67% in outstanding principal amount of Guaranteed Unsecured Notes, and (C) at least 40 States and the Plaintiffs’ Executive Committee, either directly or through authorized counsel; and (ii) the Company Parties shall have paid all Restructuring Expenses that have been invoiced by no later than October 7, 2020.

c. “**Alternative Transaction**” means any dissolution, winding up, liquidation, reorganization, receivership (or otherwise any enforcement of security over any of the shares or assets of any of the Company Entities), examinership, assignment for the benefit of creditors, merger, transaction, takeover, offer, reverse takeover, consolidation, business combination, joint venture, partnership, sale of assets or equity, financing (debt or equity), restructuring, settlement of Opioid Claims, or similar transaction of or by any of the Company Entities, other than the transactions contemplated by and in accordance with this Agreement.

- d. “**Bankruptcy Code**” means title 11 of the United States Code.
- e. “**Business Day**” means any day, other than Saturday or Sunday, on which commercial banks are open for commercial business with the public in New York City, New York.
- f. “**Cash Collateral**” has the meaning set forth in section 363(a) of the Bankruptcy Code.
- g. “**Cash Collateral Order**” means an order entered by the Bankruptcy Court authorizing the Debtors’ use of Cash Collateral, and all exhibits and schedules thereto, including any budget.
- h. “**Claim**” has the meaning ascribed to such term under section 101(5) of the Bankruptcy Code.
- i. “**CMS**” means the Centers for Medicare & Medicaid Services of the United States Department of Health and Human Services.
- j. “**CMS/DOJ/States Settlement**” means the settlement between Mallinckrodt, the United States of America and the States (excluding, for this purpose, any territories of the United States) resolving the Acthar-related litigations and government investigations disclosed in the Company’s Form 10-K for 2019, including *United States of America, et al., ex rel., Charles Strunck, et al. v. Mallinckrodt ARD LLC* (E.D. Penn.); *United States of America et al. ex rel. Landolt v. Mallinckrodt ARD, LLC* (D. Mass.); and *Mallinckrodt ARD LLC v. Verma et al.* (D.D.C.), and related matters, the terms of which are set forth on **Schedule 2** to the Term Sheet.
- k. “**CMS/DOJ/States Settlement Agreement**” means the definitive settlement agreements memorializing the CMS/DOJ/States Settlement, which shall be consistent with the terms set forth on **Schedule 2** to the Term Sheet.
- l. “**Confirmation Order**” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.
- m. “**Definitive Documents**” means, with respect to the Restructuring, all material documents (including any related Bankruptcy Court or other judicial or regulatory orders, agreements, schedules, pleadings, motions, filings, or exhibits) that are contemplated by this Agreement and that are otherwise necessary or desirable to implement the Restructuring, including (as applicable): (i) the Plan; (ii) Disclosure Statement; (iii) any other operative documents and/or agreements relating to the Plan (including any documents necessary to implement the distributions contemplated thereunder) and/or the Disclosure Statement; (iv) the Disclosure Statement Order; (v) the Confirmation Order; (vi) the Plan Supplement; (vii) the MIP; (viii) the Scheme of Arrangement and any other substantive pleadings submitted in the Irish Examinership Proceedings; (ix) an order of the High Court of Ireland confirming the Scheme of Arrangement; (x) the Exit Financing Documents, including all intercreditor agreements; (xi) the New Governance Documents; (xii) pleadings commencing the Recognition Proceeding and any substantive pleadings filed therein, including the order(s) granting recognition to the Chapter 11 Cases and relief granted therein; (xiii) all documents memorializing the Opioid Settlement;

(xiv) the Opioid Trust Documents; (xv) the New Opioid Warrants; (xvi) the Cash Collateral Order; (xvii) the First Day Pleadings; (xviii) any new key employee incentive and retentive based compensation programs to be proposed after the Petition Date; and (xix) all agreements to settle (A) administrative, priority, or tax claims (other than claims held by a Debtor or Non-Debtor Affiliate against a Debtor) in the Chapter 11 Cases or in connection with the Restructuring in excess of \$20 million or (B) General Unsecured Claims (other than claims held by a Debtor or Non-Debtor Affiliate against a Debtor) in the Chapter 11 Cases or in connection with the Restructuring in excess of \$50 million.

n. **“Disclosure Statement”** means the disclosure statement related to the Plan and any exhibits, schedules, attachments, or appendices thereto, in each case as may be amended, supplemented, or otherwise modified from time to time in accordance with the terms herein and therein.

o. **“Disclosure Statement Order”** means the order approving the Disclosure Statement.

p. **“Examiner”** means the examiner(s) to be appointed to the Parent or any other Company Entity by order of the High Court of Ireland on the commencement of the Irish Examinership Proceedings.

q. **“Exit Financing Documents”** means any agreements, indentures, commitment letters, documents, or instruments relating to any exit financing facility or facilities to be entered into by the reorganized Company, including with respect to the Takeback Second Lien Notes.

r. **“Finally Determined”** means the amount of cash taxes paid or refund or overpayment realized by the Debtors, as may be adjusted in connection with the filing of an amended tax return or pursuant to a “determination” (as defined in Section 1313 of the Code, or analogous provision of state, local or non-U.S. tax law).

s. **“First Day Pleadings”** means the motions, petitions, pleadings, and draft orders that the Company files at the commencement of the Chapter 11 Cases. First Day Pleadings include orders as entered by the Bankruptcy Court.

t. **“Governmental Entity”** means the United States and any department, agency, or instrumentality of the United States and any State, Municipality, political subdivision or Native American Tribe and in each case, any department, agency, or instrumentality thereof.

u. **“Governmental Plaintiff Ad Hoc Committee”** means the ad hoc group of Governmental Entities holding Opioid Claims (or representatives thereof, including the Plaintiffs’ Executive Committee) represented by, among others, Gilbert LLP, Kramer Levin Naftalis & Frankel LLP, Brown Rudnick LLP, William Fry, and Houlihan Lokey Capital, Inc.

v. **“Guaranteed Unsecured Notes”** means, individually and collectively, the Company’s 5.75% Senior Notes due 2022, 5.500% Senior Notes due 2025, and 5.625% Senior Notes due 2023.

w. **“Interest”** means an equity interest, including the common stock, preferred stock, limited liability company interests, and any other equity, ownership, or profits interests of any of the Parent or its affiliates, and options, warrants, rights, or other securities or agreements to acquire the common stock, preferred stock, limited liability company interests, or other equity, ownership, or profits interests of any of the Parent or its affiliates (whether or not arising under or in connection with any employment agreement).

x. **“Joinder Agreement”** means the form of joinder agreement attached hereto as **Exhibit B**.

y. **“Make-Whole Claims”** means any Claim, whether secured or unsecured, derived from or based upon any make-whole, applicable premium, redemption premium, prepayment premium, or other similar payment provisions due upon acceleration as provided for by Section 6.02 of each of the Secured Notes Indentures.

z. **“Make-Whole Reservation of Rights”** means the reservation of rights of each Party hereto set forth in **Section 23** hereof.

aa. **“Mandatory Offer Requirement”** means a requirement to make a mandatory cash offer for the Company under Rule 9 of the Irish Takeover Panel Act, 1997, Takeover Rules, 2013 of Ireland.

bb. **“MDL”** means that certain opioid multi-district litigation captioned *In re National Prescription Opiate Litigation*, MDL No. 2804, Case No. 17-md-02804 (N.D. Ohio).

cc. **“Municipality”** means any governmental unit (or division or agency thereof) that is not a State or Native American Tribe.

dd. **“Native American Tribe”** means any Native American tribe within the borders of the United States of America.

ee. **“Net Prepetition Cash Tax Liability”** means (a) the cash tax owed by the Debtors after the Petition Date (including any cash taxes owed to a taxing authority in connection with an audit, assessment, examination or other tax proceeding), less (b) refunds or overpayments of taxes realized by the Debtors received after the Petition Date (or credited against taxes in a taxable period (or portion thereof) ending after the Petition Date), in each case, with respect to a taxable period or portion thereof ending on or prior to the Petition Date, as Finally Determined; provided, that the determination of Net Prepetition Cash Tax Liability shall not include any tax liability which is attributable to any action requested or consented to by the Required Supporting Unsecured Noteholders or the Governmental Plaintiff Ad Hoc Committee. For taxable periods beginning on or prior to and ending after the Petition Date, the applicable cash taxes, refunds or overpayments shall be apportioned to the portion of the taxable period ending on the Petition Date (i) in the case of a property or other ad valorem tax, by multiplying the total amount of such tax by a fraction, the numerator of which is the number of days in the period ending on the Petition Date, and the denominator of which is the total number of days in the taxable period or (ii) in the case of all other taxes, based on an interim closing of the books as of the close of business on the Petition Date (except that exemptions, allowances or deductions that are calculated on annual basis, such as depreciation, shall be apportioned on a pro rata basis).

ff. **“New Governance Documents”** means any organizational or constitutional documents, operating agreements, warrant agreements, option agreements, management services agreements, shareholder and member-related agreements, registration rights agreements or other governance documents for the reorganized Company Entities.

gg. **“Non-Debtor Affiliates”** means the Parent’s subsidiaries and affiliates (as defined in section 101(2) of the Bankruptcy Code) that are not debtors in the Chapter 11 Cases.

hh. **“Noteholder Consent Fee”** means cash in an amount equal to 1.5% of par value of the applicable Supporting Unsecured Noteholder’s Guaranteed Unsecured Notes as of the Determination Date (as defined below).

ii. **“Notes Issuers”** means Mallinckrodt International Finance S.A. and Mallinckrodt CB LLC.

jj. **“Person”** means an individual, firm, corporation (including any non-profit corporation), partnership, limited partnership, limited liability company, joint venture, association, trust, governmental entity, or other entity or organization.

kk. **“Petition Date”** means the date on which the Company commences the Chapter 11 Cases.

ll. **“Plaintiffs’ Executive Committee”** means the court-appointed Co-Lead Counsel Paul J. Hanly, Jr., Joseph Rice, and Paul T. Farrell, Jr. on behalf of the court-appointed plaintiffs’ executive committee in the MDL, solely in their capacities as such and not in any individual capacities.

mm. **“Plan Effective Date”** means the date on which the Plan becomes effective in accordance with its terms.

nn. **“Plan Supplement”** means one or more supplemental appendices to the Plan, which shall include, among other things, draft forms of documents (or terms sheets thereof), schedules, and exhibits to the Plan, in each case subject to the provisions of this Agreement and as may be amended, modified, or supplemented from time to time on or prior to the Plan Effective Date, including the following documents: (i) the New Governance Documents, (ii) the indenture evidencing the Takeback Second Lien Notes, (iii) the Exit Financing Documents, (iv) the Opioid Trust Documents, (v) the CMS/DOJ/States Settlement Agreement (if any), (vi) to the extent known and determined, the identity of the members of the board of the reorganized Company, and (vii) such other documents as may be specified in the Plan.

oo. **“Representatives”** means, with respect to any Person, such Person’s affiliates and its and their directors, officers, members, partners, managers, employees, agents, investment bankers, attorneys, accountants, advisors, investment advisors, managed accounts or funds, management companies, fund advisors, advisory board members, professionals and other representatives, in each case, solely in their capacities as such.

pp. **“Required Supporting Parties”** means, as of any date of determination, the Required Supporting Unsecured Noteholders and the Governmental Plaintiff Ad Hoc Committee.

qq. **“Required Supporting Unsecured Noteholders”** means, as of any date of determination, Supporting Unsecured Noteholders holding at least a majority in outstanding principal amount of Guaranteed Unsecured Notes held by the Supporting Unsecured Noteholders then party to this Agreement. Guaranteed Unsecured Notes held by any (i) Mallinckrodt entity, (ii) holder of Opioid Claims and (iii) entity or person whose vote has been “designated” by the Bankruptcy Court in the Chapter 11 Cases (including pursuant to section 1126(e) of the Bankruptcy Code), shall not be included (either in the numerator or the denominator), and shall not be considered outstanding Guaranteed Unsecured Notes Claims, for purposes of calculating (x) the Required Supporting Unsecured Noteholders or (y) any other threshold applicable to the Supporting Unsecured Noteholders under this Agreement.

rr. **“Scheme of Arrangement”** means the scheme(s) of arrangement based on and consistent in all respects with the Term Sheet and the Plan to be formulated and proposed by the Examiner in respect of the Parent or any other Company Entity, and submitted for confirmation to the High Court of Ireland.

ss. **“Secured Notes Indentures”** means (a) that certain Indenture, dated as of April 7, 2020 (as modified, amended, or supplemented from time to time), by and among the Notes Issuers, as issuers, the guarantors party thereto from time to time, Wilmington Savings Fund Society, FSB, as first lien trustee, and Deutsche Bank AG New York Branch, as first lien collateral agent; and (b) that certain Indenture, dated as of December 6, 2019 (as modified, amended, or supplemented from time to time), by and among the Notes Issuers, as issuers, the guarantors party thereto from time to time, and Wilmington Savings Fund Society, FSB, as second lien trustee and second lien collateral agent.

tt. **“Specified Claims and Interests”** means: (a) with respect to the Supporting Governmental Opioid Claimants, Opioid Claims; (b) with respect to Supporting Unsecured Noteholders, Claims based on the Guaranteed Unsecured Notes; and (c) with respect to any other Supporting Party, such Claims and/or Interests held by a Supporting Party in the Company solely in the capacity in which such Supporting Party executes this Agreement.

uu. **“State”** means a state or territory of the United States of America.

vv. **“Support Period”** means, with respect to any Party, the period commencing on the later of (a) the Agreement Effective Date and (b) the date such Party becomes party hereto and ending on the earlier of (x) the date on which this Agreement is terminated by or with respect to such Party in accordance with Section 6 hereof and (y) the Plan Effective Date.

ww. **“Target Net Prepetition Cash Tax Liability”** means 104,851,000 dollars (\$104,851,000).

xx. **“Unsecured Noteholders”** means the holders of Guaranteed Unsecured Notes.

yy. **“Unsecured Notes Ad Hoc Group”** means that certain ad hoc group of holders of certain Guaranteed Unsecured Notes represented by, among others, Paul, Weiss, Rifkind, Wharton & Garrison LLP and advised by, among others, Perella Weinberg Partners LP.

2. **Restructuring Process.** Where the provisions of this Agreement and the Term Sheet refer or apply to the Chapter 11 Cases, the Bankruptcy Court, and/or the Plan (including the Definitive Documents and any other documentation relating or relevant thereto) or events, circumstances, or procedures in the United States (the “***US Process***”) but do not equally reference or apply to (a) the Irish Examinership Proceedings, the High Court of Ireland, and/or the Scheme of Arrangement (including the Definitive Documents or any other documentation relating or relevant thereto) or equivalent events, circumstances, or procedures in Ireland (the “***Irish Process***”) or (b) the Recognition Proceedings, the Ontario Superior Court of Justice (Commercial List), and/or the order(s) recognizing the Plan in Canada (including the Definitive Documents or any other documentation relating or relevant thereto) or equivalent events, circumstances, or procedures in Canada (the “***Canadian Process***”), those provisions relating to the US Process shall be deemed to apply or refer equally to the Irish Process and the Canadian Process (and, if necessary, this Agreement and the Term Sheet will be deemed to include provisions relating to the Irish Process and Canadian Process which correspond to provisions relating to the US Process) to ensure that the rights and obligations of the Parties under this Agreement apply equally to the Irish Process and Canadian Process in the same way as the US Process, to the fullest extent necessary in order to implement the Restructuring in accordance with the terms, spirit, and intent of this Agreement and the Term Sheet.

3. **Definitive Documents.** Except for Definitive Documents for which consent rights are addressed in the Term Sheet, each Definitive Document shall be consistent with this Agreement and otherwise reasonably acceptable to the Company, the Required Supporting Unsecured Noteholders and the Governmental Plaintiff Ad Hoc Committee, including as they may be modified, amended, or supplemented in accordance with this Agreement. The Parties agree that the Definitive Documents are intended to provide tax efficiency to (x) the Company, including with respect to the availability, location, and timing of tax deductions, and (y) to the Opioid Claimants, including with respect to the tax classification of the Opioid Trust.

4. **Agreements of the Supporting Parties.**

a. **Restructuring Support.** During the Support Period, subject to the terms and conditions hereof, each Supporting Party agrees, severally and not jointly (solely in its capacity as a holder of Specified Claims and Interests, and in no other capacity), solely as long as it remains the legal owner, beneficial owner, and/or investment advisor or manager of or with power and/or authority to bind any Specified Claims and Interests against and/or in the Company held by it, that it shall use commercially reasonable efforts:

(i) to not oppose or otherwise object to the Restructuring, including by (A) timely voting all its Specified Claims and Interests (or directing the beneficial owner of the Claims and Interests on whose behalf it has executed this Agreement to timely vote) to accept the Plan and Scheme of Arrangement (to the extent such Claims and Interests are entitled to vote thereunder) and not changing or revoking its vote (subject to receipt of a Bankruptcy Court-approved Disclosure Statement), provided, that such vote shall be deemed immediately revoked and void *ab initio* upon termination of this Agreement in accordance with the terms hereof before the consummation of the Plan, and (B) not exercising any right to “opt out” of the third-party releases contained in the Plan; provided, that, with respect to the Supporting Governmental Opioid Claimants, such support will only be with respect to such entity’s Opioid Claims and not with

respect to any other Claims or Interests; provided, further, that the Plaintiff's Executive Committee need only recommend that all Opioid Claimants in the MDL take the actions contemplated by (A) and (B) above;

(ii) to not oppose or otherwise object to (A) the petition to be presented by the directors of the Parent or any other Company Entity before the High Court of Ireland for appointment of the Examiner to the Parent or any other Company Entity for the purposes of or in connection with the implementation of the Restructuring, (B) any ancillary applications brought before the High Court of Ireland relating to such petition, including for the appointment of the Examiner to the Parent or any other Company Entity on an interim basis pending the hearing of the petition and/or the appointment of the Examiner to any Company Entity as a "related company" (within the meaning of Section 2 of the Companies Act 2014 of Ireland), and/or (C) any application(s) for recognition or other proceedings by any Company Entity under the Canadian Companies' Creditors Arrangement Act to the extent necessary to implement the Restructuring;

(iii) to not oppose or otherwise object to the Company's application to the Bankruptcy Court for entry of the 105(a) Order;

(iv) to not oppose or otherwise object to the Company's application to appoint a Future Claimants Representative;

(v) to not oppose or otherwise object to, and not directly or indirectly interfere with (or instruct or encourage any other Person to directly or indirectly interfere with), the CMS/DOJ/States Settlement and/or the implementation thereof (including any motion or other request for entry of an order of the Bankruptcy Court, which may be the Confirmation Order, approving the CMS/DOJ/States Settlement);

(vi) to not oppose or otherwise object to any key employee incentive and retentive based compensation programs in existence prior to the Agreement Effective Date;

(vii) not to solicit, support or take any action to initiate or implement any Alternative Transaction with respect to the Company;

(viii) not to take any action to advance the pursuit or prosecution of any Opioid Claims against Mallinckrodt (including seeking any discovery from Mallinckrodt in respect thereto); provided, that, nothing herein shall prevent any Supporting Party from continuing (x) to pursue or prosecute any claims against non-Mallinckrodt third-parties, including co-defendants of Mallinckrodt or to take discovery from non-Mallinckrodt parties in connection with those third-party claims or (y) to take discovery from Mallinckrodt solely in furtherance of such claims against non-Mallinckrodt third parties;

(ix) not to take any action to advance the pursuit or prosecution of any Specified Claims and Interests against any Non-Debtor Affiliates;

(x) to reasonably cooperate with each other and the Company in good faith in connection with the negotiation, drafting, execution (to the extent such Party is a party thereto), and delivery of the Definitive Documents;

(xi) to negotiate with the other Parties in good faith appropriate additional or alternative provisions to address any impediment to the Restructuring that may arise;

(xii) not to transfer its Specified Claims and Interests to any other Person except as provided in this Agreement; and

(xiii) not to take any action that would trigger a Mandatory Offer Requirement.

Nothing in this Agreement shall prohibit any Supporting Party from (1) appearing as a party-in-interest in any matter arising in the Chapter 11 Cases, (2) enforcing any right, remedy, condition, consent, or approval requirement under this Agreement or any Definitive Documents, (3) effecting a Transfer or purchasing, selling, or entering into transactions with respect to Specified Claims and Interests, subject to compliance with Section 4(b) below, (4) asserting or raising any objection not prohibited under or inconsistent with this Agreement in connection with the Restructuring, (5) failing to vote to support the Plan or withdrawing a vote in the support of the Plan, in each case from and after the termination of this Agreement, (6) taking any action which is required by applicable law or declining to take any action which is prohibited by applicable law, (7) retaining the benefit of any applicable legal professional privilege, (8) making, seeking, or receiving any regulatory filings, notifications, consents, determinations, authorizations, permits, approvals, licenses, or the like, (9) taking any customary perfection step or other action as is necessary to preserve or defend the validity, existence or priority of its Claims against or Interests in Mallinckrodt (including the filing of a proof of claim against any Company Entity), (10) taking any action that is not inconsistent with this Agreement, (11) consulting with other parties in interest in the Chapter 11 Cases, or (12) taking any action in furtherance of any Claims or Interest in Mallinckrodt other than Specified Claims and Interests, including exercising its rights under or taking action in connection with the Make-Whole Reservation of Rights. For the avoidance of doubt, the exercise of any rights under or taking action in connection with the Make-Whole Reservation of Rights is not inconsistent with a Supporting Unsecured Noteholders' obligations hereunder. Without limiting the foregoing, nothing in this Agreement shall limit or restrict any Supporting Party from asserting positions or objections to the Plan, the Restructuring, or any other matter in the Chapter 11 Cases in such Supporting Party's capacity as a holder of a Claim or Interest in Mallinckrodt other than Specified Claims and Interests. Each Party agrees that a Supporting Party's entry into, execution, or performance of this Agreement (including without limitation a Supporting Party's vote in favor of the Plan) shall not be referenced, used, or held in any way against the Supporting Party in its capacity as a holder of a Claim or Interest in Mallinckrodt other than Specified Claims and Interests.

b. Transfers.

(i) During the Support Period, each Supporting Party that holds any Claim against or Interest in Mallinckrodt agrees, solely with respect to itself, that it shall not sell, pledge, assign, transfer, permit the participation in, or otherwise dispose of (each, a "***Transfer***," provided, however, that any pledge, lien, security interest, or other encumbrance in favor of a bank or broker dealer at which a Supporting Party maintains an account, where such bank or broker dealer holds a security interest in or other encumbrances over property in the account generally shall not be deemed a "Transfer" for any purposes hereunder) any ownership (including any

beneficial ownership)³ in its Specified Claims and Interests, or any option thereon or any right or interest therein (including by granting any proxies or depositing any interests in such Specified Claims and Interests into a voting trust or by entering into a voting agreement with respect to such Specified Claims and Interests), unless (A) the intended transferee is another Supporting Party, or (B) the intended transferee executes and delivers to counsel to the Company a Joinder Agreement before, or substantially contemporaneously with, the time such Transfer is effective (it being understood that any Transfer shall not be effective as against Mallinckrodt until notification of such Transfer and a copy of the executed Joinder Agreement (as applicable) is received by counsel to the Company, in each case, on the terms set forth herein) (such transfer, a “**Permitted Transfer**” and such party to such Permitted Transfer, a “**Permitted Transferee**”). Upon satisfaction of the foregoing requirements in this Section 4(b), (X) the Permitted Transferee shall be deemed to be a Supporting Party hereunder and, for the avoidance of doubt, a Permitted Transferee is bound as a Supporting Party under this Agreement with respect to any and all Specified Claims and Interests, whether held at the time such Permitted Transferee becomes a Party or later acquired by such Permitted Transferee and is deemed to make all of the representations and warranties of a Supporting Party set forth in this Agreement and be entitled to the applicable rights of a Supporting Party hereunder, and (Y) the transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement to the extent of such transferred rights and obligations. Notwithstanding the foregoing, this Section 4(b), as applied to the Supporting Governmental Opioid Claimants, shall only apply to such claimants’ Opioid Claims.

(ii) This Agreement shall in no way be construed to preclude any Supporting Party from acquiring additional Claims against or Interests in Mallinckrodt; provided, that (A) all Supporting Parties shall file a statement with the Bankruptcy Court as required by Rule 2019 of the Federal Rules of Bankruptcy Procedures, including revised holdings information for such Supporting Party, as applicable, (B) any acquired Claims or Interests shall, solely to the extent they are Specified Claims and Interests, automatically and immediately upon acquisition by a Supporting Party be deemed subject to the terms of this Agreement (regardless of when or whether notice of such acquisition is given), and (C) no Supporting Party shall acquire any Interests or take other action that would trigger a Mandatory Offer Requirement; provided, further, that the acquisition of additional Specified Claims and Interests by a Supporting Party shall in no way affect or dilute (X) the recoveries of other Supporting Parties contemplated under the Plan or (Y) any rights contemplated by this Agreement, the Term Sheet, or the Opioid Settlement Term Sheet.

(iii) This Section 4(b) shall not impose any obligation on the Company to issue any “cleansing letter” or otherwise publicly disclose information for the purpose of enabling a Supporting Party to Transfer any Claims or Interests. Notwithstanding anything to the contrary herein, to the extent the Company and another Party have entered into a separate agreement with respect to the issuance of a “cleansing letter” or other public disclosure of information (each such executed agreement, a “**Confidentiality Agreement**”), the terms of such Confidentiality Agreement shall continue to apply and remain in full force and effect according to its terms.

³ As used herein, the term “**beneficial ownership**” means the direct or indirect economic ownership of, and/or the power, whether by contract or otherwise, to direct the exercise of the rights and the disposition of, the applicable Claims or Interests or the right to acquire such Claims or Interests.

(iv) Any Transfer made in violation of this Section 4(b) shall be void *ab initio*.

(v) A Supporting Party that transfers any right, title, or interest in a Specified Claim and Interest in accordance with the terms of this Section 4(b) shall (A) be deemed to relinquish its rights and be released from its obligations under this Agreement solely to the extent of such Transferred Specified Claims and Interests and (B) not be liable to any Party to this Agreement for the failure of the transferee to comply with the terms and conditions of this Agreement.

c. Marketmaking.

(i) Notwithstanding anything to the contrary herein, a Supporting Party may Transfer any ownership in its Specified Claims and Interests, or any option thereon or any right or interest therein, to a Qualified Marketmaker (as defined below) that acquires Claims against or Interests in Mallinckrodt with the purpose and intent of acting as a Qualified Marketmaker for such Claims or Interests, and such Qualified Marketmaker shall not be required to execute and deliver to counsel to any Party a Joinder Agreement in respect of such Claims or Interests if (A) such Qualified Marketmaker subsequently Transfers such Claims or Interests within ten (10) Business Days of its acquisition to an entity that is not an affiliate, affiliated fund, or affiliated entity with a common investment advisor of such Qualified Marketmaker, (B) the transferee otherwise is a Permitted Transferee (including any requirement hereunder that such transferee execute a Joinder Agreement), and (C) the Transfer otherwise is a Permitted Transfer. To the extent that a Supporting Party is acting in its capacity as a Qualified Marketmaker, it may Transfer any right, title, or interest in any Specified Claims and Interests that such Supporting Party acquires in its capacity as a Qualified Marketmaker from a holder of such Claims or Interests who is not a Supporting Party without regard to the requirements set forth in Section 4(b) hereof. As used herein, the term “Qualified Marketmaker” means an entity that (a) holds itself out to the public or the applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers claims against Mallinckrodt (or enter with customers into long and short positions in claims against Mallinckrodt), in its capacity as a dealer or market maker in claims against Mallinckrodt and (b) is, in fact, regularly in the business of making a market in claims against issuers or borrowers (including debt securities or other debt).

(ii) The Company understands that certain of the Supporting Parties are engaged in a wide range of financial services and businesses. In furtherance of the foregoing, the Company acknowledges and agrees that, to the extent a Supporting Party expressly indicates on its signature page hereto that it is executing this Agreement on behalf of specific trading desk(s) and/or business group(s) of the Supporting Party that principally manage and/or supervise the Supporting Party’s investment in Mallinckrodt, the obligations set forth in this Agreement shall only apply to such trading desk(s) and/or business group(s) and shall not apply to any other trading desk or business group of the Supporting Party so long as they are not acting at the direction or for the benefit of such Supporting Party or such Supporting Party’s investment in Mallinckrodt; provided that the foregoing shall not diminish or otherwise affect the obligations and liability therefor of any legal entity that executes this Agreement.

(iii) Further, notwithstanding anything in this Agreement to the contrary, the Parties agree that, in connection with the delivery of signature pages to this Agreement by a Supporting Party that is a Qualified Marketmaker before the occurrence of conditions giving rise to the effective date for the obligations and the support hereunder, such Supporting Party shall be a Supporting Party hereunder solely with respect to the Specified Claims and Interests listed on such signature pages and shall not be required to comply with this Agreement for any other Claims or Interests in Mallinckrodt that it may hold from time to time in its role as a Qualified Marketmaker.

d. Negative Covenants. Each Supporting Party agrees (solely in its capacity as a holder of Specified Claims and Interests, and in no other capacity), severally and not jointly, that, for the duration of the Support Period, it shall not take any action directly (nor encourage any other Person to take any action) that is materially inconsistent with, or omit to take any action required by, this Agreement, the Plan (as applicable), or any of the other Definitive Documents.

e. Ad Hoc Group Composition. No less frequently than every forty-five (45) days commencing on the Agreement Effective Date, counsel to each of the Unsecured Notes Ad Hoc Group and the Governmental Plaintiff Ad Hoc Committee shall provide counsel to the Company and to each other, on a professionals' eyes only basis, with a list showing each member of such counsel's respective ad hoc group and, in the case of members of the Unsecured Notes Ad Hoc Group, the aggregate holdings of Guaranteed Unsecured Notes and other claims based on funded indebtedness of the Company (including on account of the Company's secured notes, term loans, and revolving credit facility) or interests of the Company; provided, that counsel to the Governmental Plaintiff Ad Hoc Committee shall only be required to provide such a list if the members of the Governmental Plaintiff Ad Hoc Committee have changed since the last time such a list was provided.

f. Notwithstanding anything to the contrary herein, nothing in this Agreement shall:

(i) affect the ability of any Supporting Party to consult with any other Supporting Party, the Company Entities, or any other party in interest in the Chapter 11 Cases (including any official committee or the United States Trustee);

(ii) impair or waive the rights of any Supporting Party to assert or raise any objection permitted under this Agreement in connection with the Restructuring;

(iii) prevent any Supporting Party from enforcing this Agreement or any other Definitive Document (to the extent it has rights thereunder), or from contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, such documents;

(iv) prevent any Supporting Party from taking any customary perfection step or other action as is necessary to preserve or defend the validity or existence of its Claims and Interests in the Company (including the filing of proofs of claim);

(v) prevent any Supporting Party from taking any action in furtherance of any Claims or Interests in Mallinckrodt other than Specified Claims and Interests; or

(vi) limit or otherwise restrict the regulatory, police, or other governmental functions of any Supporting Governmental Opioid Claimant, or limit or otherwise restrict any other Supporting Governmental Opioid Claimant's rights, in each case other than in connection with Opioid Claims.

5. **Agreements of the Company.**

a. Restructuring Support. During the Support Period, subject to the terms and conditions hereof, each Company Entity agrees that it shall use commercially reasonable efforts:

(i) to implement the Restructuring in accordance with the terms and conditions set forth herein and in accordance with the Milestones (as defined below);

(ii) to take any and all commercially reasonable and appropriate actions necessary or reasonably requested by a Supporting Party to consummate the Restructuring and the CMS/DOJ/States Settlement, and satisfy any conditions thereto, in accordance with the terms hereof;

(iii) to support and take all commercially reasonable actions necessary to facilitate the solicitation, confirmation, approval, and consummation of the Plan and the Scheme of Arrangement, as applicable, and the transactions contemplated thereby, including by commencing the Irish Examinership Proceedings and Recognition Proceedings as soon as reasonably practicable;

(iv) to prepare and deliver to the Supporting Parties draft copies of all Definitive Documents and any motions, pleadings, declarations, exhibits, and proposed orders related thereto (each of which shall contain terms and conditions consistent with the terms of this Agreement), and afford the Supporting Parties a reasonable opportunity to review and comment in advance of any filing thereof, to the extent practicable, and consider any such comments in good faith;

(v) to deliver to counsel to the Supporting Unsecured Noteholders and counsel to the Ad Hoc Governmental Plaintiff Group, copies of all notices, reporting and other documents delivered to the Prepetition Secured Parties (as defined in the Cash Collateral Order) pursuant to paragraphs 4(h) and 5(h) of the Cash Collateral Order, on the same terms and conditions (with respect to confidentiality and otherwise) applicable to the Prepetition Secured Parties under the Cash Collateral Order;

(vi) to take such action as may be reasonably necessary or reasonably requested by the other Parties to carry out the purposes and intent of this Agreement, including obtaining all governmental, regulatory, licensing, or other approvals (including any necessary or appropriate third-party consents) necessary to consummate the Restructuring;

(vii) not to offer or provide any consideration or treatment to any Opioid Claimant that is not acceptable to the Governmental Plaintiff Ad Hoc Committee and the Required Supporting Unsecured Noteholders;

(viii) not to seek or solicit, or instruct and direct their respective Representatives to seek or solicit, any discussions or negotiations with respect to any Alternative Transaction; provided, that (A) if any of the Company Entities receive a proposal or expression of interest regarding any Alternative Transaction, the Company Entities shall be permitted to discuss or negotiate the terms of such proposal or expression of interest and shall notify within two (2) business days of the receipt of such proposal or expression of interest counsel to the Unsecured Notes Ad Hoc Group and counsel to the Governmental Plaintiff Ad Hoc Committee, orally and in writing, of any such proposal or expression of interest, with such notice to include the material terms thereof, including (unless prohibited by a separate agreement) the identity of the person or group of persons involved, and (B) contemporaneously with such notification, the Company Entities shall furnish counsel to the Unsecured Notes Ad Hoc Group and counsel to the Governmental Plaintiff Ad Hoc Committee with copies of any written offer, oral offer, proposal, expression of interest, or any other information that they receive relating to the foregoing and shall within two (2) business days inform counsel to the Unsecured Notes Ad Hoc Group and counsel to the Governmental Plaintiff Ad Hoc Committee of any material changes to such proposals; provided, that any information shared with or furnished to counsel to the Unsecured Notes Ad Hoc Group or counsel to the Governmental Plaintiff Ad Hoc Committee in accordance with this Section 5(a)(vii), shall be provided on a “professional eyes only” basis unless otherwise agreed to by the parties in writing;

(ix) to (A) prepare, or cause to be prepared, the Definitive Documents and any related motions, pleadings, declaration, exhibits, proposed orders, and applications, each of which, for the avoidance of doubt, shall contain terms and conditions consistent with this Agreement, (B) provide draft copies of all Definitive Documents to counsel to the Unsecured Notes Ad Hoc Group and Governmental Plaintiff Ad Hoc Committee at least two (2) Business Days or as soon as reasonably practicable prior to the date when the Company intends to file or execute such document, (C) reasonably cooperate with the Supporting Parties in good faith in connection with the negotiation, drafting, execution (to the extent the Company is a party thereto), and delivery of the Definitive Documents and (D) consult in good faith with the Unsecured Notes Ad Hoc Group and the Governmental Plaintiff Ad Hoc Committee regarding the form and substance of the Definitive Documents and any proposed filing thereof with the Bankruptcy Court. Nothing in this Section 5(a)(viii) shall limit the Company’s obligations under Section 3 herein. The Company will also provide draft copies of all other material pleadings the Company intends to file with the Bankruptcy Court to counsel to the Unsecured Notes Ad Hoc Group and counsel to the Governmental Plaintiff Ad Hoc Committee at least two (2) Business Days or as soon as reasonably practicable prior to filing such pleading, to the extent reasonably practicable, and shall consult in good faith with such counsel regarding the form and substance of any such proposed pleading;

(x) to file such “first day” motions and pleadings determined by the Company to be necessary and to seek interim and final (to the extent necessary) orders, in form and substance reasonably acceptable to the Required Supporting Unsecured Noteholders and the Governmental Plaintiff Ad Hoc Committee, from the Bankruptcy Court approving the relief requested in such “first day” motions;

(xi) to timely file a formal objection, in form and substance reasonably acceptable to the Required Supporting Unsecured Noteholders and the Governmental Plaintiff Ad

Hoc Committee, to any motion filed with the Bankruptcy Court by a third party seeking the entry of an order (A) directing the appointment of a trustee or examiner (with expanded powers beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code), (B) modifying or terminating the Company's exclusive right to file and/or solicit acceptances of a plan of reorganization, as applicable; (C) converting the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (D) dismissing the Chapter 11 Cases;

(xii) to, upon reasonable request of any of the Supporting Parties, inform the respective advisors and counsel to the Supporting Parties as to: (A) the material business and financial (including liquidity) performance of Mallinckrodt; (B) the status and progress of the Restructuring, including progress in relation to the negotiations of the Definitive Documents; and (C) the status of obtaining any necessary or desirable authorizations (including any consents) from any Supporting Party, competent judicial body, Governmental Entity, or any stock exchange;

(xiii) to (A) operate the business of the Company and its direct and indirect subsidiaries in the ordinary course in a manner that is consistent with this Agreement, past practices, and to preserve intact the Company's business organization and relationships with third parties (including lessors, licensors, suppliers, distributors and customers) and employees and (B) subject to applicable non-disclosure agreements and the terms thereof, keep counsel and advisors to the Unsecured Notes Ad Hoc Group and the Governmental Plaintiff Ad Hoc Committee reasonably informed about the operations of the Company and its direct and indirect subsidiaries;

(xiv) to inform the respective advisors and counsel to the Supporting Parties within no more than two (2) Business Days after becoming aware of: (A) any matter or circumstance which they know, or reasonably expect is likely, to be a material impediment to the implementation or consummation of the Restructuring; (B) any notice of commencement of any material involuntary insolvency proceedings, legal suit for payment of debt or securing of security from or by any person in respect of any Company Entity; (C) a material breach of this Agreement by any Company Entity; (D) any representation or statement made or deemed to be made by them under this Agreement which is or proves to have been incorrect or misleading in any material respect when made or deemed to be made; (E) any notice from any third party alleging that the consent of such party is or may be required in connection with the Restructuring; and (F) any notice, including from any governmental authority, of any material proceeding commenced or of any material complaints, litigations, investigations, or hearings, or, to the knowledge of the Company Entities, threatened in writing against the Company Parties, relating to or involving the Company Entities (or any communications regarding the same that may be contemplated or threatened);

(xv) to negotiate with the Supporting Parties in good faith appropriate additional or alternative provisions to address any impediment to the Restructuring that may arise;

(xvi) to maintain good standing (or a normal status or its equivalent) under the laws of the jurisdiction or state in which each Company Entity is incorporated or organized;

(xvii) to keep the Supporting Unsecured Noteholders and the Governmental Plaintiff Ad Hoc Committee reasonably informed from time to time on the status of the CMS/DOJ/States Settlement, including, to the extent reasonably requested by the Supporting Unsecured Noteholders or the Governmental Plaintiff Ad Hoc Committee, providing copies of any written materials related thereto to the counsel to the Unsecured Notes Ad Hoc Group and the Governmental Plaintiff Ad Hoc Committee on a professional eyes only basis; and

(xviii) to (A) object to and oppose any motion seeking standing to assert claims or objections belonging to the Company's bankruptcy estates against any Supporting Party in respect of its Specified Claims and Interests and (B) in the event any objection to the Specified Claims and Interests is filed by another party in interest, seek to adjourn any hearing on such objection for so long as this Agreement remains effective as to the holder or holders of the Specified Claims and Interests subject to such objection.

b. Negative Covenants. The Company agrees that, for the duration of the Support Period, the Company shall not (i) take any action directly or indirectly (nor encourage any other person to take any action) that is materially inconsistent with, or that would reasonably be expected to prevent, interfere with, delay, or impede the consummation of the Restructuring, or omit to take any action required by, this Agreement, the Plan (as applicable), or any of the other Definitive Documents, (ii) object to, delay, impede, or take any other action or inaction that could reasonably be expected to materially interfere with or prevent acceptance, approval, implementation, or consummation of the Restructuring, (iii) except as agreed by the Required Supporting Unsecured Noteholders and counsel for the Governmental Plaintiff Ad Hoc Committee, file any pleading, motion, declaration, supporting exhibit or Definitive Document with the Bankruptcy Court or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with this Agreement or other Definitive Documents, or that could reasonably be expected to frustrate or materially impede the implementation and consummation of the Restructuring, is inconsistent with the Term Sheet in any material respect, or which is otherwise in substance not reasonably satisfactory to the Required Supporting Unsecured Noteholders, and the Governmental Plaintiff Ad Hoc Committee, (iv) engage in any material merger, consolidation, disposition, asset sale, equity sale, acquisition, investment, dividend, incurrence of indebtedness or other similar transaction outside the ordinary course of business with a third party other than the Restructuring, or (v) commence, support, or join any litigation or adversary proceeding against any of the Supporting Parties relating to the Specified Claims and Interests; provided, that nothing in this Agreement shall: (i) impair or waive the rights of any Company Entity to assert or raise any objection, or take any position, permitted under this Agreement in connection with the Restructuring, or (ii) prevent any Company Entity from enforcing this Agreement or contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement.

c. Chapter 11 Operating Injunction. Within one week after the Petition Date, the Company Entities shall file with the Bankruptcy Court a motion, in form and substance reasonably satisfactory to the Company Entities, the Governmental Plaintiff Ad Hoc Committee, and the Required Supporting Unsecured Noteholders, seeking to impose a voluntary injunction on the Company Entities to enjoin them from engaging in certain conduct related to the manufacture, marketing, sale, and distribution of opioids effective as of the Petition Date (the "***Chapter 11 Operating Injunction***").

6. **Termination of Agreement.**

a. **Supporting Party Termination Events.** This Agreement may be terminated by Supporting Unsecured Noteholders with the consent of no less than two-thirds in outstanding principal amount of Guaranteed Unsecured Notes held by the Supporting Unsecured Noteholders then party to this Agreement (solely as to the Supporting Unsecured Noteholders), or the Governmental Plaintiff Ad Hoc Committee (solely as to the Supporting Governmental Opioid Claimants), by the delivery to the other Parties of a written notice in accordance with Section 20 hereof, upon the occurrence and continuation of any of the following events (each, a “***Supporting Party Termination Event***”):

(i) the breach by any Company Entity of (A) any affirmative or negative covenant contained in this Agreement or (B) any other obligations of such breaching Company Entity set forth in this Agreement, in each case, in any material respect and which breach remains uncured (to the extent curable) for a period of fifteen (15) Business Days following the Company’s receipt of any notice pursuant to Section 20 hereof;

(ii) any representation or warranty in this Agreement made by any Company Entity shall have been untrue in any material respect when made or, if required to be true on an ongoing basis, shall have become untrue in any material respect, and such breach remains uncured (to the extent curable) for a period of fifteen (15) Business Days following the Company’s receipt of any notice pursuant to Section 20 hereof;

(iii) any Company Entity files any motion, pleading, or related document with the Bankruptcy Court that is inconsistent with this Agreement, the Term Sheet (including the Opioid Settlement Term Sheet) or the Definitive Documents (in each case, solely to the extent that the terminating Supporting Party(s) have consent rights over such document), and such motion, pleading, or related document has not been withdrawn within fifteen (15) Business Days of the Company receiving written notice in accordance with Section 20 that such motion, pleading, or related document is inconsistent with this Agreement;

(iv) (A) any Definitive Document filed by the Company or the Examiner, or any related order entered by the Bankruptcy Court in the Chapter 11 Cases, the High Court of Ireland in the Irish Examinership Proceedings, or the Ontario Superior Court of Justice (Commercial List) in the Recognition Proceedings, in each case, is inconsistent with this Agreement, including the Supporting Parties’ consent rights under this Agreement (in each case implicating a Definitive Document, solely to the extent that the terminating Supporting Party or Supporting Parties have consent rights over such Definitive Document), or is otherwise not in accordance with this Agreement in any material respect, or (B) any of the terms or conditions of any of the Definitive Documents are waived, amended, supplemented, or otherwise modified in any material respect with respect to the Supporting Unsecured Noteholders’ or Supporting Governmental Opioid Claimants’ respective rights under this Agreement without the prior written consent of the Required Supporting Unsecured Noteholders or the Governmental Plaintiff Ad Hoc Committee, as applicable (or such parties as may be required by the terms of such Definitive Document, if then effective), in each case, which remains uncured for fifteen (15) Business Days after the receipt by the Company of written notice delivered in accordance herewith;

(v) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of any material portion of the Restructuring or rendering illegal the Plan or any material portion thereof, and either (A) such ruling, judgment, or order has been issued at the request of or with the acquiescence of any Company Entity, or (B) in all other circumstances, such ruling, judgment, or order has not been reversed or vacated within thirty (30) calendar days after such issuance;

(vi) any Company Entity (A) withdraws the Plan or Scheme of Arrangement, (B) publicly announces its intention not to support the Plan, the Scheme of Arrangement, or the Restructuring, (C) files a motion with the Bankruptcy Court seeking the approval of an Alternative Transaction, or (D) agrees to pursue (including, for the avoidance of doubt, as may be evidenced by a term sheet, letter of intent, or similar document executed by a Company Entity) or publicly announces its intent to pursue an Alternative Transaction;

(vii) the Examiner withdraws the Scheme of Arrangement and applies to the High Court of Ireland for directions pursuant to Section 535(1) of the Companies Act 2014 of Ireland;

(viii) the Bankruptcy Court (or other court of competent jurisdiction) enters an order (A) directing the appointment of an examiner with expanded powers or a trustee in any of the Chapter 11 Cases, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, (C) dismissing any of the Chapter 11 Cases, (D) terminating any Company Entity's exclusive right to file and/or solicit acceptances of a plan of reorganization (including the Plan), or (E) the effect of which would render the Plan incapable of consummation on the terms set forth in this Agreement; provided, that, with respect to clauses (B) and (C) above, except where the dismissal or conversion is for a Debtor that, at the time of such dismissal, has dormant business activities and a fair market value of less than \$250,000;

(ix) the Company exercises its "fiduciary out" in accordance with Section 6(b)(iii) hereof;

(x) an order is entered by the Bankruptcy Court granting relief from the automatic stay imposed by section 362 of the Bankruptcy Code authorizing any party to proceed against any material asset of any of the Company Entities or that would materially and adversely affect the ability of any of the Company Entities to operate its businesses in the ordinary course;

(xi) leave is granted by the High Court of Ireland permitting a party to commence or continue proceedings against the Parent (or any other Company Entity subject to the protection of the High Court of Ireland) after the commencement of the Irish Examinership Proceedings;

(xii) the Examiner consents to any action, claim, or step being taken against the Parent (or any other Company Entity subject to the protection of the High Court of Ireland) pursuant to Section 520(4) of the Companies Act 2014 of Ireland after the commencement of the Irish Examinership Proceedings;

(xiii) the Bankruptcy Court enters an order denying confirmation of the Plan;

(xiv) the Confirmation Order is reversed or vacated;

(xv) any court of competent jurisdiction has entered a judgment or order declaring this Agreement to be unenforceable;

(xvi) the Company enters into the CMS/DOJ/States Settlement on terms materially different than the terms set forth on **Schedule 2** to the Term Sheet;

(xvii) an order is entered by the Bankruptcy Court granting relief from the automatic stay to the holder or holders of any security interest to permit foreclosure (or the granting of a deed in lieu of foreclosure on the same) on any of the Company's assets (other than with respect to assets having a fair market value of less than \$10,000,000 in the aggregate);

(xviii) the Company terminates any of its obligations under this Agreement in accordance with Section 6(b);

(xix) the Governmental Plaintiff Ad Hoc Committee or the Supporting Unsecured Noteholders terminate any of their respective obligations under this Agreement in accordance with Section 6(a); or

(xx) the Net Prepetition Cash Tax Liability exceeds the Target Net Prepetition Cash Tax Liability by at least \$125,000,000;

(xxi) the Bankruptcy Court enters an order granting or sustaining any objection or challenge to the Guaranteed Unsecured Notes Claims that is reasonably likely to render the Plan unconfirmable;

(xxii) the Debtors, the Supporting Unsecured Noteholders and the Supporting Governmental Opioid Claimants shall not have agreed upon the Additional Insurance Rights by the time of the filing of the Plan and Disclosure Statement; or

(xxiii) any of the following events (the "***Milestones***") have not been achieved, extended, or waived by no later than 11:59 pm New York City time on the dates set forth below, provided that any such time and date may be extended with the consent of the Required Supporting Parties (which consent may be provided by email):

A. a final Cash Collateral Order is entered on or prior to the date that is forty-five (45) days after the Petition Date;

B. a final order granting authority for the Debtors to pay all reasonable and documented fees and expenses of the professionals and advisors referenced in Section 25, subject to any applicable terms in their respective engagement letters or fee reimbursement letters, is entered on or prior to the date that is sixty (60) days after the Petition Date;

- C. the Debtors' filing of the Plan and Disclosure Statement on or prior to the date that is four (4) months after the Petition Date;
- D. the Plan is confirmed on or prior to the date that is eleven (11) months after the Petition Date;
- E. a Scheme of Arrangement consistent with this Agreement is approved by the Irish Court on or prior to the date that is fourteen (14) months after the Petition Date; and
- F. the Plan Effective Date has not occurred on or prior to the date that is fifteen (15) months after the Petition date.

Notwithstanding the foregoing, this Agreement may not be terminated as to the Supporting Unsecured Noteholders or the Governmental Plaintiff Ad Hoc Committee on account of any Supporting Party Termination Event that is caused by any Supporting Unsecured Noteholder or Supporting Governmental Opioid Claimant, respectively.

b. Company Termination Events. This Agreement may be terminated as to all Parties (except to the extent otherwise set forth in Sections 6(b)(i) and 6(b)(ii) below) by the Company by the delivery to counsel to all Supporting Parties of a written notice in accordance with Section 20 hereof, upon the occurrence and continuation of any of the following events (each, a "***Company Termination Event***"):

(i) the breach in any material respect by Supporting Unsecured Noteholders that would result in non-breaching Supporting Unsecured Noteholders holding less than two-thirds in outstanding principal amount of Guaranteed Unsecured Notes, in each case with respect to any of the representations, warranties, or covenants of such Supporting Unsecured Noteholders set forth in this Agreement and which breach remains uncured for a period of fifteen (15) Business Days after the receipt by the applicable Supporting Unsecured Noteholder from the Company of written notice of such breach, which written notice will set forth in reasonable detail the alleged breach; provided, that any such termination by the Company pursuant to this Section 6(b)(i) shall result in the termination of this Agreement solely as to the Supporting Unsecured Noteholders; and provided, further, that, the Company may, at its option, terminate this Agreement solely as to any Supporting Unsecured Noteholder that breaches, in any material respect, its representations, warranties or covenants set forth in this Agreement (to the extent breach remains uncured for a period of fifteen (15) Business Days after receipt by the applicable Supporting Unsecured Noteholder from the Company of written notice of such breach, which written notice will set forth in reasonable detail the alleged breach), whether or not such breach would entitle the Company to terminate this Agreement with respect to all Supporting Unsecured Noteholders in accordance with this Section 6(b)(i) (the right of the Company under this proviso, the "***Company Individual Noteholder Termination Right***");

(ii) the breach in any material respect by (A) any Supporting Governmental Opioid Claimant that would result in non-breaching, Supporting Governmental Opioid Claimants consisting of less than 32 States, or (B) the Plaintiffs' Executive Committee, in each case with respect to any of the representations, warranties, or covenants of such Supporting

Governmental Opioid Claimants set forth in this Agreement (such breaching Supporting Party, a “**Breaching Governmental Plaintiff**”) and which breach remains uncured for a period of fifteen (15) Business Days after the receipt by the applicable Breaching Governmental Plaintiff from the Company of written notice of such breach, which written notice will set forth in reasonable detail the alleged breach; provided, that any such termination by the Company pursuant to this Section 6(b)(ii) shall result in the termination of this Agreement solely as to the Supporting Governmental Opioid Claimants; provided, further, that, the Company may, at its option, instead terminate this Agreement solely as to any Supporting Governmental Opioid Claimant that breaches, in any material respect, its representations, warranties or covenants set forth in this Agreement (to the extent breach remains uncured for a period of fifteen (15) Business Days after receipt by the applicable Breaching Governmental Plaintiff from the Company of written notice of such breach, which written notice will set forth in reasonable detail the alleged breach), whether or not such breach would entitle the Company to terminate this Agreement with respect to all Supporting Governmental Opioid Claimants in accordance with this Section 6(b)(ii) (the right of the Company under this proviso, the “**Company Individual Governmental Entity Termination Right**”);

(iii) the board of directors or managers or similar governing body, as applicable, of any Company Entity determines that continued performance under this Agreement (including taking any action or refraining from taking any action) would be inconsistent with the exercise of its fiduciary duties, or duties as directors, in each case under applicable law (as reasonably determined by such board or body in good faith after consultation with legal counsel); provided, that, the Company provides prompt written notice (within two (2) Business Days thereof) to counsel to each of the Supporting Parties of such determination; and provided, further, that to the extent any Supporting Party seeks an expedited hearing to determine if the Company has validly exercised this clause, the Company consents to such expedited hearing, it being understood that all Parties reserve all rights with respect of the underlying relief;

(iv) the Governmental Plaintiff Ad Hoc Committee or the Supporting Unsecured Noteholders terminate any of their respective obligations under this Agreement in accordance with Section 6(a);

(v) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of any ruling, judgment, or order enjoining the consummation of any material portion of the Restructuring or rendering illegal the Plan or any material portion thereof, and either (A) such ruling, judgment, or order has been issued at the request of or with the acquiescence of any Company Entity, or (B) in all other circumstances, such ruling, judgment, or order has not been reversed or vacated within thirty (30) calendar days after such issuance;

(vi) the Bankruptcy Court (or other court of competent jurisdiction) enters an order over an objection by the Company pursued in good faith (A) directing the appointment of an examiner with expanded powers or a trustee in any of the Chapter 11 Cases, (B) converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, (C) dismissing any of the Chapter 11 Cases, or (D) the effect of which would render the Plan incapable of consummation on the terms set forth in this Agreement; provided, that the Company shall not

be entitled to exercise the foregoing termination right to the extent entry of such order was requested by the Company;

(vii) the Debtors, the Supporting Unsecured Noteholders and the Supporting Governmental Opioid Claimants shall not have agreed upon the Additional Insurance Rights by the time of the filing of the Plan and Disclosure Statement;

(viii) the Bankruptcy Court enters an order denying confirmation of the Plan; or

(ix) any court of competent jurisdiction has entered a judgment or order declaring this Agreement to be unenforceable.

For the avoidance of doubt, no verdict, judgment, order, or settlement in any opioid-related litigation in which no Supporting Party is a party to can give rise to or serve as a basis for any Company Termination Event.

Notwithstanding the foregoing, this Agreement may not be terminated on account of any Company Termination Event if such Company Termination Event is caused by the Company.

c. Mutual Termination. This Agreement may be terminated, as to all Parties, in writing by mutual agreement of the Company Entities, the Required Supporting Unsecured Noteholders, and the Governmental Plaintiff Ad Hoc Committee (a “**Mutual Termination Event**”).

d. Individual Termination. Upon ten (10) days’ notice, any individual Supporting Party may terminate this Agreement, as to itself only, by the delivery to counsel to the Company and the other Supporting Parties of a written notice in accordance with Section 20 hereof, in the event that (i) any waiver, modification, amendment or supplement of this Agreement materially adversely affects the economics, recoveries, or treatment applicable to the Specified Claims and Interests of such Supporting Party or (ii) any Definitive Document is filed with the Bankruptcy Court or later amended in such a way that materially adversely affects the economics, recoveries, or treatment applicable to the Specified Claims and Interests of such Supporting Party without such Supporting Party’s consent (each such event, an “**Individual Termination Event**”); provided, that, such Supporting Party shall not object to the Company’s efforts to seek an expedited hearing to adjudicate whether an Individual Termination Event has occurred.

e. Automatic Termination. This Agreement shall terminate automatically without any further required action or notice upon the occurrence of the Plan Effective Date (collectively with the Supporting Party Termination Events, the Company Termination Events, the Mutual Termination Event, and the Individual Termination Event, the “**Termination Events**”).

f. Effect of Termination as to All Parties. Subject to Section 21(b), upon a termination of this Agreement as to all Parties, this Agreement shall forthwith become null and void and of no further force or effect as to any Party, and each Party shall, except as provided otherwise in this Agreement, be immediately released from its liabilities, obligations, commitments, undertakings, and agreements under or related to this Agreement and shall have all the rights and remedies that it would have had and shall be entitled to take all actions, whether

with respect to the Plan or otherwise, that it would have been entitled to take had it not entered into this Agreement; provided, that in no event shall any such termination relieve a Party from liability for its breach or non-performance of its obligations hereunder that arose prior to the date of such termination or any obligations hereunder that expressly survive termination of this Agreement under Section 15 hereof. Subject to Section 21(b), upon such termination, any and all consents, agreements, undertakings, waivers, forbearances, votes, or ballots tendered by the Parties before such termination shall be deemed, for all purposes, to be null and void from the first instance and shall not be considered or otherwise used in any manner by any of the Parties in connection with the Chapter 11 Cases.

g. Effect of Termination as to Individual Parties. Subject to Section 21(b), upon the termination of this Agreement that is limited in its effectiveness as to an individual Party or Parties in accordance with this Section 6: (i) this Agreement shall become null and void and of no further force or effect with respect to the terminated Party or Parties, who shall be immediately released from its or their liabilities, obligations, commitments, undertakings, and agreements under or related to this Agreement and shall have all the rights and remedies that it or they would have had and such Party or Parties shall be entitled to take all actions, whether with respect to the Plan or otherwise, that it or they would have been entitled to take had it or they not entered into this Agreement; provided, that (i) the terminated Party or Parties shall not be relieved of any liability for breach or non-performance of its or their obligations hereunder that arose prior to the date of such termination or any obligations hereunder that expressly survive termination of this Agreement under Section 15 hereof; and (ii) this Agreement shall remain in full force and effect with respect to all Parties other than the terminated Party or Parties. Subject to Section 21(b), upon such termination, any and all consents, agreements, undertakings, waivers, forbearances, votes, or ballots tendered by the terminating Party or Parties before such termination shall be deemed, for all purposes, to be null and void from the first instance and shall not be considered or otherwise used in any manner by any of the Parties in connection with the Chapter 11 Cases.

h. Automatic Stay. The Company Entities acknowledge that, after the commencement of the Chapter 11 Cases, the giving of notice of default or termination by any other Party pursuant to this Agreement shall not be a violation of the automatic stay under section 362 of the Bankruptcy Code, and the Company Entities hereby waive, to the fullest extent permitted by law, the applicability of the automatic stay as it relates to any such notice being provided; provided that nothing herein shall prejudice any Party's rights to argue that the giving of notice of default or termination was not proper under the terms of this Agreement.

7. Representations and Warranties; Execution By Counsel to Supporting Governmental Opioid Claimants.

a. Each Party, severally and not jointly, represents and warrants to the other Parties that the following statements are true, correct, and complete as of the date hereof (or as of the date a Supporting Party becomes a party hereto):

(i) (A) such Party (I) is validly existing and, to the extent applicable, is in good standing under the laws of its jurisdiction of incorporation or organization, (II) has all requisite corporate, partnership, limited liability company, governmental, or similar authority to enter into this Agreement and carry out the transactions contemplated hereby and perform its

obligations contemplated hereunder (other than, in the case of the Company, any required approvals or authorizations of the Bankruptcy Court and the Scheme of Arrangement), and (B) the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized by all necessary corporate, limited liability company, partnership, governmental, or other similar action on its part (other than, in the case of the Company, any required approvals or authorizations of the Bankruptcy Court and the Scheme of Arrangement);

(ii) the execution, delivery, and performance by such Party of this Agreement does not and will not (A) violate any provision of law, rule, or regulation applicable to it, its charter, its constitution, or its bylaws (or other similar governing documents) in any material respect, or (B) conflict with, result in a breach of, or constitute a default under any material contractual obligation to which it is a party in any material respect (provided, however, that with respect to the Company, it is understood that commencing the Chapter 11 Cases may result in a breach of or constitute a default under such obligations);

(iii) the execution, delivery, and performance by such Party of this Agreement does not and will not require any registration or filing with, consent, or approval of, or notice to, or other action, with or by, any federal, state, or governmental authority or regulatory body, except such registrations or filings, consents, approvals, notices, or other actions as may be necessary and/or required by the Bankruptcy Court or this Agreement;

(iv) this Agreement is the legally valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability or a ruling of the Bankruptcy Court; and

(v) except as expressly provided by this Agreement, it is not party to any restructuring or similar agreements or arrangements with the other Parties to this Agreement that have not been disclosed to all Parties to this Agreement; provided, however, that a Supporting Unsecured Noteholder may be or become a party to a separate agreement with the Debtors in connection with the Make-Whole Reservation of Rights.

b. Each Supporting Unsecured Noteholder severally (and not jointly), represents and warrants to the Company that, as of the date hereof (or as of the date such Supporting Unsecured Noteholder becomes a party hereto), such Supporting Unsecured Noteholder (i) is the beneficial owner of (or investment manager, advisor, or subadvisor to one or more beneficial owners of) the aggregate principal amount of Specified Claims and Interests set forth besides its name on **Annex 2** hereto (or below its name on the signature page of a Joinder Agreement for any Supporting Unsecured Noteholder that becomes a Party hereto after the date hereof), (ii) has, with respect to the beneficial owners of such Specified Claims and Interests (as may be set forth on a schedule to such Supporting Unsecured Noteholder's signature page hereto), (A) sole investment or voting discretion with respect to such Specified Claims and Interests, (B) full power and authority to vote on and consent to matters concerning such Specified Claims and Interests, or to exchange, assign, and transfer such Claims or Interests, and (C) full power and authority to bind or act on the behalf of, such beneficial owners, and (iii) such Specified Claims

and Interests are free and clear of any pledge, lien, security interest, charge, claim, equity, option, proxy, voting restriction, right of first refusal, or other limitation on disposition or encumbrance of any kind, that would prevent in any way such Supporting Unsecured Noteholder's performance of its obligations contained in this Agreement at the time such obligations are required to be performed.

c. To the extent counsel executes this Agreement on behalf of any Supporting Governmental Opioid Claimants, such counsel represents and warrants that it has been duly authorized by such Supporting Governmental Opioid Claimants to execute this Agreement on their behalf and that (i) such Supporting Governmental Opioid Claimants constitute Supporting Parties hereunder, and (ii) such Supporting Governmental Opioid Claimants are deemed to have made the representations and warranties set forth in Section 7(a) above as of the date of counsel's execution of this Agreement (or, if later, the date on which such Supporting Governmental Opioid Claimants (either directly or through counsel) execute a Joinder Agreement). This Agreement shall constitute the legally valid and binding obligation of each Supporting Governmental Opioid Claimant, enforceable in accordance with its terms.

8. Fiduciary Duties.

a. Notwithstanding anything to the contrary herein, nothing in this Agreement shall require a Company Entity or the board of directors, board of managers, or similar governing body of a Company Party, after consulting with counsel, to take any action or to refrain from taking any action with respect to the Restructuring to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under applicable Law, and any such action or inaction pursuant to this Section 8 shall not be deemed to constitute a breach of this Agreement (other than solely for the purpose of establishing the occurrence of an event that may give rise to a termination right). The Company shall give prompt written notice to the Supporting Parties of any determination made in accordance with this subsection. This subsection shall not impede any Party's right to terminate this Agreement pursuant to Section 6 of this Agreement.

b. Notwithstanding anything to the contrary herein, nothing in this Agreement shall create any additional fiduciary obligations on the part of the Company or the Supporting Parties, or any members, partners, managers, managing members, officers, directors, employees, advisors, principals, attorneys, professionals, accountants, investment bankers, consultants, agents or other representatives of the same or their respective affiliated entities, in such person's capacity as a member, partner, manager, managing member, officer, director, employee, advisor, principal, attorney, professional, accountant, investment banker, consultant, agent or other representative of such Party or its affiliated entities, that such entities did not have prior to the execution of this Agreement.

c. Nothing in this Agreement shall (i) impair or waive the rights of the Company to assert or raise any objection permitted under this Agreement in connection with the Restructuring or (ii) prevent the Company from enforcing this Agreement or contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement.

9. Filings and Public Statements. The Company and the Parent shall submit drafts to counsel, on a professional eyes only basis, to the Unsecured Notes Ad Hoc Group and the

Governmental Plaintiff Ad Hoc Committee, of any press releases, public documents, and any and all filings with the U.S. Securities and Exchange Commission, the Bankruptcy Court, or otherwise that constitute disclosure of the existence or terms of this Agreement or any amendment to the terms of this Agreement at least two (2) Business Days or as soon as reasonably practicable prior to making any such disclosure, and shall afford them a reasonable opportunity under the circumstances to comment on such documents and disclosures and shall consider any such comments in good faith. Except as required by law or otherwise permitted under the terms of any other agreement between the Company on the one hand, and any Supporting Party, on the other hand, no Party or its advisors (including counsel to any Party) shall disclose to any person (including other Supporting Parties) other than the Company and the Company's advisors, the principal amount or percentage of any Specified Claims and Interests or any other securities of or Claims against the Company held by any other Party, in each case, without such Party's prior written consent; provided that (i) if such disclosure is required by law, subpoena, or other legal process or regulation, the disclosing Party shall afford the relevant Party a reasonable opportunity to review and comment in advance of such disclosure and shall take all reasonable measures to limit such disclosure (including by way of a protective order) (the expense of which, if any, shall be borne by the relevant disclosing Party) and (ii) the foregoing shall not prohibit the disclosure of the aggregate percentage or aggregate principal amount of Specified Claims and Interests held by all the Supporting Parties collectively. Any public filing of this Agreement, with the Bankruptcy Court, the SEC or otherwise, shall not include the executed signature pages to this Agreement. Nothing contained herein shall be deemed to waive, amend or modify the terms of any confidentiality or non-disclosure agreement between the Company and any Supporting Party.

10. Amendments and Waivers.

a. This Agreement may not be modified, amended, or supplemented, and no condition or requirement of this Agreement may be waived, in any manner except in accordance with this Section 10.

b. During the Support Period, this Agreement, including any exhibits or schedules hereto, may not be waived, modified, amended, or supplemented except in a writing signed by the Company, the Required Supporting Unsecured Noteholders, and the Governmental Plaintiff Ad Hoc Committee; provided, that: (a) any waiver, modification, amendment, or supplement to Section 4(f)(v), Section 6(d), Section 6(e), Section 6(f), Section 6(g), Section 7(a), Section 7(b), Section 8(b), Section 10, Section 17, Section 21, Section 22 or the definition of "Specified Claims and Interests" shall require the prior written consent of each Party; (b) any waiver, modification, amendment, or supplement to the definitions of "Required Supporting Unsecured Noteholders," or "Governmental Plaintiff Ad Hoc Committee," shall require the prior written consent of each applicable Supporting Party that is a member of such constituencies; (c) any waiver, modification, amendment, or supplement of the Opioid Settlement or the CMS/DOJ/States Settlement that is materially adverse to the Supporting Unsecured Noteholders shall require the consent of no less than two-thirds in outstanding principal amount of Guaranteed Unsecured Notes held by the Supporting Unsecured Noteholders then party to this Agreement; and (d) any waiver, modification, amendment or supplement requiring any Supporting Party to make any investment, including in any Mallinckrodt entity, may not be made without the prior written consent of such Supporting Party. Notwithstanding the foregoing, in no event shall Section 6(d) be amended as to any Supporting Party without the consent of each such Supporting Party.

c. Amendments to any Definitive Document shall be governed as set forth in such Definitive Document. Any consent required to be provided pursuant to this Section 10 may be delivered by email from counsel. Any proposed modification, amendment, waiver, or supplement that does not comply with this Section 10 shall be ineffective and void *ab initio*.

11. Noteholder Consent Fee. Supporting Unsecured Noteholders who have executed and delivered counterpart signature pages to this Agreement to counsel to the Company by no later than of 11:59 P.M., prevailing Eastern time, on October 11, 2020 (the “***Determination Date***”), shall earn the Noteholder Consent Fee as set forth herein and in the Plan, which shall be payable in cash on the Plan Effective Date; provided, that the Noteholder Consent Fee shall only be payable if holders of no less than 66.67% in principal amount of the Guaranteed Unsecured Notes execute and deliver counterpart signature pages to this Agreement by the Determination Date; provided, further, that the Noteholder Consent fee shall only be payable to such Supporting Unsecured Noteholders having executed and delivered counterpart signature pages by the Determination Date notwithstanding any Transfer of Guaranteed Unsecured Notes after the Determination Date.

12. Effectiveness. This Agreement shall become effective and binding on the Parties on the Agreement Effective Date, and not before such date.

13. Governing Law; Jurisdiction; Waiver of Jury Trial.

a. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York, without giving effect to the conflicts of law principles thereof.

b. Each of the Parties irrevocably agrees that, for so long as the Chapter 11 Cases are pending, any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any party or its successors or assigns shall be brought and determined in the Bankruptcy Court, and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the Bankruptcy Court for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding. Otherwise, each of the Parties, other than Parties that are States, agrees that any such legal action, suit, or proceeding shall be brought and determined in any federal or state court in the Borough of Manhattan, the City of New York and each of the Parties, other than Parties that are States, hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding. Each of the Parties agrees not to commence any proceeding relating hereto or thereto except in the courts described above, other than (i) proceedings involving Parties that are States commenced while the Chapter 11 Cases are not pending in which case such State’s rights are fully reserved and (ii) proceedings in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any such court as described herein. Each of the Parties further agrees that notice as provided herein shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Subject to the foregoing, each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim, or otherwise, in any proceeding arising out of or relating to this Agreement, (A) any Claim that it is not personally subject to the jurisdiction of the courts as described herein for any reason, (B) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service

of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise) and (C) that (I) the proceeding in any such court is brought in an inconvenient forum, (II) the venue of such proceeding is improper, or (III) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

c. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

14. Specific Performance/Remedies.

a. The Parties agree that irreparable damage may occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof, in addition to any other remedy to which they are entitled at law or in equity. Unless otherwise expressly stated in this Agreement, no right or remedy described or provided in this Agreement is intended to be exclusive or to preclude a Party from pursuing other rights and remedies to the extent available under this Agreement, at law, or in equity.

b. Notwithstanding anything to the contrary in this Agreement, none of the Parties will be liable for, and none of the Parties shall claim or seek to recover on the basis of anything in this Agreement, any punitive, special, indirect or consequential damages or damages for lost profits, in each case against any other Party to this Agreement.

15. Survival. Notwithstanding any Transfer of any Claims against or Interests in the Company in accordance with Section 4(b) or the termination of this Agreement pursuant to Section 6 hereof, the agreements and obligations of the Parties set forth in the following Sections: 6(f), 6(g), 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 hereof (and any defined terms used in any such Sections) shall survive such termination and shall continue in full force and effect for the benefit of the Parties in accordance with the terms hereof; provided, that any liability of a Party for failure to comply with the terms of this Agreement shall survive such termination.

16. Headings. The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof or, for any purpose, be deemed a part of this Agreement.

17. No Third-Party Beneficiaries; Successors and Assigns; Severability; Several Obligations. This Agreement is intended to bind and inure solely to the benefit of the Parties and

their respective successors, permitted assigns, heirs, executors, and administrators and, unless expressly stated or referred to herein, no other person or entity shall be a third-party beneficiary hereof; provided, that nothing contained in this Section 17 shall be deemed to permit Transfers of interests in any Specified Claim and Interests other than in accordance with the express terms of this Agreement. If any provision of this Agreement, or the application of any such provision to any person or entity or circumstance, shall be held invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision hereof and this Agreement shall continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a reasonably acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible. The agreements, representations, and obligations of the Parties are, in all respects, several and neither joint nor joint and several. For the avoidance of doubt, the obligations arising out of this Agreement are several and not joint with respect to each Supporting Party, in accordance with its proportionate interest hereunder, and the Parties agree not to proceed against any Supporting Party for the obligations of another.

18. Prior Negotiations; Entire Agreement. This Agreement, including the exhibits and schedules hereto (including the Term Sheet and the Opioid Settlement Term Sheet), constitutes the entire agreement of the Parties, and supersedes all other prior negotiations, with respect to the subject matter hereof and thereof, except that the Parties acknowledge that any confidentiality agreements (if any) heretofore executed between the Company and each Supporting Party shall continue in full force and effect in accordance with its terms.

19. Counterparts; Email Consent. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same agreement. Execution copies of this Agreement may be delivered by facsimile, electronic mail, or otherwise, which shall be deemed to be an original for the purposes of this paragraph. Where a written consent, acceptance, approval, or waiver is required pursuant to or contemplated by this Agreement, such written consent, acceptance, approval, or waiver shall be deemed to have occurred if, by agreement between counsel to the Parties submitting and receiving such consent, acceptance, approval, or waiver, it is conveyed in writing (including electronic mail) between each such counsel without representations or warranties of any kind on behalf of such counsel.

20. Notices. All notices hereunder shall be given by electronic mail, certified mail (return receipt requested), or courier to, and shall be deemed effective when actually received by, the following addresses:

- a. If to the Company, to:

Mallinckrodt plc
675 James S. McDonnell Boulevard
Hazelwood, Missouri 63042

Attention: Mark Casey & Donald Lohman
(Corporate.Secretary@mnk.com)

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
885 Third Avenue
New York, New York 10022
Attention: George Davis (george.davis@lw.com)
Anupama Yerramalli (anu.yerramalli@lw.com)
Andrew Sorkin (andrew.sorkin@lw.com)

– and –

Latham & Watkins LLP
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
Attention: Jeff Bjork (jeff.bjork@lw.com)

– and –

Latham & Watkins LLP
330 North Wabash, Suite 2800
Chicago, IL 60611
Attention: Jason Gott (jason.gott@lw.com)
Jason Moehlmann (jason.moehlmann@lw.com)

– and –

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Attention: Philip Mindlin (PMindlin@wlrk.com)
Neil (Mac) M. Snyder (NMSnyder@wlrk.com)

b. If to the Supporting Unsecured Noteholders, to the addresses set forth below each Supporting Unsecured Noteholder's signature to this Agreement (if any), as the case may be, and if such Supporting Unsecured Noteholder is a member of the Unsecured Notes Ad Hoc Group, with a copy (which shall not constitute notice) to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attention: Andrew N. Rosenberg (arosenberg@paulweiss.com)
Alice Belisle Eaton (aeaton@paulweiss.com)

Claudia R. Tobler (ctobler@paulweiss.com)
Neal Paul Donnelly (ndonnelly@paulweiss.com)

c. If to a Supporting Governmental Opioid Claimant, to the addresses set forth below each Supporting Governmental Opioid Claimant's signature to this Agreement (if any), as the case may be, and if such Supporting Governmental Opioid Claimant is a member of the Governmental Plaintiff Ad Hoc Committee, with a copy (which shall not constitute notice), to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: Kenneth H. Eckstein (keckstein@kramerlevin.com)
Daniel M. Eggermann (deggermann@kramerlevin.com)

– and –

Brown Rudnick LLP
Seven Times Square
New York, New York 10019
Attention: David J. Molton (dmolton@brownrudnick.com)
Steven D. Pohl (spohl@brownrudnick.com)

– and –

Gilbert LLP
1100 New York Ave., NW
Suite 700
Washington, D.C. 2005
Attention: Scott D. Gilbert (gilberts@gilbertlegal.com)
Kami E. Quinn (quinnk@gilbertlegal.com)

21. Reservation of Rights; No Admission.

a. Nothing contained herein shall (i) limit the ability of any Party to consult with other Parties; or (ii) limit the ability of any Supporting Party to sell or enter into any transactions in connection with the Specified Claims and Interests, or any other claims against or interests in the Company, subject to the terms of this Agreement; or (iii) constitute a waiver or amendment of any provision of any applicable credit agreement or indenture or any agreements executed in connection with such credit agreement or indenture. Except as expressly provided in this Agreement, nothing herein is intended to, or does, in any manner waive, limit, impair, or restrict the ability of each of the Parties to protect and preserve its rights, remedies, and interests, including its claims against any of the other Parties (or their respective affiliates or subsidiaries) or its full participation in any bankruptcy case filed by the Company.

b. Except as expressly provided in this Agreement, nothing herein is intended to, or does, in any manner waive, limit, impair, or restrict the ability of each of the Parties to protect and preserve its rights, remedies, and interests, including its claims against any of the other Parties (or their respective affiliates or subsidiaries) or its full participation in any bankruptcy case filed

by the Company or any of its affiliates and subsidiaries. This Agreement is part of a proposed settlement of matters that could otherwise be the subject of litigation among the Parties. If the Restructuring is not consummated, or if this Agreement is terminated as to all Parties for any reason, the Parties fully reserve any and all of their rights. If this Agreement is terminated as to any Party or group individually, such Party or group fully reserves any and all of their rights. Pursuant to Rule 408 of the Federal Rule of Evidence, any applicable state rules of evidence, and any other applicable law, foreign or domestic, this Agreement and all negotiations relating thereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce its terms. This Agreement shall in no event be construed as or be deemed to be evidence of an admission or concession on the part of any Party of any claim or fault or liability or damages whatsoever. Each of the Parties denies any and all wrongdoing or liability of any kind and does not concede any infirmity in the claims or defenses which it has asserted or could assert.

22. Relationship Among the Supporting Parties. It is understood and agreed that no Supporting Party has any fiduciary duty, duty of trust or confidence in any kind or form with any other Supporting Party, the Company, or any other stakeholder of the Company and, except as expressly provided in this Agreement, there are no commitments among or between them. In this regard, it is understood and agreed that any Supporting Party may trade in the Claims and Interests of the Company without the consent of the Company or any other Supporting Party, subject to applicable securities laws, the terms of this Agreement, and any Confidentiality Agreement entered into with the Company; provided that no Supporting Party shall have any responsibility for any such trading by any other Person by virtue of this Agreement. No prior history, pattern, or practice of sharing confidences among or between the Supporting Parties shall in any way affect or negate this understanding and agreement.

23. Make-Whole Reservation of Rights. Neither this Agreement nor the Term Sheet provide for the treatment of the Make-Whole Claims, and all Parties' rights related thereto are fully reserved. Notwithstanding anything to the contrary in this Agreement, it is expressly understood and agreed that a Supporting Unsecured Noteholder (a) may hold First Lien Credit Agreement Claims, First Lien Notes Claims, and/or Second Lien Notes Claims in addition to its Specified Claims and Interests, and (b) that the entry into this Agreement does not limit, waive, impair, or otherwise affect any Supporting Unsecured Noteholder's right to negotiate for and seek allowance of, or to object to and seek disallowance of, any Make-Whole Claims in the Chapter 11 Cases or the Restructuring, whether in such Unsecured Noteholder's capacity as an Unsecured Noteholder or otherwise. Nothing contained herein, limits, waives, impairs, or otherwise affects the Company's right to object to, or seek disallowance of, any Make-Whole Claims in the Chapter 11 Cases or Restructuring and any such actions taken in connection with defending or objecting to the Make-Whole Claims is not inconsistent with the Company's obligations under this Agreement. Any settlement and/or compromise of any Make-Whole Claim shall be acceptable to the Debtors, the Governmental Plaintiff Ad Hoc Committee and the Required Supporting Unsecured Noteholders, and any documents evidencing such settlement and/or compromise shall be in form

and substance acceptable to the Debtors, the Governmental Plaintiff Ad Hoc Committee and the Required Supporting Unsecured Noteholders.

24. No Solicitation; Representation by Counsel; Adequate Information.

a. This Agreement is not and shall not be deemed to be a solicitation for votes in favor of the Plan in the Chapter 11 Cases. The acceptances of the Supporting Parties with respect to the Plan will not be solicited until such Supporting Parties have received the Disclosure Statement and related ballots and solicitation materials.

b. Each Party acknowledges that it, or its advisors, has had an opportunity to receive information from the Company and that it has been represented by counsel in connection with this Agreement and the transactions contemplated hereby. Accordingly, any rule of law or any legal decision that would provide any Party with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived. Each Supporting Party hereby further confirms that its decision to execute this Agreement has been based upon its independent investigation of the operations, businesses, financial and other conditions, and prospects of the Company, and without reliance on any statement of any other Party (or such other Party's financial, legal or other professional advisors), other than such express representations and warranties of the Company set forth in Section 7.

25. Fees and Expenses. The Company shall reimburse all reasonable and documented fees and out-of-pocket expenses including success fees (regardless of whether such fees and expenses were incurred before or after the Petition Date and, in each case, in accordance with any applicable engagement letter or fee reimbursement letter with the Company) of the following professionals and advisors: (a) Gilbert LLP, Kramer Levin Naftalis & Frankel LLP, and Brown Rudnick LLP, as legal counsel to the Governmental Plaintiff Ad Hoc Committee; (b) William Fry, as Irish counsel to the Governmental Plaintiff Ad Hoc Committee; (c) Houlihan Lokey, Inc., as investment banker and financial advisor to the Governmental Plaintiff Ad Hoc Committee; (d) such other legal, consulting, financial, and/or other professional advisors to which the Governmental Plaintiff Ad Hoc Committee and the Debtors shall reasonably agree from time to time; (e) Paul, Weiss, Rifkind, Wharton & Garrison LLP as counsel to the Unsecured Notes Ad Hoc Group; (f) Landis Rath & Cobb LLP, as Delaware counsel to the Unsecured Notes Ad Hoc Group; (g) Perella Weinberg Partners LP, as investment banker to the Unsecured Notes Ad Hoc Group; (h) Reed Smith LLP, as regulatory counsel to the Unsecured Notes Ad Hoc Group; (i) Matheson as Irish counsel to the Unsecured Notes Ad Hoc Group; (j) such other legal, consulting, financial, and/or other professional advisors to which the Unsecured Notes Ad Hoc Group and the Debtors shall reasonably agree from time to time; and (k) to the extent not identified above, three local counsel (one for the Chapter 11 Cases, one for the Irish Examinership Proceedings, and one for the Recognition Proceedings) for each of the Governmental Plaintiff Ad Hoc Committee and Unsecured Notes Ad Hoc Group; provided, that to the extent that the Company terminates this Agreement under Section 6(b), the Company's reimbursement obligations under this Section 25 shall survive with respect to any and all fees and expenses incurred on or prior to the date of termination. In furtherance of the foregoing (x) simultaneously with the effectiveness of this Agreement, the Company shall pay all such fees and out-of-pocket expenses incurred or accrued at any time prior to the Agreement Effective Date; (y) the Company shall pay any accrued but unpaid amounts owing under such engagement letter and/or fee reimbursement letters to the extent

required under the terms thereof upon the termination of this Agreement, but shall not be responsible for any fees and expenses incurred after termination of this Agreement (other than termination of this Agreement as a result of the occurrence of the Plan Effective Date); and (z) notwithstanding anything to the contrary herein, the Company shall also be required to reimburse all reasonable and documented fees and expenses incurred by the Governmental Plaintiff Ad Hoc Committee on or after the Effective Date in connection with the implementation of the Plan (excluding, for the avoidance of doubt, the expenses of the administration of the Opioid Trust).

26. Enforceability of Agreement. The Parties hereby acknowledge and agree: (a) that the provision of any notice or exercise of termination rights under this Agreement is not prohibited by the automatic stay provisions of the Bankruptcy Code, (b) each of the Parties to the extent enforceable waives any right to assert that the exercise of any rights or remedies under this Agreement is subject to the automatic stay provisions of the Bankruptcy Code, and expressly stipulates and consents hereunder to the prospective modification of the automatic stay provisions of the Bankruptcy Code for purposes of exercising any rights or remedies under this Agreement to the extent the Bankruptcy Court determines that such relief is required, (c) that they shall not take a position to the contrary of this Section 26 in the Bankruptcy Court or any other court of competent jurisdiction, and (d) they will not initiate, or assert in, any litigation or other legal proceeding that this Section 26 is illegal, invalid or unenforceable, in whole or in part.

27. Conflicts. In the event of any conflict among the terms and provisions of this RSA and of the Term Sheet, the terms and provisions of the Term Sheet shall control.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered by their respective duly authorized officers or other authorized persons, solely in their respective capacity as officers or other authorized persons of the undersigned and not in any other capacity, as of the date first set forth above.

[Signature pages follow]

[Signature Pages Redacted]

[Signature Page to Restructuring Support Agreement]



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: December 15, 2020

Contact Person: Robert Wingo, CITY
ATTORNEY

Submitting Department: Legal
Staff Recommendations:

District: Internal

Consent: No	Regular: No	Public Hearing: No	Report/Discussion: No
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Agenda Wording:

Consideration and action to recess into executive session for discussion and consultation with the City Attorney for legal advice, and to consider and instruct the City Attorney regarding the City Council's position pertaining to opioid litigation pursuant to A.R.S. 38- 431.03(A)(3) and (4).

Motion:

I move to recess into executive session for the purpose noticed.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:
