CITY OF SURPRISE
Regular City Council Meeting Agenda
16000 N. Civic Center Plaza
Surprise, AZ 85374

Tuesday, January 14, 2014 @ 6:00 PM

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A. Call To Order

B. Roll Call

C. Pledge of Allegiance

D. Invocation

E. City Manager Report:

F. City Attorney Report:

G. Regular City Council Meeting Agenda:

Approval of items on the Consent Agenda – all items with an asterisk (*) are considered to be routine matters and will be enacted by one motion and one roll call vote to the City Council. There will be no separate discussion on these items unless a Councilmember requests, in which event the item will be removed from the consent agenda and considered in its normal sequence on the agenda.

Consent Agenda:

*#1	District 5	Consideration and action on the purchase and disposition of 15350 W. Lundberg St. for the Neighborhood Stabilization Program with the accepted purchase price of $159,900.00.	Approve Tammie Hollowell, IT
*#2	District 5	Consideration and action on the purchase and disposition of 15963 W Tasha Dr. for the Neighborhood Stabilization Program for the purchase price of $164,900.00.	Approve Tammie Hollowell
*#3	District 4	Consideration and action on Resolution 2014-04, approving a final plat entitled "Avenue of the Arts Clinic, A Condominium," generally located on the northeast corner of Bell Road and Avenue of the Arts.	Approve Jeff Mihelich, Assistant City Manager
*#4	District Citywide	Consideration and action on Resolution #2014-01, approving the Maricopa HOME Consortium Intergovernmental Agreement.	Approve Jeff Mihelich, Assistant City Manager
*#5	District 3	Consideration and action on Resolution No. 2014-02, declaring the	Approve

		City's intention to create the Zanjero Trails PH 2 #133 Street Lighting Improvement District pursuant to A.R.S. § 48-616.	Dick McKinley, Public Works Department
*#6	District 3	Consideration and action on a liquor license request by Winco Food, LLC, for a series 09 Person Transfer/Location Transfer to be located at 16951 W. Bell Road, Surprise, AZ 85388.	None Sherry Ann Aguilar, City Clerk MMC
*#7	District Internal	Consideration and action on Resolution #2014-06 approving an Intergovernmental Agreement with the City of Goodyear regarding educational campaign related to economic development.	Approve Michael Celaya, IGR
*#8	District Citywide	Consideration and action on the minutes of December 3, 2013 Special Work Session; December 10, 2013 Regular Council Meeting; December 17, 2013 Special Council Meeting and December 17, Special Work Session.	Approve Sherry Ann Aguilar, City Clerk

Regular Agenda Item - Non-Public Hearing:

#9	District Internal	Consideration and action on the selection of a Vice-Mayor.	None Sherry Ann Aguilar, City Clerk MMC
#10	District Citywide	Consideration and action on Resolution #2014 - 08 authorizing the use of Tourism funds to SCI Sports and Entertainment in an amount not to exceed $20,000.	Approve Mark A. Coronado, Director - Community & Recreation Services
#11	District Citywide	Consideration and action on Ordinance #2014-02, amending Surprise City Code Chapter 18, Article II, an article regulating alarm systems within the City of Surprise.	Approve Michael T. Frazier, Chief of Police
#12	District Citywide	Consideration and action on Resolution #2014-03 amending the FY14 budget in the amount of $39,700 to establish same day trash and recycle collection.	Approve Dick McKinley, Public Works

Regular Agenda Item - Public Hearing:

#13	District 1	Consideration and action on Resolution #2014-09, approving a minor General Plan Map Amendment to change the General Plan Land Use designation for FS13-416, entitled “Grand Vista”, an approximately 5,500 gross acres property generally bounded by Dove Valley, 211th Avenue, Black Mountain Road, and 183rd	Approve Jeff Mihelich, Community & Economic

Avenue. Development

H. Call To The Public:

INSTRUCTIONS: In order to address the City Council, you will need to fill out a Call to the Public Form available at the front counter, and then turn it in to the City Clerk before the meeting begins.
Download the Call to the Public form *(PDF download requires Adobe Acrobat Reader)*
Fill out the Call to the Public form online If submitting form electronically, please submit to City Clerk at least one hour before the meeting start time.
The Call to the Public form is also available at the front counter.

Note: A.R.S. 38-431.01(H) - During this time members of the public may address City Council on any item not on the agenda. At the conclusion of the open call, City Council may respond to criticism, may ask staff to review the matter or may ask that the matter be put on a future agenda. No discussion or action shall take place on any item raised.

Approval of items on the Consent Agenda – all items with an asterisk (*) are considered to be routine matters and will be enacted by one motion and one roll call vote to the City Council. There will be no separate discussion on these items unless a Councilmember requests, in which event the item will be removed from the consent agenda and considered in its normal sequence on the agenda.

I. Other Business and Future Agenda Items:

J. Mayor/Council Reports:

K. Executive Session:

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.

L. Adjournment:

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: January 9, 2013 at 3:50 p.m.

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

January 14, 2014 @ 6:00:00 PM

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Council Meeting Date:	January 14, 2014	Contact Person:	Tammie Hollowell, IT
Submitting Department:	IT	District:	5
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on the purchase and disposition of 15350 W. Lundberg St. for the Neighborhood Stabilization Program with the accepted purchase price of $159,900.00.

Motion:

I move to approve the purchase and disposition of 15350 W. Lundberg St. for the Neighborhood Stabilization Program.

Background:

On February 22, 2011, the Council approved the Neighborhood Stabilization Program 3 (NSP 3) Annual Action Plan Amendment that accepted grant funding from the U.S. Department of Housing and Urban Development to purchase foreclosed homes in neighborhoods located in a designated target area within Special Planning Area 1. Since the funds are federal assistance dollars, there are specific requirements that must be met in order for the house to be purchased with these funds. This home will subsequently be sold to a qualified buyer per the NSP 3 guidelines.

Financial Impact Statement:

The budget for this item is located in the Neighborhood Stabilization Program 3 line item. Upon approval of this item, it is anticipated that all funds associated with this Council action will be expended by February 15, 2014. Any associated operating costs of this item have been included in the current year base budget or have been planned for the following fiscal year. The funding source for this item is the Neighborhood Revitalization grant.

ATTACHMENTS:

Click to download

- location map
- contract

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Lloyd Abrams

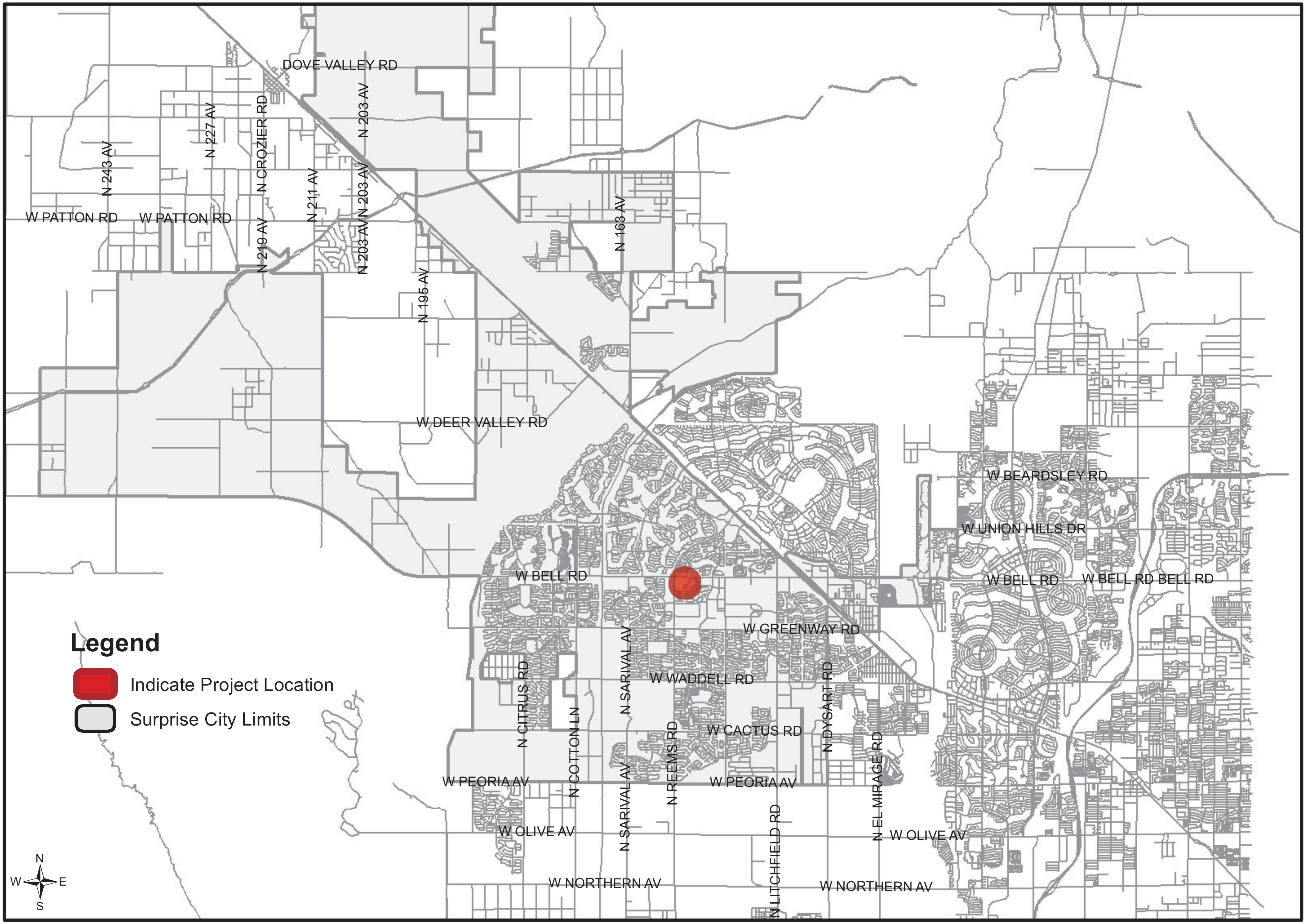

EXHIBIT #2

Project: NSP - 15350 W Lundberg St

RE/MAX Professionals

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated: February 2011

ARIZONA ASSOCIATION OF REALTORS® REAL SOLUTIONS. REALTOR® SUCCESS.

The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.

1. PROPERTY

1a. BUYER: City of Surprise
BUYER'S NAME(S)

SELLER: FANNIE MAE ______ or ☒ as identified in section 9c.
SELLER'S NAME(S)

Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon or incidental thereto, plus the personal property described herein (collectively the "Premises").

1b. Premises Address: 15350 W LUNDBERG ST Assessor's #: 509-12-162

City: SURPRISE, AZ County: MARICOPA AZ, Zip Code: 85374

Legal Description: ORCHARDS PARCEL 3 MCR 587-45

1c. $ 159,900.00 Full Purchase Price, paid as outlined below

$ 0.00 Earnest money

$ 159,900.00 CASH AT CLOSE OF ESCROW

$ ______

1d. **Close of Escrow:** Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing documents, and perform all other acts necessary in sufficient time to allow COE to occur on January (MONTH) 30 (DAY), 2014 (YEAR) ("COE Date"). If Escrow Company or recorder's office is closed on COE Date, COE shall occur on the next day that both are open for business.

Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on COE Date.

1e. **Possession:** Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security system/alarms, and all common area facilities to Buyer at COE or ☐ ______. Broker(s) recommend that the parties seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of the Premises.

1f. **Addenda Incorporated:** ☐ AS IS ☐ Additional Clause ☐ Assumption and Carryback ☐ Buyer Contingency ☐ Domestic Water Well ☐ H.O.A. ☐ Lead-Based Paint Disclosure ☐ On-site Wastewater Treatment Facility ☐ Short Sale ☒ Other: Real Estate Purchase Addendum

1g. **Fixtures and Personal Property:** Seller agrees that all existing fixtures on the Premises, and any existing personal property specified herein, shall be included in this sale, including the following:

- free-standing range/oven
- ceiling fans
- attached floor coverings
- window and door screens, sun screens
- garage door openers and controls
- outdoor landscaping, fountains, and lighting
- pellet, wood-burning or gas-log stoves
- storage sheds
- light fixtures
- towel, curtain and drapery rods
- flush-mounted speakers
- storm windows and doors
- attached media antennas/ satellite dishes
- attached fireplace equipment
- timers
- draperies and other window coverings
- shutters and awnings
- water-misting systems
- solar systems
- mailbox
- central vacuum, hose, and attachments
- built-in appliances

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KU SELLER | SELLER <Initials Initials> J.M. BUYER | BUYER

Fannie Mae

If owned by the Seller, the following items also are included in this sale:
- pool and spa equipment (including any mechanical or other cleaning systems)
- security and/or fire systems and/or alarms
- water softeners
- water purification systems

Additional existing personal property included in this sale (if checked): ☐ refrigerator ☐ washer ☐ dryer **as described:**

____

____

☐ Other: ______________________________

____

Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no monetary value, and free and clear of all liens or encumbrances.

Fixtures and leased items NOT included: **None**

IF THIS IS AN ALL CASH SALE, GO TO SECTION 3.

2. FINANCING

2a. **Pre-Qualification:** A completed AAR Pre-Qualification Form ☐ is ☐ is not attached hereto and incorporated herein by reference.

2b. **Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval for the loan described in the AAR Loan Status Update ("LSU") form without Prior to Document ("PTD") conditions no later than three (3) days prior to the COE Date. If Buyer is unable to obtain loan approval without PTD conditions, Buyer shall deliver a notice of the inability to obtain loan approval without PTD conditions to Seller or Escrow Company no later than three (3) days prior to the COE Date.

2c. **Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the earnest money if after diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions no later than three (3) days prior to the COE Date. Buyer acknowledges that prepaid items paid separately from earnest money are not refundable.

2d. **Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest rate and "points" by separate written agreement with the lender during the Inspection Period or (ii) the failure to have the down payment or other funds due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan contingency.

2e. **Loan Status Update:** Buyer shall deliver to Seller the LSU with at a minimum lines 1-40 completed describing the current status of the Buyer's proposed loan within five (5) days after Contract acceptance and instruct lender to provide an updated LSU to Broker(s) and Seller upon request.

2f. **Loan Application:** Unless previously completed, during the Inspection Period, Buyer shall (i) complete, sign and deliver to the lender a loan application and grant lender permission to access Buyer's Trimerged Residential Credit Report; and (ii) provide to lender all initial requested signed disclosures and **Initial Requested Documentation** listed in the LSU on lines 32-35.

2g. **Loan Processing During Escrow:** Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with all additional documentation required. **Buyer shall sign all loan documents no later than three (3) days prior to the COE Date.**

2h. **Type of Financing:** ☐ Conventional ☐ FHA ☐ VA ☐ USDA ☐ Assumption ☐ Seller Carryback ☑ **CASH** ______________
(If financing is to be other than new financing, see attached addendum.)

2i. **Loan Costs:** All costs of obtaining the loan shall be paid by the Buyer, unless otherwise provided for herein.

2j. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller agrees to pay up to ________ % of the Purchase Price or $ _________ for Buyer's loan costs including pre-paids, impounds and Buyer's title / escrow closing costs.

2k. **VA Loan Costs:** In the event of a VA loan, Seller agrees to pay the escrow fee and up to $ ________________ of loan costs not permitted to be paid by the Buyer, in addition to the other costs Seller has agreed to pay herein, including Seller's concessions.

2l. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the Pre-Qualification Form if attached hereto or LSU provided within five (5) days after Contract acceptance and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan approval without PTD conditions, increase Seller's closing costs, or delay COE.

2m. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to lender for at least the purchase price. If the Premises fails to appraise for the purchase price in any appraisal required by lender, Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a refund of the Earnest Money or the appraisal contingency shall be waived.

2n. **Appraisal Fee(s):** Appraisal Fee(s), when required by lender, shall be paid by ☐ Buyer ☐ Seller ☐ Other ______________
Appraisal Fee(s) ☐ are ☐ are not included in Seller's Concessions, if applicable.

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KO | | <initials — Initials> | B.M. |
SELLER | SELLER | | BUYER | BUYER

Fannie Mac

3. TITLE AND ESCROW

3a. **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the terms of this Contract shall be:

FIRST AMERICAN TITLE
ESCROW/TITLE COMPANY

ADDRESS CITY STATE ZIP

EMAIL PHONE FAX

3b. **Title and Vesting:** Buyer will take title as determined before COE. Taking title may have significant legal, estate planning and tax consequences. Buyer should obtain legal and tax advice.

3c. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, addressed pursuant to 8t and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Title Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy ("Plain Language"/"1-4 units") or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage at Buyer's own additional expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title Insurance Policy.

3d. **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of the Buyer to any homeowner's association in which the Premises is located. (ii) If the Escrow Company is also acting as the title agency but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to the Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying the Buyer and Seller for any losses due to fraudulent acts or breach of escrow instructions by the Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.

3e. **Tax Prorations:** Real property taxes payable by the Seller shall be prorated to COE based upon the latest tax information available.

3f. **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with Escrow Company, Buyer and Seller authorize Escrow Company to release Earnest Money pursuant to the terms and conditions of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or relating in any way to the release of Earnest Money.

3g. **Prorations of Assessments and Fees:** All assessments and fees that are not a lien as of the COE, including homeowner's association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, and service contracts, shall be prorated as of COE or ☐ Other: ______

3h. **Assessment Liens:** The amount of any assessment, other than homeowner's association assessments, that is a lien as of the COE, shall be ☒ paid in full by Seller ☐ prorated and assumed by Buyer. Any assessment that becomes a lien after COE is the Buyer's responsibility.

3i. **IRS and FIRPTA Reporting:** Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete, sign, and deliver to Escrow Company a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller acknowledge that if the Seller is a foreign person, the Buyer must withhold a tax equal to 10% of the purchase price, unless an exemption applies.

KL | SELLER | SELLER <Initials Initials> BUYER | BUYER D.M.

4. DISCLOSURE

4a. **Seller Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR Residential SPDS form to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or five (5) days after receipt of the SPDS, whichever is later.

4b. **Insurance Claims History:** Seller shall deliver to Buyer a written five-year insurance claims history regarding Premises (or a claims history for the length of time Seller has owned the Premises if less than five years) from Seller's insurance company or an insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after Contract acceptance. (Seller may obscure any reference to date of birth or social security number from the document). Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever is later.

4c. **Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, the Seller shall: (i) notify the Buyer of any known lead-based paint ("LBP") or LBP hazards in the Premises; (ii) provide the Buyer with any LBP risk assessments or inspections of the Premises in the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to COE.

☐ LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk assessments or inspections during Inspection Period.

☐ Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days or __________ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five (5) days after expiration of the Assessment Period cancel this Contract.

Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in residential properties built before 1978 and to follow specific work practices to prevent lead contamination.

If Premises were constructed prior to 1978, **(BUYER'S INITIALS REQUIRED)** ______ BUYER ______ BUYER

If Premises were constructed in 1978 or later, **(BUYER'S INITIALS REQUIRED)** ______ BUYER ~~Q.M.~~ BUYER

4d. **Affidavit of Disclosure:** If the Premises is located in an unincorporated area of the county, and five or fewer parcels of property other than subdivided property are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in the form required by law to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.

4e. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein, in the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by Section 5a or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed five (5) days after delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

5a. **Seller Warranties:** Seller warrants and shall maintain and repair the Premises so that at the earlier of possession or COE: (i) all heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, motors, filter systems, cleaning systems, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other agreed upon repairs and corrections will be completed pursuant to Section 6j; (iii) the Premises, including all additional existing personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) all personal property not included in the sale and all debris will be removed from the Premises.

5b. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for all labor, professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding the COE in connection with the construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the information regarding connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is correct to the best of Seller's knowledge.

5c. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect the Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE, Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises. **Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:**

____

____

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KL		Initials	Initials		Q.M.
SELLER	SELLER			BUYER	BUYER

6. DUE DILIGENCE

6a. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or ____________ days after Contract acceptance. During the Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards, violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is a material matter to the Buyer, it must be investigated by the Buyer during the Inspection Period. Buyer shall keep the Premises free and clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate *Buyer Advisory* provided by AAR to assist in Buyer's due diligence inspections and investigations.

6b. **Square Footage: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.**

6c. **Wood-Destroying Organism or Insect Inspection: IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS (SUCH AS TERMITES) ARE A MATERIAL MATTER TO THE BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.** The Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be performed at Buyer's expense.

6d. **Flood Hazard:** Flood hazard designations or the cost of flood hazard insurance shall be determined by Buyer during the Inspection Period. If the Premises are situated in an area identified as having any special flood hazards by any governmental entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to encumber or improve the Premises.

6e. Insurance: **IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO THE BUYER, BUYER SHALL APPLY FOR AND OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD.** Buyer understands that any homeowner's, fire, casualty, or other insurance desired by Buyer or required by lender should be in place at COE.

6f. **Sewer or On-site Wastewater Treatment System:** The Premises are connected to a:

☒ sewer system ☐ septic system ☐ alternative system

IF A SEWER CONNECTION IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD. If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment Facility Addendum is incorporated herein by reference.

(BUYER'S INITIALS REQUIRED) ________ BUYER J.M. BUYER

6g. **Swimming Pool Barrier Regulations:** During the Inspection Period, Buyer agrees to investigate all applicable state, county, and municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt of the Arizona Department of Health Services approved private pool safety notice.

(BUYER'S INITIALS REQUIRED) ________ BUYER J.M. BUYER

6h. **BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE SURROUNDING AREA IS BEYOND THE SCOPE OF THE BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.**

(BUYER'S INITIALS REQUIRED) ________ BUYER J.M. BUYER

6i. **Inspection Period Notice:** Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be provided in a single notice.

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KL SELLER | SELLER <Initials Initials> BUYER | J.M. BUYER

Fannie Mae

6j. **Buyer Disapproval:** If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller notice of the items disapproved and state in the notice that Buyer elects to either:

(1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or

(2) provide the Seller an opportunity to correct the items disapproved, in which case:

(a) Seller shall respond in writing within five (5) days or __________ days after delivery to Seller of Buyer's notice of items disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed Seller's refusal to correct any of the items disapproved.

(b) **If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days or ________ days prior to COE Date.**

(c) If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this Contract within five (5) days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and all Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided, Buyer shall close escrow without correction of those items that Seller has not agreed in writing to correct.

VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will extend response times or cancellation rights.

BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.

6k. **Notice of Non-Working Warranted Items:** Buyer shall provide Seller with notice of any non-working warranted item(s) of which Buyer becomes aware during the Inspection Period or the Seller warranty for that item(s) shall be waived. Delivery of such notice shall not affect Seller's obligation to maintain or repair the warranted item(s).

6l. **Home Warranty Plan:** Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and most plans exclude pre-existing conditions.

☐ A Home Warranty Plan will be ordered by ☐ Buyer or ☐ Seller with the following optional coverage

__________________________, to be issued by ____ at a cost not to exceed $ ______________________, to be paid for by ☐ Buyer ☐ Seller

☒ Buyer declines the purchase of a Home Warranty Plan.

6m. **Walkthrough(s):** Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for the purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in working condition and that the Premises is in substantially the same condition as of the date of Contract acceptance. If Buyer does not conduct such walkthrough(s), Buyer releases Seller and Broker(s) from liability for any defects that could have been discovered.

6n. **Seller's Responsibility Regarding Inspections and Walkthrough(s):** Seller shall make the Premises available for all inspections and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane, until COE to enable Buyer to conduct these inspections and walkthrough(s).

7. REMEDIES

7a. **Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a breach of Contract.

7b. **Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute Resolution obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in the event of Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver the notice required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant to Section 2m, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled contingency is not a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and conditions of Section 1d to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a, will constitute a material breach of this Contract, rendering the Contract subject to cancellation.

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Fannie Mae

7c. **Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the mediation conference by notice to the other and in such event either party shall have the right to resort to court action.

7d. **Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the Small Claims Division of an Arizona Justice Court (up to $2,500) so long as the matter is not thereafter transferred or removed from the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action ("lis pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.

7e. **Attorney Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert witness fees, fees paid to investigators, and arbitration costs.

8. ADDITIONAL TERMS AND CONDITIONS

8a. Pursuant to paragraph 28 of the real estate purchase addendum, this document is subject to all terms and conditions set forth in the real estate purchase addendum.

Notwithstanding the language in section 8o of the state sales contract, nothing in this Agreement shall constitute a release of waiver by seller of any claim or right that it may have with respect to any third parties, including but not limited to the Brokers in this transaction.

Seller will contribute up to $0 towards buyer closing costs, points, and pre-paids. In the event that the buyers lender restricts the allowable seller contributions toward buyer closing costs, Sellers actual and total contributions shall be limited to the allowable amount.

Seller agrees to complete Contract Negotiated Repairs not to exceed $0 prior to closing.

Purchase price shall be 1% below appraised price or $159,900, whichever is lower mandated by the Neighborhood Stabilization Fund Program of the City of Surprise (a federally funded program). Offer is contingent upon Surprise City Council approval of acquisition. Offer is contingent upon a clear environmental review as required by HUD.

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KO		<Initials		Initials>		J.M.
SELLER	SELLER				BUYER	BUYER

8b. **Risk of Loss:** If there is any loss or damage to the Premises between the date of Contract acceptance and COE or possession, whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on the Seller, provided, however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price, either Seller or Buyer may elect to cancel the Contract.

8c. **Permission:** Buyer and Seller grant Broker(s) permission to advise the public of this Contract.

8d. **Arizona Law:** This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.

8e. **Time is of the Essence:** The parties acknowledge that time is of the essence in the performance of the obligations described herein.

8f. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer is obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. COMMISSIONS PAYABLE FOR THE SALE, LEASING, OR MANAGEMENT OF PROPERTY ARE NOT SET BY ANY BOARD OR ASSOCIATION OF REALTORS®, OR MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER THAN BETWEEN THE BROKER AND CLIENT.

8g. **Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original Contract. This Contract and any other documents required by this Contract may be executed by facsimile or other electronic means and in any number of counterparts, which shall become effective upon delivery as provided for herein, except that the Lead-Based Paint Disclosure Statement may not be signed in counterpart. All counterparts shall be deemed to constitute one instrument, and each counterpart shall be deemed an original.

8h. **Days:** All references to days in this Contract shall be construed as calendar days and a day shall begin at 12:00 a.m. and end at 11:59 p.m.

8i. **Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event from which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs on the date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Acts that must be performed three days prior to the COE Date must be performed three full days prior (i.e., if COE Date is Friday the act must be performed by 11:59 p.m. on Monday).

8j. **Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller and Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing signed by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.

8k. **Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands that any subsequent offer accepted by the Seller must be a backup offer contingent on the cancellation of this Contract.

8l. **Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by delivering notice stating the reason for cancellation to the other party or to the Escrow Company. Cancellation shall become effective immediately upon delivery of the cancellation notice.

8m. **Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing and deemed delivered and received when: (i) hand-delivered; (ii) sent via facsimile transmission; (iii) sent via electronic mail, if email addresses are provided herein; or (iv) sent by recognized overnight courier service, and addressed to Buyer as indicated in Section 8r, to Seller as indicated in Section 9a and to the Escrow Company indicated in Section 3a.

8n. **Earnest Money:** Earnest Money is in the form of: ☐ Personal Check ☒ Other: N/A
If applicable, Earnest Money has been received by Broker named in Section 8r and upon acceptance of this offer will be deposited with: ☒ Escrow Company ☐ Broker's Trust Account. Buyer acknowledges that failure to pay the required closing funds by the scheduled Close of Escrow, if not cured after a cure notice is delivered pursuant to Section 7a, shall be construed as a material breach of this contract and all earnest money shall be subject to forfeiture.

8o. **Release of Broker(s): Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, boundaries, values, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, governmental regulations, insurance, price and terms of sale, return on investment or any other matter relating to the value or condition of the Premises. The parties understand and agree that the Broker(s) do not provide advice on property as an investment and are not qualified to provide financial, legal, or tax advice regarding this real estate transaction.**

(SELLER'S INITIALS REQUIRED) ________ SELLER ________ SELLER **(BUYER'S INITIALS REQUIRED)** ________ BUYER S.M. BUYER

8p. **Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and a signed copy delivered in person, by mail, facsimile or electronically, and received by Broker named in Section 8r
by December 5, 2013 , ________ at 5:00 ☐ a.m. ☒ p.m., Mountain Standard Time.
Buyer may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received by this date and time, this offer shall be deemed withdrawn and the Buyer's Earnest Money shall be returned.

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8q. 389. THIS CONTRACT CONTAINS NINE PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE THAT 390. YOU HAVE RECEIVED AND READ ALL NINE PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND ATTACHMENTS.

8r. 391. **Broker on behalf of Buyer:**

392. Laribeth Kirkendall (PRINT SALESPERSON'S NAME) ____ (AGENT CODE) City of Surprise (PRINT FIRM NAME) ____ (FIRM CODE)

393. 16000 N Civic Center Plaza (FIRM ADDRESS) Surprise AZ (STATE) 85374 (ZIP CODE)

394. (623)222-7526 (PREFERRED TELEPHONE) ____ (FAX) laribeth.kirkendall@surpriseaz.gov (EMAIL)

8s. 395. **Agency Confirmation:** The Broker named in Section 8r above is the agent of (check one):
396. [x] the Buyer; [ ] the Seller; or [ ] both the Buyer and Seller

8t. 397. **The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of 398. a copy hereof including the Buyer Attachment.**

399. Jeffrey J. Mihelich 12/5/13 (MO/DA/YR) ^ BUYER'S SIGNATURE ____ (MO/DA/YR)
City of Surprise

400. 16000 N Civic Center Plaza (ADDRESS) ____ (ADDRESS)

401. Surprise, AZ 85374 (CITY, STATE, ZIP CODE) ____ (CITY, STATE, ZIP CODE)

9. SELLER ACCEPTANCE

9a. 402. **Broker on behalf of Seller:**

403. Joshua Smith (PRINT SALESPERSON'S NAME) 1s824 (AGENT CODE) REMAX Professionals (PRINT FIRM NAME) rmpr03 (FIRM CODE)

404. 15003 W Bell Rd Suite 100 (FIRM ADDRESS) Surprise AZ (STATE) 85374 (ZIP CODE)

405. (623)533-3173 (PREFERRED TELEPHONE) (623)321-1160 (FAX) reo@teamsmith1.com (EMAIL)

9b. 406. **Agency Confirmation:** The Broker named in Section 9a above is the agent of (check one):
407. [x] the Seller; or [ ] both the Buyer and Seller

9c. 408. **The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a 409. copy hereof and grant permission to Broker named on Section 9a to deliver a copy to Buyer.**

410. [ ] Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer.
411. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

412. Karen Carrillo 12/6/13 (MO/DA/YR) ^ SELLER'S SIGNATURE ____ (MO/DA/YR)

413. Karen Carrillo, Assistant Vice President (SELLER'S NAME PRINTED) ____ (SELLER'S NAME PRINTED)

414. Fannie Mae (ADDRESS) ____ (ADDRESS)

415. ____ (CITY, STATE, ZIP CODE) ____ (CITY, STATE, ZIP CODE)

416. [ ] **OFFER REJECTED BY SELLER:** ____ (MONTH) ____ (DAY), ____ (YEAR) ____ (SELLER'S INITIALS)

For Broker Use Only:

Brokerage File/Log No. ____ Manager's Initials ____ Broker's Initials ____ Date ____ (MO/DA/YR)

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REO # D1309XV

REAL ESTATE PURCHASE ADDENDUM

This Real Estate Purchase Addendum ("Addendum") is to be made part of, and incorporated into, the Real Estate Purchase Contract (the "Contract"), between Fannie Mae ("Seller") and City of Surprise ("Purchaser") for the property and improvements located at the following address: 15350 West Lundberg Street, Surprise, AZ 85374 ("Property"). As used in this Addendum, the Contract, Addendum and any riders thereto shall be collectively referred to as the "Agreement".

The Seller and the Purchaser agree as follows:

1. Offer:

(a) Acknowledgement of Sufficient Offer: The Purchaser has offered to purchase the property for a purchase price in the amount of $ 159,900 in accordance with the terms set forth in the Agreement ("Offer"). The Seller has reviewed the Offer and deemed it materially sufficient on 12/3/2013 ("Acknowledgement Date").

(b) Acceptance of Offer: Notwithstanding Seller's acknowledgement that the Offer is sufficient for acceptance, the Purchaser agrees that the Agreement remains subject to acceptance by the Seller and must be signed by all parties in order to be binding. The Agreement shall be effective as of the date of execution by Seller ("Effective Date"). The Purchaser's earnest money deposit of $0 is to be placed in a trust account acceptable to the Seller within two (2) calendar days following the Effective Date. The Agreement, signed by the Purchaser and reflecting the terms as acknowledged by the Seller, must be received by the Seller within five (5) calendar days of the Acknowledgement Date. If the Seller does not receive the signed Agreement by such date, the Purchaser's offer shall be deemed null and void. As used in this paragraph, the term "received by the Seller" means actual receipt of the Agreement by the Seller's listing agent.

The Purchaser shall present proof, satisfactory to the Seller, of the Purchaser's funds or prequalification for a mortgage loan in an amount and under terms sufficient for the Purchaser to perform its obligations under this Agreement. The prequalification shall include but is not limited to, a certification of prequalification or a mortgage loan commitment from a mortgage lender, a satisfactory credit report and/or proof of funds sufficient to meet the Purchaser's obligations under the Agreement. The Purchaser's submission of proof of prequalification is a condition precedent to the Seller's acceptance. The Seller may require the Purchaser to obtain, at no cost to the Purchaser, loan prequalification from a Seller approved third party lender. Notwithstanding any Seller required prequalification, the Purchaser acknowledges that Purchaser is free to obtain financing from any source.

2. Time is of the Essence; Settlement Date:

(a) It is agreed that time is of the essence with respect to all dates specified in the Agreement. This means that all deadlines are intended to be strict and absolute.

(b) The closing shall take place on a date ("Settlement Date") on or before 01/30/2014 ("Expiration Date"), unless extended in writing signed by the Seller and the Purchaser or extended by the Seller under the terms of the Agreement. The closing shall be held at a place so designated and approved by the Seller unless otherwise required by applicable law. The Purchaser has the right to make an independent selection of their own attorney, settlement company, escrow company, title company and/or title insurance company in connection with the closing. The date the closing takes place shall be referred to as the Settlement Date for purposes of the Agreement. If the closing does not occur by the Expiration Date, or in any extension, the Agreement is automatically terminated and the Seller may retain any earnest money deposit as liquidated damages.

PURCHASER (Initials)
SELLER (Initials)

3. Financing: This Agreement (check one): ( ) is, (✓) is not, contingent on the Purchaser obtaining financing for the purchase of the Property. If this Agreement is contingent on financing, the type of financing shall be the following (check one):
___ Fannie Mae HomePath Mortgage Financing from a participating lender
___ Fannie Mae HomePath Renovation Financing from a participating lender
___ Conventional
___ FHA
___ VA
✓ Other (specify: CASH)

All Financing. (This paragraph applies to all financing, whether or not it is Fannie Mae HomePath or other financing.) If this Agreement is contingent on financing, the Purchaser shall apply for a loan in the amount of $__________ with a term of ________ years, at prevailing rates, terms and conditions. The Purchaser shall complete and submit to a mortgage lender, of the Purchaser's choice, an application for a mortgage loan containing the terms set forth in this paragraph within five (5) calendar days of the Acknowledgement Date, and shall use diligent efforts to obtain a mortgage loan commitment by __________. If, despite the Purchaser's diligent efforts, the Purchaser cannot obtain a mortgage loan commitment by the specified date, then either the Purchaser or the Seller may terminate the Agreement by giving written notice to the other party. The Purchaser's notice must include a copy of the loan application, proof of the application date, and a copy of the denial letter from the prospective lender. In the event of a proper termination of the Agreement under this paragraph, the earnest money deposit shall be returned to the Purchaser. The Purchaser agrees to cooperate and comply with all requests for documents and information from the Purchaser's chosen lender during the loan application process.
Failure of the Purchaser to comply with such requests from the lender that results in the denial of the mortgage loan will be a breach of the Agreement and the Seller shall be entitled to retain any earnest money deposited by the Purchaser.

(a) Any change as to the terms of the Purchaser's financing, including but not limited to any change in the Purchaser's lender, after negotiations have been completed may, at Seller's discretion, require renegotiation of all terms of the Agreement. Seller shall have the right to terminate the Agreement in the event there is a change in Purchaser's financing or choice of lender.

(b) The Purchaser shall ensure that the lender selected by the Purchaser to finance the sale shall fund the settlement agent as of the Settlement Date. The Purchaser shall further ensure that the selected lender shall provide all lender prepared closing documentation to the settlement agent no later than 48 hours prior to the Settlement Date. Any delays in closing as a result of the Purchaser's selected lender shall be the responsibility of the Purchaser.

4. Use of Property: The Purchaser (check one): (___) does, (✓) does not, intend to use and occupy the Property as Purchaser's primary residence.

5. Inspections:

(a) On or before ten (10) calendar days from the Acknowledgement Date, the Purchaser shall inspect the Property or obtain for its own use, benefit and reliance, inspections and/or reports on the condition of the Property, or be deemed to have waived such inspection and any objections to the condition of the Property and to have accepted the Property. The Purchaser shall keep the Property free and clear of liens and indemnify and hold the Seller harmless from all liability claims, demands, damages, and costs related to the Purchaser's inspection and the Purchaser shall repair all damages arising from or caused by the inspections. The Purchaser shall not directly or indirectly cause any inspections to be made by any government building or zoning inspectors or government employees without the prior written consent of the Seller, unless required by law, in which case, the Purchaser shall provide reasonable notice to the Seller prior to any such inspection. If the Seller has winterized this Property and the Purchaser desires to have the Property inspected, the Seller's listing agent will have the Property dewinterized prior to inspection and rewinterized after inspection.

Within five (5) calendar days of receipt of any inspection report prepared by or for the Purchaser, but not later than ten (10) calendar days from the Acknowledgment Date, whichever first occurs, the Purchaser will provide written notice to the Seller of any items disapproved. The Purchaser's silence shall be deemed as acceptance of the condition of the Property. The Purchaser shall provide to the Seller, at no cost, upon request by the Seller, complete copies of all inspection reports upon which the Purchaser's disapproval of the condition of the property is based. In no event shall the Seller be obligated to make any repairs or replacements that may be indicated in the Purchaser's inspection reports. The Seller may, in its sole discretion, make such repairs to the Property under the terms described in Section 6 of this Addendum. If the Seller elects not to repair the Property, the Purchaser may cancel this Agreement and receive all earnest money deposited. If the Seller elects to make any such repairs to the Property, the Seller shall notify the Purchaser after completion of the repairs and the Purchaser shall have five (5) calendar days from the date of notice, to inspect the repairs and notify the Seller of any items disapproved. If after inspection the Purchaser is not satisfied with repairs or treatments, Purchaser may terminate the Agreement at any time prior to closing.

In situations that are applicable, a structural, electrical, mechanical, environmental or termite inspection report may have been prepared for the benefit of the Seller. Upon request, the Purchaser will be allowed to review the report to obtain the same information and knowledge the Seller has about the condition of the Property but the Purchaser acknowledges that the inspection reports were prepared for the sole use and benefit of the Seller. The Purchaser will not rely upon any such inspection reports obtained by the Seller in making a decision to purchase the Property.

(b) If the Property is a condominium or planned unit development or co-operative, unless otherwise required by law, the Purchaser, at the Purchaser's own expense, is responsible for obtaining and reviewing the covenants, conditions and restrictions and bylaws of the condominium, or planned unit development or cooperative ("Governing Documents") within ten (10) calendar days of the Effective Date. The Seller agrees to use reasonable efforts, as determined in the Seller's sole discretion, to assist the Purchaser in obtaining a copy of the Governing Documents. The Purchaser will be deemed to have accepted the Governing Documents if the Purchaser does not provide the Seller notice in writing, within fifteen (15) calendar days of the Effective Date, of the Purchaser's disapproval of the Governing Documents. In the event Purchaser disapproves of the Governing Documents, Purchaser has the right to terminate the Agreement provided the Purchaser notifies Seller in writing of Purchaser's disapproval within fifteen (15) calendar days of the Effective Date.

6. Repairs: All repairs and treatments will be completed by a vendor approved by the Seller, and will be subject to the Seller's satisfaction only. If the Seller has agreed to pay for treatment of wood infesting organisms, the Seller shall treat only active infestation. **Neither the Purchaser, nor its representatives, shall enter upon the Property to make any repairs and/or treatments prior to closing. The Purchaser shall inspect the repairs and/or treatments as set forth in paragraph 5(a) or is deemed to have waived such inspection and any objections to the repairs and/or treatments.** The Purchaser acknowledges that all repairs and treatments are done for the benefit of the Seller and not for the benefit of the Purchaser and that the Purchaser has inspected or has been given the opportunity to inspect repairs and treatments. Any repairs or treatments made or caused to be made by the Seller shall be completed prior to closing. Under no circumstances shall the Seller be required to make any repairs or treatments after the Settlement Date. **The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that the Purchaser is satisfied with the condition of the Property and with all repairs and treatments to the Property and waives all claims related to such condition and to the quality of the repairs or treatments to the Property.** Any repairs or treatments shall be performed for functional purposes only and exact restoration of appearance or cosmetic items following any repairs or treatments shall not be required. The Seller shall not be obligated to obtain or provide to the Purchaser any receipts for repairs, or treatments, written statements indicating dates or types of repairs and/ or treatments or copies of such receipts or statements nor any other documentation regarding any repairs or treatments to the Property. **THE SELLER DOES NOT WARRANT OR GUARANTEE ANY WORK, REPAIRS OR TREATMENTS TO THE PROPERTY.** THE PURCHASER AGREES TO EXECUTE AND DELIVER TO THE SELLER AT CLOSING FANNIE MAE'S WAIVER & RELEASE 2012.

7. **CONDITION OF PROPERTY: THE PURCHASER UNDERSTANDS THAT THE SELLER ACQUIRED THE PROPERTY BY FORECLOSURE, DEED-IN-LIEU OF FORECLOSURE, FORFEITURE, TAX SALE, OR SIMILAR PROCESS. AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, THE PURCHASER ACKNOWLEDGES AND AGREES TO ACCEPT THE PROPERTY IN "AS IS" CONDITION AT THE TIME OF CLOSING, INCLUDING, WITHOUT LIMITATION, ANY DEFECTS OR ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY, WHETHER KNOWN OR UNKNOWN, WHETHER SUCH DEFECTS OR CONDITIONS WERE DISCOVERABLE THROUGH INSPECTION OR NOT. THE PURCHASER ACKNOWLEDGES THAT THE SELLER, ITS AGENTS AND REPRESENTATIVES HAVE NOT MADE AND THE SELLER SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES, IMPLIED OR EXPRESS, ORAL OR WRITTEN WITH RESPECT TO THE FOLLOWING:**

PURCHASER (Initials) M.
SELLER (Initials)

(A) THE PHYSICAL CONDITION OR ANY OTHER ASPECT OF THE PROPERTY INCLUDING THE STRUCTURAL INTEGRITY OR THE QUALITY OR CHARACTER OF MATERIALS USED IN CONSTRUCTION OF ANY IMPROVEMENTS (E.G. DRYWALL, ASBESTOS, LEAD PAINT, UREA FORMALDEHYDE FOAM INSULATION), AVAILABILITY AND QUANTITY OR QUALITY OF WATER, STABILITY OF THE SOIL, SUSCEPTIBILITY TO LANDSLIDE OR FLOODING, SUFFICIENCY OF DRAINAGE, WATER LEAKS, WATER DAMAGE, MOLD OR ANY OTHER MATTER AFFECTING THE STABILITY, INTEGRITY, OR CONDITION OF THE PROPERTY OR IMPROVEMENTS;

(B) THE CONFORMITY OF THE PROPERTY, OR THE IMPROVEMENTS, TO ANY ZONING, LAND USE OR BUILDING CODE REQUIREMENTS OR COMPLIANCE WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AUTHORITY, OR THE GRANTING OF ANY REQUIRED PERMITS OR APPROVALS, IF ANY, OF ANY GOVERNMENTAL BODIES WHICH HAD JURISDICTION OVER THE CONSTRUCTION OF THE ORIGINAL STRUCTURE, ANY IMPROVEMENTS AND/OR ANY REMODELING OF THE STRUCTURE; AND

(C) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR IMPROVEMENTS INCLUDING REDHIBITORY VICES AND DEFECTS, APPARENT, NON APPARENT OR LATENT, WHICH NOW EXIST OR WHICH MAY HEREAFTER EXIST AND WHICH, IF KNOWN TO THE PURCHASER, WOULD CAUSE THE PURCHASER TO REFUSE TO PURCHASE THE PROPERTY.

Mold, mildew, spores and/or other microscopic organisms and/or allergens (collectively referred to in this Agreement as "Mold") are environmental conditions that are common in residential properties and may affect the Property. Mold, in some forms, has been reported to be toxic and to cause serious physical injuries, including but not limited to, allergic and/or respiratory reactions or other problems, particularly in persons with immune system problems, young children and/or elderly persons. Mold has also been reported to cause extensive damage to personal and real property. Mold may have been removed or covered in the course of any cleaning or repairing of the Property. The Purchaser acknowledges that, if Seller, or any of Seller's employees, contractors, or agents cleaned or repaired the Property or remediated Mold contamination, that Seller does not in any way warrant the cleaning, repairs or remediation. Purchaser accepts full responsibility for all hazards that may result from the presence of Mold in or around the Property. The Purchaser is satisfied with the condition of the Property notwithstanding the past or present existence of Mold in or around the Property and Purchaser has not, in any way, relied upon any representations of Seller, Seller's employees, officers, directors, contractors, or agents concerning the past or present existence of Mold in or around the Property.

If at any time the Property conditions result in violations of building code or other laws or regulations, either party shall have the right to terminate the Agreement at any time prior to closing. If there is an enforcement proceeding arising from allegations of such violations before an enforcement board, special master, court or similar enforcement body, and neither the Purchaser nor the Seller terminate this Agreement, the Purchaser agrees (a) to accept the Property subject to the violations, (b) to be responsible for compliance with the applicable code and with orders issued in any code enforcement proceeding and (c) to resolve the deficiencies as soon as possible after the closing. The Purchaser agrees to execute any and all documents necessary or required for closing by any agency with jurisdiction over the Property. The Purchaser further agrees to indemnify the Seller from any and all claims or liability arising from the Purchaser's breach of this Section 7 of this Addendum.

The closing of this sale shall constitute acknowledgement by the Purchaser that Purchaser had the opportunity to retain an independent, qualified professional to inspect the Property and that the condition of the Property is acceptable to the Purchaser. The Purchaser agrees that the Seller shall have no liability for any claims or losses the Purchaser or the Purchaser's successors or assigns may incur as a result of construction or other defects which may now or hereafter exist with respect to the Property.

8. Occupancy Status of Property: The Purchaser acknowledges that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise noted in Section 38 of this Addendum. Seller represents that the Property may have tenants occupying same under an active lease but expressly disclaims any warranties regarding the validity, enforceability, performance under or continuation of said lease. The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise

noted in Section 38 of this Addendum. The Seller, its representatives, agents or assigns, shall not be responsible for evicting or relocating any tenants, occupants or personal property at the Property prior to or subsequent to closing unless otherwise noted in Section 38 of this Addendum. All leases shall be deemed assigned to Purchaser upon closing to the extent permitted under applicable laws.

The Purchaser further acknowledges that, to the best of the Purchaser's knowledge, the Seller is not holding any security deposits from former or current tenants and has no information as to such security deposits as may have been paid by the former or current tenants to anyone and agrees that no sums representing such tenant security deposits shall be transferred to the Purchaser as part of this transaction. The Purchaser further agrees to assume all responsibility and liability for the refund of such security deposits to the tenants pursuant to the provisions of applicable laws and regulations. All rents due and payable and collected from tenants for the month in which closing occurs will be prorated according to the provisions of Section 10 of this Addendum.

The Purchaser acknowledges that this Property may be subject to the provisions of local rent control ordinances and regulations. The Purchaser agrees that upon the closing, all eviction proceedings and other duties and responsibilities of a property owner and landlord, including but not limited to those proceedings required for compliance with such local rent control ordinances and regulations, will be the Purchaser's sole responsibility.

9. Personal Property: Items of personal property, including but not limited to window coverings, appliances, manufactured homes, mobile homes, vehicles, spas, antennas, satellite dishes and garage door openers, now or hereafter located on the Property are not included in this sale or the Purchase Price unless the personal property is specifically described and referenced in Section 38 of this Addendum. Any personal property at or on the Property may be subject to claims by third parties and, therefore, may be removed from the Property prior to or after the closing. The Seller makes no representation or warranty as to the condition of any personal property, title thereto, or whether any personal property is encumbered by any liens. The Seller assumes no responsibility for any personal property remaining on the Property at the time of closing.

10. Closing Costs and Adjustments:

(a) The Purchaser and the Seller agree to prorate the following expenses as of the Settlement Date: real estate taxes and assessments, common area charges, condominium or planned unit development or similar community assessments, co-operative fees, maintenance fees and rents, if any. In determining prorations, the Settlement Date shall be allocated to the Purchaser. Payment of special assessment district bonds and assessments, and payment of homeowner's association or special assessments shall be paid current and prorated between the Purchaser and the Seller as of Settlement Date with payments not yet due and owing to be assumed by the Purchaser without credit toward Purchase Price. The Property taxes shall be prorated based on an estimate or actual taxes from the previous year on the Property. All prorations shall be based upon a 30-day month and all such prorations shall be final. The Seller shall not be responsible for any amounts due, paid or to be paid after closing, including but not limited to, any taxes, penalties or interest assessed or due as a result of retroactive, postponed or additional taxes resulting from any change in use of, or construction on, or improvement to the Property, or an adjustment in the appraised value of the Property. In the event the Seller has paid any taxes, special assessments or other fees and there is a refund of any such taxes, assessments or fees after closing, and the Purchaser as current owner of the Property receives the payment, the Purchaser will immediately submit the refund to the Seller.

(b) Fannie Mae is a congressionally chartered corporation and is exempt from realty transfer taxes pursuant to 12 U.S.C. 1723a(c)(2) and will not pay realty transfer taxes regardless of local practice. Any realty transfer taxes due on the sale as a result of the conveyance of the Property will be the sole responsibility of the Purchaser.

(c) The Seller shall pay the real estate commission per the listing agreement between the Seller and the Seller's listing broker.

(d) Purchaser shall release Seller from any and all claims arising from the adjustments or prorations or errors in calculating the adjustment or prorations that are or may be discovered after closing. THE PURCHASER AGREES TO EXECUTE AND DELIVER TO THE SELLER AT CLOSING FANNIE MAE'S Tax Proration Agreement 03/2011.

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(e) Regardless of local custom, requirements or practice, the Purchaser shall pay all costs and fees incurred in the transfer of the Property, including the cost of any lender required fees and recording costs except as expressly assumed by the Seller in this Addendum.

(f) **Title and Closing Services. Purchaser will obtain title and escrow closing services from (Purchaser to select option below and initial in the space provided):**

X JM Seller's escrow closing and title provider and title insurance company used by Seller's provider. If Purchaser selects this option, Seller shall pay for the owner's and lender's title insurance. Purchaser and Seller agree that Seller's payment of the title insurance products is limited to the amount that Seller would pay its provider under its agreement with the provider for a basic residential owner's and lender's title insurance policy or their equivalent.

________ Other escrow closing and title provider. If Purchaser selects this option, Purchaser shall bear the expense for all title insurance costs associated with the transaction, regardless of local custom, requirements or practice.

11. Delivery of Funds: Regardless of local custom, requirements, or practice, upon delivery of the deed by the Seller to the Purchaser, the Purchaser shall deliver, or cause to be delivered, all funds due the Seller from the sale in the form of cash, bank check, certified check or wire transfer. An attorney's trust fund check shall not be sufficient to satisfy this provision unless the bank holding the account on which the trust fund check is drawn certifies the trust fund check.

12. Certificate of Occupancy: If the Property is located in a jurisdiction that requires a certificate of occupancy, smoke detector certification, septic certification or any similar certification or permit ("Certificate of Occupancy") or any form of improvement or repair to the Property to obtain such Certificate of Occupancy necessary for the Property to be occupied, the Purchaser understands that the Seller requires the Certificate of Occupancy to be obtained by the Purchaser at the Purchaser's sole expense. The Purchaser shall make application for all Certificates of Occupancy within ten (10) calendar days of the Acknowledgement Date. The Purchaser shall not have the right to delay the closing due to the Purchaser's failure or inability to obtain any required Certificate of Occupancy. Failure of the Purchaser to obtain and furnish the Certificate of Occupancy shall be a material breach of the Agreement.

13. Delivery of Possession of Property: The Seller shall deliver possession of the Property to the Purchaser at closing. The delivery of possession shall be subject to the rights of any tenants or parties in possession per Section 8 of this Addendum. If the Purchaser alters the Property or causes the Property to be altered in any way and/or occupies the Property or allows any other person to occupy the Property prior to closing without the prior written consent of the Seller, such event shall constitute a breach by the Purchaser under the Agreement and the Seller may terminate the Agreement and the Purchaser shall be liable to the Seller for damages caused by any such alteration or occupation of the Property prior to closing and waives any and all claims for damages or compensations for alterations made by the Purchaser to the Property including, but not limited to, any claims for unjust enrichment.

14. Deed: Regardless of local practice, the deed to be delivered by Seller at closing shall be a deed that covenants that grantor grants only that title which grantor may have and that grantor will only defend title against persons claiming by, through, or under the grantor, but not otherwise. Any reference to the term "Deed" or "Special Warranty Deed" herein shall be construed to refer to such form of deed. Under no circumstances shall Seller be required to deliver any form of deed which grants a general warranty of title.

________________ (check if applicable) Seller's deed shall include the following deed restriction:

GRANTEE HEREIN SHALL BE PROHIBITED FROM CONVEYING CAPTIONED PROPERTY FOR A SALES PRICE OF GREATER THAN $________________ FOR A PERIOD OF ____ MONTH(S) FROM THE DATE OF THE RECORDING OF THIS DEED. GRANTEE SHALL ALSO BE PROHIBITED FROM ENCUMBERING SUBJECT PROPERTY WITH A SECURITY INTEREST IN THE PRINCIPAL AMOUNT OF GREATER THAN $______________ FOR A PERIOD OF ____ MONTH(S) FROM THE DATE OF THE RECORDING OF THIS DEED. THESE RESTRICTIONS SHALL RUN WITH THE LAND AND ARE NOT PERSONAL TO GRANTEE.

THIS RESTRICTION SHALL TERMINATE IMMEDIATELY UPON CONVEYANCE AT ANY FORECLOSURE SALE RELATED TO A MORTGAGE OR DEED OF TRUST.

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15. Defects in Title: If the Purchaser raises an objection to the Seller's title to the Property, which, if valid, would make title to the Property uninsurable, the Seller shall have the right unilaterally to terminate the Agreement by giving written notice of the termination to the Purchaser. However, if the Seller is able to correct the problem through reasonable efforts, as the Seller determines, at its sole and absolute discretion, prior to the Expiration Date, including any written extensions, or if title insurance is available from a reputable title insurance company at regular rates containing affirmative coverage for the title objections, then the Agreement shall remain in full force and the Purchaser shall perform pursuant to the terms set in the Agreement. The Seller is not obligated to remove any exception or to bring any action or proceeding or bear any expense in order to convey title to the Property or to make the title marketable and/or insurable but any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove those exceptions. The Purchaser acknowledges that the Seller's title to the Property may be subject to court approval of foreclosure or to mortgagor's right of redemption. In the event the Seller is not able to (a) make the title insurable or correct any problem or (b) obtain title insurance from a reputable title insurance company, all as provided herein, the Purchaser may terminate this Agreement and any earnest money deposit will be returned to the Purchaser as the Purchaser's sole remedy at law or equity. If the Purchaser elects to take title subject to the title objections, the Purchaser shall so notify the Seller. The Purchaser's silence as to any title objections shall be deemed as acceptance.

16. Representations and Warranties:

The Purchaser represents and warrants to the Seller the following:

(a) The Purchaser is purchasing the Property solely in reliance on its own investigation and inspection of the Property and not on any information, representation or warranty provided or to be provided by the Seller, its servicers, representatives, brokers, employees, agents or assigns;

(b) Neither the Seller, nor its servicers, employees, representatives, brokers, agents or assigns, has made any representations or warranties, implied or expressed, relating to the condition of the Property or the contents thereof, except as expressly set forth in Section 38 of this Addendum;

(c) The Purchaser has not relied on any representation or warranty from the Seller regarding the nature, quality or workmanship of any repairs made by the Seller;

(d) The Purchaser will not occupy or cause or permit others to occupy the Property prior to closing and, unless and until any necessary Certificate of Occupancy has been obtained from the appropriate governmental entity, will not occupy or cause or permit others to occupy the Property after closing;

(e) The undersigned, if executing the Agreement on behalf of the Purchaser that is a corporation, partnership, trust or other entity, represents and warrants that he/she is authorized by that entity to enter into the Agreement and bind the entity to perform all duties and obligations stated in the Agreement; and

(f) The Purchaser (check one): _✓_ has __________ has not previously purchased a Fannie Mae owned property.

17. **WAIVERS:**

AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, THE PURCHASER WAIVES THE FOLLOWING:

(A) ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST THE SELLER FOR SPECIFIC PERFORMANCE;

(B) RIGHT TO RECORD A LIS PENDENS AGAINST THE PROPERTY OR TO RECORD THIS AGREEMENT OR A MEMORANDUM THEREOF IN THE REAL PROPERTY RECORDS;

(C) RIGHT TO INVOKE ANY OTHER EQUITABLE REMEDY THAT MAY BE AVAILABLE THAT IF INVOKED, WOULD PREVENT THE SELLER FROM CONVEYING THE PROPERTY TO A THIRD PARTY PURCHASER;

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(D) ANY AND ALL CLAIMS ARISING FROM THE ADJUSTMENTS OR PRORATIONS OR ERRORS IN CALCULATING THE ADJUSTMENTS OR PRORATIONS THAT ARE OR MAY BE DISCOVERED AFTER CLOSING;

(E) ANY CLAIMS FOR FAILURE OF CONSIDERATION AND/OR MISTAKE OF FACT AS SUCH CLAIMS RELATE TO THE PURCHASE OF THE PROPERTY OR ENTERING INTO OR EXECUTION OF OR CLOSING UNDER THIS AGREEMENT;

(F) ANY REMEDY OF ANY KIND, INCLUDING BUT NOT LIMITED TO RESCISSION OF THIS AGREEMENT, OTHER THAN AS EXPRESSLY PROVIDED IN SECTION 19 OF THIS ADDENDUM, TO WHICH THE PURCHASER MIGHT OTHERWISE BE ENTITLED AT LAW OR EQUITY WHETHER BASED ON MUTUAL MISTAKE OF FACT OR LAW OR OTHERWISE;

(G) TRIAL BY JURY, EXCEPT AS PROHIBITED BY LAW, IN ANY LITIGATION ARISING FROM OR CONNECTED WITH OR RELATED TO THIS AGREEMENT;

(H) ANY CLAIMS OR LOSSES THE PURCHASER MAY INCUR AS A RESULT OF CONSTRUCTION ON, REPAIR TO, OR TREATMENT OF THE PROPERTY, OR OTHER DEFECTS, WHICH MAY NOW OR HEREAFTER EXIST WITH RESPECT TO THE PROPERTY;

(I) ANY CLAIMS OR LOSSES RELATED TO ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY INCLUDING, BUT NOT LIMITED TO, MOLD, DRYWALL, LEAD PAINT, FUEL OIL, ALLERGENS, OR TOXIC SUBSTANCES OF ANY KIND;

(J) ANY RIGHT TO AVOID THIS SALE OR REDUCE THE PRICE OR HOLD THE SELLER RESPONSIBLE FOR DAMAGES ON ACCOUNT OF THE CONDITION OF THE PROPERTY, LACK OF SUITABILITY AND FITNESS, OR REDHIBITORY VICES AND DEFECTS, APPARENT, NONAPPARENT OR LATENT, DISCOVERABLE OR NONDISCOVERABLE;

(K) ANY CLAIM ARISING FROM ENCROACHMENTS, EASEMENTS, SHORTAGES IN AREA OR ANY OTHER MATTER WHICH WOULD BE DISCLOSED OR REVEALED BY A SURVEY OR INSPECTION OF THE PROPERTY OR SEARCH OF PUBLIC RECORDS; AND

(L) ANY RIGHT TO MEDIATION OR ARBITRATION RELATING TO OR ARISING UNDER OR FROM THIS AGREEMENT, EXCEPT AS PROHIBITED BY LAW.

References to the "Seller" in this Section 17 of this Addendum shall include the Seller and the Seller's servicers, representatives, agents, brokers, employees, and/or assigns.

In the event that the Purchaser breaches any of the terms described or contemplated under this Section 17 of this Addendum, the Purchaser shall pay all reasonable attorney fees and costs incurred by the Seller in defending such action, and the Purchaser shall pay Five Thousand Dollars ($5,000) as liquidated damages for breach of this Section 17 of the Addendum, which amount shall be in addition to any liquidated damages held or covered by the Seller pursuant to Section 19 of this Addendum.

18. <u>Conditions to the Seller's Performance</u>: The Seller shall have the right, at the Seller's sole discretion, to extend the Expiration Date or to terminate this Agreement if:

(a) full payment of any mortgage insurance claim related to the loan previously secured by the Property is not confirmed prior to the closing or the mortgage insurance company exercises its right to acquire title to the Property;

(b) the Seller determines that it is unable to convey title to the Property insurable by a reputable title insurance company at regular rates;

(c) the Seller at any time has requested that the servicing lender, or any other party, repurchase the loan previously secured by the Property and/or such lender or other party has elected to repurchase the property;

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(d) a third party with rights related to the sale of the property does not approve the sale terms;

(e) full payment of any property, fire or hazard insurance claim is not confirmed prior to the closing ;

(f) any third party, whether tenant, homeowner's association, or otherwise, exercises rights under a right of first refusal to purchase the Property;

(g) the Purchaser is the former mortgagor of the Property, or is related to or affiliated in any way with the former mortgagor, and the Purchaser has not disclosed this fact to the Seller prior to the Seller's acceptance of this Agreement. Such failure to disclose shall constitute default under this Agreement, entitling the Seller to exercise any of its rights and remedies, including, without limitation, retaining the earnest money deposit;

(h) the Seller, at the Seller's sole discretion, determines that the sale of the Property to the Purchaser or any related transactions are in any way associated with illegal activity of any kind;

(i) the Agreement was accepted and executed by Seller in noncompliance with Fannie Mae procedures or guidelines;

(j) Seller determines in its sole discretion that the sale of the Property will subject Seller to liability and/or have an impact on pending, threatened or potential litigation; or

(k) material misrepresentation by the Purchaser.

In the event the Seller elects to terminate this Agreement as a result of (a), (b), (c), (d), (e), (f), (i) or (j) above, the Seller shall return the Purchaser's earnest money deposit.

19. Remedies for Default:

(a) In the event of the Purchaser's default, material breach or material misrepresentation of any fact under the terms of this Agreement, the Seller, at its option, may retain the earnest money deposit and any other funds then paid by the Purchaser as liquidated damages and/or invoke any other remedy available to Seller at law and/or equity and the Seller is automatically released from the obligation to sell the Property to the Purchaser and neither the Seller nor its representatives, agents, attorneys, successors, or assigns shall be liable to the Purchaser for any damages of any kind as a result of the Seller's failure to sell and convey the Property.

(b) In the event of the Seller's default or material breach under the terms of the Agreement or if the Seller terminates the Agreement as provided under the provisions of Paragraph 18 (a), (b), (c), (d), (e), (f), (i) or (j) of this Addendum, the Purchaser shall be entitled to the return of the earnest money deposit as Purchaser's sole and exclusive remedy at law and/or equity. The Purchaser waives any rights to file and maintain an action against the Seller for specific performance and the Purchaser acknowledges that a return of its earnest money deposit can adequately and fairly compensate the Purchaser. Upon return of the earnest money deposit to the Purchaser, this Agreement shall be terminated, and the Purchaser and the Seller shall have no further liability or obligation, each to the other in connection with this Agreement.

(c) The Purchaser agrees that the Seller shall not be liable to the Purchaser for any special, consequential or punitive damages whatsoever, whether in contract, tort (including negligence and strict liability) or any other legal or equitable principle, including but not limited to any cost or expense incurred by the Purchaser in selling or surrendering a lease on a prior residence, obtaining other living accommodations, moving, storage or relocation expenses or any other such expense or cost arising from or related to this Agreement or a breach of this Agreement.

(d) Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.

(e) In the event either party elects to exercise its remedies as described in this Section 19 of this Addendum and this Agreement is terminated, the parties shall have no further obligation under this Agreement except as to any provision that survives the termination of this Agreement pursuant to Section 24 of this Addendum.

PURCHASER (Initials) SM
SELLER (Initials) KL

20. Indemnification: The Purchaser agrees to indemnify and fully protect, defend, and hold the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns harmless from and against any and all claims, costs, liens, loss, damages, attorney's fees and expenses of every kind and nature that may be sustained by or made against the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns, resulting from or arising out of:

(a) inspections or repairs made by the Purchaser or its agents, employees, contractors, successors or assigns;

(b) claims, liabilities, fines or penalties resulting from the Purchaser's failure to timely obtain any Certificate of Occupancy or to comply with equivalent laws and regulations;

(c) claims for amounts due and owed by the Seller for taxes, homeowner association dues or assessment or any other items prorated under Section 10 of this Addendum, including any penalty or interest and other charges, arising from the proration of such amounts for which the Purchaser received a credit at closing under Section 10 of this Addendum; and

(d) the Purchaser's or the Purchaser's tenants, agents or representatives use and /or occupancy of the Property prior to closing and/or issuance of required certificates of occupancy.

21. Risk of Loss: In the event of fire, destruction or other casualty loss to the Property after the Seller's acceptance of this Agreement and prior to closing, the Seller may, at its sole discretion, repair or restore the Property, or the Seller may terminate the Agreement. If the Seller elects to repair or restore the Property, then the Seller may, at its sole discretion, limit the amount to be expended. Whether or not Seller elects to repair or restore the Property, the Purchaser's sole and exclusive remedy shall be either to acquire the Property in its then condition at the Purchase Price with no reduction thereof by reason of such loss or terminate this Agreement and receive a refund of any earnest money deposit.

22. Eminent Domain: In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain or shall be in the process of being taken on or before the closing, either party may terminate the Agreement and the earnest money deposit shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder except as provided in Section 24 of this Addendum.

23. Keys: The Purchaser understands that the Seller may not be in possession of keys, including but not limited to, mailbox keys, recreation area keys, gate cards, or automatic garage remote controls, and any cost of obtaining the same will be the responsibility of the Purchaser. The Purchaser also understands that if the Property includes an alarm system, the Seller cannot provide the access code and/or key and that the Purchaser is responsible for any costs associated with the alarm and/or changing the access code or obtaining keys. If the Property is presently on a Master Key System, the Seller will re-key the exterior doors to the Property prior to closing at the Purchaser's expense. The Purchaser authorizes and instructs escrow holder to charge the account of the Purchaser at closing for the rekey.

24. Survival: Delivery of the deed to the Property to the Purchaser by the Seller shall be deemed to be full performance and discharge of all of the Seller's obligations under this Agreement. Notwithstanding anything to the contrary in the Agreement, any provision which contemplates performance or observance subsequent to any termination or expiration of the Agreement, shall survive the closing and/or termination of the Agreement by any party and continue in full force and effect.

25. Further Assurances: The Purchaser agrees to execute and deliver to the Seller at closing, or otherwise as requested by the Seller, documents including Fannie Mae's Waiver and Release 2012, Tax Proration Agreement 03/2011 or documents that are substantially the same, and to take such other action as reasonably may be necessary to further the purpose of this Agreement. Copies of referenced documents are available from the Seller's listing agent upon request by the Purchaser.

26. Severability: The lack of enforceability of any provision of this Agreement shall not affect the enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

27. Assignment of Agreement: The Purchaser shall not assign this Agreement without the express written consent of the Seller. The Seller may assign this Agreement at its sole discretion without prior notice to, or consent of, the Purchaser.

PURCHASER (Initials) JM.
SELLER (Initials) KU

28. **<u>EFFECT OF ADDENDUM</u>: THIS ADDENDUM AMENDS AND SUPPLEMENTS THE CONTRACT AND, IF APPLICABLE, ESCROW INSTRUCTIONS. IN THE EVENT THERE IS ANY CONFLICT BETWEEN THIS ADDENDUM AND THE CONTRACT OR ESCROW INSTRUCTIONS OR NOTICE OR OTHER DOCUMENTS ATTACHED AND MADE A PART OF THE AGREEMENT, THE TERMS OF THIS ADDENDUM TAKE PRECEDENCE AND SHALL PREVAIL EXCEPT AS OTHERWISE PROVIDED BY LAW.**

29. <u>Entire Agreement</u>: The Agreement constitutes the entire agreement between the Purchaser and the Seller concerning the subject matter hereof and supersedes all previous communications, understandings, representations, warranties, covenants or agreements, either written or oral and there are no oral or other written agreements between the Purchaser and the Seller. All negotiations are merged into the Agreement. The Seller is not obligated by any other written or oral statements made by the Seller, the Seller's representatives, or any real estate licensee.

30. <u>Modification</u>: No provision, term or clause of the Agreement shall be revised, modified, amended or waived except by an instrument in writing signed by the Purchaser and the Seller.

31. <u>Rights of Others</u>: This Agreement does not create any rights, claims or benefits inuring to any person or entity, other than Seller's successors and/or assigns, that is not a party to the Agreement, nor does it create or establish any third party beneficiary to this Agreement.

32. <u>Counterparts</u>: This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original, but all of which, when taken together, shall constitute one agreement.

33. <u>Headings</u>: The titles to the sections and headings of various paragraphs of this Agreement are placed for convenience of reference only and in case of conflict, the text of this Agreement, rather than such titles or headings shall control.

34. <u>Electronic Signature</u>: An electronic signature shall be given the same effect as a written signature.

35. <u>Force Majeure</u>: Except as provided in Section 21 to this Addendum, no party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war and terrorism, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such party through use of alternate sources, workaround plans or other means.

36. <u>Attorney Review</u>: The Purchaser acknowledges that Purchaser has had the opportunity to consult with its legal counsel regarding the Agreement and that accordingly the terms of the Agreement are not to be construed against any party because that party drafted the Agreement or construed in favor of any Party because that Party failed to understand the legal effect of the provisions of the Agreement.

37. <u>Notices</u>: Any notices required to be given under the Agreement shall be deemed to have been delivered when actually received in the case of hand or overnight delivery, or five (5) calendar days after mailing by first class mail, postage paid, or by fax with confirmation of transmission to the numbers below. All notices to the Seller will be deemed sent or delivered to the Seller when sent or delivered to Seller's listing broker or agent or Seller's attorney, at the address or fax number shown below. All notices to the Purchaser shall be deemed sent or delivered when sent or delivered to the Purchaser or the Purchaser's attorney or agent at the address or fax number shown below.

38. <u>Additional Terms or Conditions</u>:

Notwithstanding the language in section 8o of the state sales contract, nothing in this Agreement shall constitute a release of waiver by seller of any claim or right that it may have with respect to any third parties, including but not limited to the Brokers in this transaction. Seller will contribute up to $0 towards buyer closing costs, points, and prepaids. In the event that the buyers lender restricts the allowable seller contributions toward buyer closing costs, Sellers actual and total contributions shall be limitd to the allowable amount. NSP appraisal must be submitted within 15 days of Acknowledgement Date.

PURCHASER (Initials) QM
SELLER (Initials) KL

IN WITNESS WHEREOF, the Purchaser and the Seller have entered into this Addendum as of the date first set forth above.

PURCHASER(S):

Signature: Jeffrey J. Mihelich

Date: 12/5/13

Print Name: ____________________

Address: ____________________

____

Email Address: ____________________

Telephone: ____________________

Fax: ____________________

Signature: ____________________

Date: ____________________

Print Name: ____________________

Address: ____________________

____

Telephone: ____________________

Fax: ____________________

Email Address: ____________________

SELLER:

☑ **FANNIE MAE**

☐ ____________________, **as Attorney in Fact for Fannie Mae**

☐ **FANNIE MAE as Attorney in Fact for** ____________________

By: Karen Carrillo

Karen Carrillo
Assistant Vice President
Fannie Mae

Date: 12/6/13

PURCHASER'S AGENT:

Brokerage Firm: City of Surprise

Purchaser's Agent Name: Laribeth Kirkendall

Address: 16000 N Civic Center Plaza

Surprise, AZ 85374

Telephone: 623-222-7525

Fax: ____________________

Email Address: laribeth.kirkendall@surpriseaz.gov

SELLER'S AGENT:

Brokerage Firm: REMAX Professionals

Seller's Agent Name: Joshua Smith

Address: 15003 W. BELL RD, SUITE 100

SURPRISE, AZ 85374

Telephone: 623-533-3173

Fax: 623-533-3101

Email Address: REO@TEAMSMITH1.COM

PURCHASER (Initials) JM
SELLER (Initials) KC

PURCHASER'S ATTORNEY:

Name: ______________________

Address: ______________________

____

Telephone: ______________________

Fax: ______________________

Email Address: ______________________

SELLER'S ATTORNEY:

Name: ______________________

Address: ______________________

____

Telephone: ______________________

Fax: ______________________

Email Address: ______________________

PURCHASER (Initials) JM
SELLER (Initials) KC

REO #: D1309XV

AMENDMENT

SELLER: Fannie Mae

PURCHASER: City of Surprise

PROPERTY: 15350 West Lundberg St, Surprise, AZ 85374

DATE: 12/3/2013

Seller and Purchaser entered into an agreement dated December 3rd , 20 13 , (the "Agreement") whereby Seller would sell and Purchaser would purchase the Property. Seller and Purchaser mutually agree to amend the Agreement as follows:

☐ EXTENSION OF EXPIRATION DATE

Under the terms of Section 2 of the Real Estate Purchase Addendum the closing of this sale was to have occurred on or before the Expiration Date, ____________, 20___. Seller and Purchaser mutually agree to amend the Agreement and extend the Expiration Date to ____________, 20___. Time is of the essence with respect to the Settlement date.

☐ SALES PRICE

The sales price as set out in Section 1 of the Real Estate Purchase Addendum is amended from $____________ to $____________.

☑ OTHER

Purchase price shall be 1% below appraised or $159,900, whichever is lower mandated by the Neighborhood Stabilization Fund Program of the City of Surprise (a federally funded program). Offer is contingent upon Surprise City Council approval of aquisition. Offer is contingent upon a clear enviromental review as required by HUD.

Except as set forth in this Amendment, all terms and provisions of the Agreement shall continue in full force and effect. The Purchaser and Seller have entered into this Agreement as of the date set forth above.

SELLER:

☑ FANNIE MAE

☐ FANNIE MAE as Agent and Attorney in Fact for ____________

By: Karen Carrillo

Karen Carrillo
Assistant Vice President
Fannie Mae

PURCHASER:

Jeffrey J. McHale

City of Surprise

SUPPLEMENT TO THE REAL ESTATE PURCHASE ADDENDUM

REO D1309XV

Address 15350 W Lundberg St, Surprise, AZ 85374

"The Purchaser represents that the Purchaser is eligible for Neighborhood Stabilization Program (NSP) funds through (insert name of NSP funding entity or designated partner) City of Surprise (the "Agency"). The purchase price for a property acquired with Agency NSP funds must be not more than 1 % (the "Agency NSP Discount Percentage") less than the appraised value of the Property (the "NSP Appraised Value"), as determined by the URA appraisal or other evidence of value acceptable to the Agency and obtained by the Purchaser at no expense to the Seller (the "NSP Appraisal"). The NSP Appraised Value less an amount equal to the Agency NSP Discount Percentage is the "Agency Maximum Purchase Price". Accordingly, the following additional provisions apply to this Contract:

(a) Promptly following the Purchaser's execution of this Agreement, the Purchaser shall provide to Seller or Seller 's agent evidence of (i) the Purchaser's eligiblity to receive NSP funds through the Agency and (ii) the NSP Appraised Value, each in such form as the Seller shall reasonably require, and shall provide a copy of the NSP Appraisal to the Seller or to the Seller's agent upon request.

(b) If the Purchase Price stated in the Contract is less than the Agency Maximum Purchase Price, the Purchase Price stated in the Contract shall be the Purchase Price for the Property. If the Purchase Price stated in the Contract is more than the Agency Maximum Purchase Price, the Purchaser shall have until the earlier of (i) 5 days after the Purchaser's receipt of the NSP Appraisal or (ii) 15 days after the date of this Agreement (the "Purchase Price Negotiation Deadline") in which to negotiate a modified purchase price that conforms to Agency NSP requirements.

(c) If (i) the Purchaser does not obtain a NSP Appraisal prior to the Purchase Price Negotiation Deadline or (ii) the Purchase Price stated in the Agreement is more than the Agency Maximum Purchase Price and the Purchaser and the Seller are unable to agree upon a modified purchase price prior to the Purchase Price Negotiation Deadline, either the Purchaser or the Seller shall have the right to terminate the Contract as provided in Section 18 of this Addendum, in which event the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum.

(d) The Seller's obligations under this Agreement are contingent upon the Seller's and the Purchaser's voluntary approval of the Purchase Price as negotiated pursuant to this Addendum. If the Purchase Price negotiated on the basis of the NSP Appraised Value (the "Appraisal Price") differs from the Purchase Price offered by the Purchaser in the original Contract, and the Seller and the Purchaser approve the Appraisal Price, the Seller and the Purchaser shall sign an amendment to this Contract stating that the Appraisal Price is the Purchase Price (the "Purchase Price Amendment"), and the Purchase Price shall be as

PURCHASER (initials) JM

SELLER (initials) KL

stated in the Purchase Price Amendment. If the Seller does not approve the Appraisal Price, or if either the Seller or the Purchaser does not sign the Purchase Price Amendment, the Seller shall have the right to terminate this Contract as provided in Section 18 of this Addendum, in which event the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum. If the Appraisal Price is the same as or greater than the Purchase Price offered by the Purchaser in the original Contract, no Purchase Price Amendment will be required and the parties will proceed to closing on the original Contract terms using the Purchase Price as stated in the Purchaser's original offer.

(e) The Seller acknowledges that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, as evidenced by both parties' execution and delivery of the Purchase Price Amendment, the acquisition will not take place. The Seller is familiar with NSP, understands its appraisal and pricing requirements, and agrees voluntarily to any purchase price discount negotiated pursuant to clause (b) of this Section 38. The Seller further acknowledges that the Purchaser is acquiring the Property voluntarily and is not using any power of eminent domain to acquire the Property.

(f) At or prior to closing, the Purchaser shall deliver to the Seller a Statement of NSP Eligibility issued by the Agency. The Purchaser is responsible for satisfaction of all Agency requirements to maintain NSP eligibility. The Seller's obligations under this Agreement are contingent upon the Purchaser's NSP eligibility, provided, however, that if the Purchaser does not receive NSP funds at closing, the Purchaser will have the right to close using non-NSP funds. If the Purchaser does not receive NSP funds and does not elect to close using other funds, the Seller shall have the right to terminate this Agreement as provided in Section 18 of this Addendum, in which event the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum.

(g) If the Seller terminates this Agreement for any reason permitted under the Contract or this Addendum, the Seller shall have no obligation to pay or reimburse the Purchaser for the Purchaser's Closing Costs or for the cost of the NSP Appraisal or for any other costs associated with NSP."

PURCHASER (Initials) JM

SELLER (Initials) KE

CITY OF SURPRISE
Regular City Council Meeting

January 14, 2014 @ 6:00:00 PM

Back Print

Council Meeting Date:	January 14, 2014	Contact Person:	Tammie Hollowell
Submitting Department:	IT	District:	5
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on the purchase and disposition of 15963 W Tasha Dr. for the Neighborhood Stabilization Program for the purchase price of $164,900.00.

Motion:

I move to approve the purchase and disposition of 15963 W Tasha Dr. for the Neighborhood Stabilization Program.

Background:

On February 22, 2011, the Council approved the Neighborhood Stabilization Program 3 (NSP 3) Annual Action Plan Amendment that accepted grant funding from the U.S. Department of Housing and Urban Development to purchase foreclosed homes in neighborhoods located in a designated target area within Special Planning Area 1. Since the funds are federal assistance dollars, there are specific requirements that must be met in order for the house to be purchased with these funds. This home will subsequently be sold to a qualified buyer per the NSP 3 guidelines.

Financial Impact Statement:

The budget for this item is located in the Neighborhood Stabilization Program 3 line item. Upon approval of this item, it is anticipated that all funds associated with this Council action will be expended by February 15, 2014. Any associated operating costs of this item have been included in the current year base budget or have been planned for the following fiscal year. The funding source for this item is the Neighborhood Revitalization grant.

ATTACHMENTS:

Click to download

- purchase contract
- appraisal

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Lloyd Abrams

REO # D130FQ6

REAL ESTATE PURCHASE ADDENDUM

This Real Estate Purchase Addendum ("Addendum") is to be made part of, and incorporated into, the Real Estate Purchase Contract (the "Contract"), between Fannie Mae ("Seller") and CITY OF SURPRISE , , ("Purchaser") for the property and improvements located at the following address: 15963 WEST TASHA DRIVE SURPRISE, AZ 85374 ("Property"). As used in this Addendum, the Contract, Addendum and any riders thereto shall be collectively referred to as the "Agreement".

The Seller and the Purchaser agree as follows:

1. Offer:

(a) Acknowledgement of Sufficient Offer: The Purchaser has offered to purchase the property for a purchase price in the amount of $ 164900 in accordance with the terms set forth in the Agreement ("Offer"). The Seller has reviewed the Offer and deemed it materially sufficient on 12/02/13 ("Acknowledgement Date").

(b) Acceptance of Offer: Notwithstanding Seller's acknowledgement that the Offer is sufficient for acceptance, the Purchaser agrees that the Agreement remains subject to acceptance by the Seller and must be signed by all parties in order to be binding. The Agreement shall be effective as of the date of execution by Seller ("Effective Date"). The Purchaser's earnest money deposit of $ 0.00 is to be placed in a trust account acceptable to the Seller within two (2) calendar days following the Effective Date. The Agreement, signed by the Purchaser and reflecting the terms as acknowledged by the Seller, must be received by the Seller within five (5) calendar days of the Acknowledgement Date. If the Seller does not receive the signed Agreement by such date, the Purchaser's offer shall be deemed null and void. As used in this paragraph, the term "received by the Seller" means actual receipt of the Agreement by the Seller's listing agent.

The Purchaser shall present proof, satisfactory to the Seller, of the Purchaser's funds or prequalification for a mortgage loan in an amount and under terms sufficient for the Purchaser to perform its obligations under this Agreement. The prequalification shall include but is not limited to, a certification of prequalification or a mortgage loan commitment from a mortgage lender, a satisfactory credit report and/or proof of funds sufficient to meet the Purchaser's obligations under the Agreement. The Purchaser's submission of proof of prequalification is a condition precedent to the Seller's acceptance. The Seller may require the Purchaser to obtain, at no cost to the Purchaser, loan prequalification from a Seller approved third party lender. Notwithstanding any Seller required prequalification, the Purchaser acknowledges that Purchaser is free to obtain financing from any source.

2. Time is of the Essence: Settlement Date:

(a) It is agreed that time is of the essence with respect to all dates specified in the Agreement. This means that all deadlines are intended to be strict and absolute.

(b) The closing shall take place on a date ("Settlement Date") on or before 01/30/2014 ("Expiration Date"), unless extended in writing signed by the Seller and the Purchaser or extended by the Seller under the terms of the Agreement. The closing shall be held at a place so designated and approved by the Seller unless otherwise required by applicable law. The Purchaser has the right to make an independent selection of their own attorney, settlement company, escrow company, title company and/or title insurance company in connection with the closing. The date the closing takes place shall be referred to as the Settlement Date for purposes of the Agreement. If the closing does not occur by the Expiration Date, or in any extension, the Agreement is automatically terminated and the Seller may retain any earnest money deposit as liquidated damages.

PURCHASER (Initials) JM
SELLER (Initials) KC

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3. Financing: This Agreement (check one): ( ) is, (☑) is not, contingent on the Purchaser obtaining financing for the purchase of the Property. If this Agreement is contingent on financing, the type of financing shall be the following (check one):

- ☐ Fannie Mae HomePath Mortgage Financing from a participating lender
- ☐ Fannie Mae HomePath Renovation Financing from a participating lender
- ☐ Conventional
- ☐ FHA
- ☐ VA
- ☑ Other (specify: CASH)

All Financing. (This paragraph applies to all financing, whether or not it is Fannie Mae HomePath or other financing.) If this Agreement is contingent on financing, the Purchaser shall apply for a loan in the amount of $ 0.00 with a term of 0 years, at prevailing rates, terms and conditions. The Purchaser shall complete and submit to a mortgage lender, of the Purchaser's choice, an application for a mortgage loan containing the terms set forth in this paragraph within five (5) calendar days of the Acknowledgement Date, and shall use diligent efforts to obtain a mortgage loan commitment by ______________. If, despite the Purchaser's diligent efforts, the Purchaser cannot obtain a mortgage loan commitment by the specified date, then either the Purchaser or the Seller may terminate the Agreement by giving written notice to the other party. The Purchaser's notice must include a copy of the loan application, proof of the application date, and a copy of the denial letter from the prospective lender. In the event of a proper termination of the Agreement under this paragraph, the earnest money deposit shall be returned to the Purchaser. The Purchaser agrees to cooperate and comply with all requests for documents and information from the Purchaser's chosen lender during the loan application process. Failure of the Purchaser to comply with such requests from the lender that results in the denial of the mortgage loan will be a breach of the Agreement and the Seller shall be entitled to retain any earnest money deposited by the Purchaser.

(a) Any change as to the terms of the Purchaser's financing, including but not limited to any change in the Purchaser's lender, after negotiations have been completed may, at Seller's discretion, require renegotiation of all terms of the Agreement. Seller shall have the right to terminate the Agreement in the event there is a change in Purchaser's financing or choice of lender.

(b) The Purchaser shall ensure that the lender selected by the Purchaser to finance the sale shall fund the settlement agent as of the Settlement Date. The Purchaser shall further ensure that the selected lender shall provide all lender prepared closing documentation to the settlement agent no later than 48 hours prior to the Settlement Date. Any delays in closing as a result of the Purchaser's selected lender shall be the responsibility of the Purchaser.

4. Use of Property: The Purchaser (check one): ( ) **does**, (✓) **does not**, intend to use and occupy the Property as Purchaser's primary residence.

5. Inspections:

(a) On or before ten (10) calendar days from the Acknowledgement Date, the Purchaser shall inspect the Property or obtain for its own use, benefit and reliance, inspections and/or reports on the condition of the Property, or be deemed to have waived such inspection and any objections to the condition of the Property and to have accepted the Property. The Purchaser shall keep the Property free and clear of liens and indemnify and hold the Seller harmless from all liability claims, demands, damages, and costs related to the Purchaser's inspection and the Purchaser shall repair all damages arising from or caused by the inspections. The Purchaser shall not directly or indirectly cause any inspections to be made by any government building or zoning inspectors or government employees without the prior written consent of the Seller, unless required by law, in which case, the Purchaser shall provide reasonable notice to the Seller prior to any such inspection. If the Seller has winterized this Property and the Purchaser desires to have the Property inspected, the Seller's listing agent will have the Property dewinterized prior to inspection and rewinterized after inspection.

Within five (5) calendar days of receipt of any inspection report prepared by or for the Purchaser, but not later than ten (10) calendar days from the Acknowledgment Date, whichever first occurs, the Purchaser will provide written notice to the Seller of any items disapproved. The Purchaser's silence shall be deemed as acceptance of the condition of the Property. The Purchaser shall provide to the Seller, at no cost, upon request by the Seller, complete copies of all inspection reports upon which the Purchaser's disapproval of the condition of the property is based. In no event shall the Seller be obligated to make any repairs or replacements that may be indicated in the Purchaser's inspection reports. The Seller may, in its sole discretion,

PURCHASER (Initials) J.M.
SELLER (Initials) RL

make such repairs to the Property under the terms described in Section 6 of this Addendum. If the Seller elects not to repair the Property, the Purchaser may cancel this Agreement and receive all earnest money deposited. If the Seller elects to make any such repairs to the Property, the Seller shall notify the Purchaser after completion of the repairs and the Purchaser shall have five (5) calendar days from the date of notice, to inspect the repairs and notify the Seller of any items disapproved. If after inspection the Purchaser is not satisfied with repairs or treatments, Purchaser may terminate the Agreement at any time prior to closing.

In situations that are applicable, a structural, electrical, mechanical, environmental or termite inspection report may have been prepared for the benefit of the Seller. Upon request, the Purchaser will be allowed to review the report to obtain the same information and knowledge the Seller has about the condition of the Property but the Purchaser acknowledges that the inspection reports were prepared for the sole use and benefit of the Seller. The Purchaser will not rely upon any such inspection reports obtained by the Seller in making a decision to purchase the Property.

(b) If the Property is a condominium or planned unit development or co-operative, unless otherwise required by law, the Purchaser, at the Purchaser's own expense, is responsible for obtaining and reviewing the covenants, conditions and restrictions and bylaws of the condominium, or planned unit development or cooperative ("Governing Documents") within ten (10) calendar days of the Effective Date. The Seller agrees to use reasonable efforts, as determined in the Seller's sole discretion, to assist the Purchaser in obtaining a copy of the Governing Documents. The Purchaser will be deemed to have accepted the Governing Documents if the Purchaser does not provide the Seller notice in writing, within fifteen (15) calendar days of the Effective Date, of the Purchaser's disapproval of the Governing Documents. In the event Purchaser disapproves of the Governing Documents, Purchaser has the right to terminate the Agreement provided the Purchaser notifies Seller in writing of Purchaser's disapproval within fifteen (15) calendar days of the Effective Date.

6. <u>Repairs</u>: All repairs and treatments **will be** completed by a vendor approved by the Seller, and will be subject to the Seller's satisfaction only. If the Seller has agreed to pay for treatment of wood infesting organisms, the Seller shall treat only active infestation. **Neither the Purchaser, nor its representatives, shall enter upon the Property to make any repairs and/or treatments prior to closing. The Purchaser shall inspect the repairs and/or treatments as set forth in paragraph 5(a) or is deemed to have waived such inspection and any objections to the repairs and/or treatments.** The Purchaser acknowledges that all repairs and treatments are done for the benefit of the Seller and not for the benefit of the Purchaser and that the Purchaser has inspected or has been given the opportunity to inspect repairs and treatments. Any repairs or treatments made or caused to be made by the Seller shall be completed prior to closing. Under no circumstances shall the Seller be required to make any repairs or treatments after the Settlement Date. **The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that the Purchaser is satisfied with the condition of the Property and with all repairs and treatments to the Property and waives all claims related to such condition and to the quality of the repairs or treatments to the Property.** Any repairs or treatments shall be performed for functional purposes only and exact restoration of appearance or cosmetic items following any repairs or treatments shall not be required. The Seller shall not be obligated to obtain or provide to the Purchaser any receipts for repairs, or treatments, written statements indicating dates or types of repairs and/ or treatments or copies of such receipts or statements nor any other documentation regarding any repairs or treatments to the Property. **THE SELLER DOES NOT WARRANT OR GUARANTEE ANY WORK, REPAIRS OR TREATMENTS TO THE PROPERTY.** THE PURCHASER AGREES TO EXECUTE AND DELIVER TO THE SELLER AT CLOSING FANNIE MAE'S WAIVER & RELEASE 2012.

7. **<u>CONDITION OF PROPERTY</u>: THE PURCHASER UNDERSTANDS THAT THE SELLER ACQUIRED THE PROPERTY BY FORECLOSURE, DEED-IN-LIEU OF FORECLOSURE, FORFEITURE, TAX SALE, OR SIMILAR PROCESS. AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, THE PURCHASER ACKNOWLEDGES AND AGREES TO ACCEPT THE PROPERTY IN "AS IS" CONDITION AT THE TIME OF CLOSING, INCLUDING, WITHOUT LIMITATION, ANY DEFECTS OR ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY, WHETHER KNOWN OR UNKNOWN, WHETHER SUCH DEFECTS OR CONDITIONS WERE DISCOVERABLE THROUGH INSPECTION OR NOT. THE PURCHASER ACKNOWLEDGES THAT THE SELLER, ITS AGENTS AND REPRESENTATIVES HAVE NOT MADE AND THE SELLER SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES, IMPLIED OR EXPRESS, ORAL OR WRITTEN WITH RESPECT TO THE FOLLOWING:**

PURCHASER (Initials) Jc M
SELLER (Initials) RL

(A) THE PHYSICAL CONDITION OR ANY OTHER ASPECT OF THE PROPERTY INCLUDING THE STRUCTURAL INTEGRITY OR THE QUALITY OR CHARACTER OF MATERIALS USED IN CONSTRUCTION OF ANY IMPROVEMENTS (E.G. DRYWALL, ASBESTOS, LEAD PAINT, UREA FORMALDEHYDE FOAM INSULATION), AVAILABILITY AND QUANTITY OR QUALITY OF WATER, STABILITY OF THE SOIL, SUSCEPTIBILITY TO LANDSLIDE OR FLOODING, SUFFICIENCY OF DRAINAGE, WATER LEAKS, WATER DAMAGE, MOLD OR ANY OTHER MATTER AFFECTING THE STABILITY, INTEGRITY, OR CONDITION OF THE PROPERTY OR IMPROVEMENTS;

(B) THE CONFORMITY OF THE PROPERTY, OR THE IMPROVEMENTS, TO ANY ZONING, LAND USE OR BUILDING CODE REQUIREMENTS OR COMPLIANCE WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AUTHORITY, OR THE GRANTING OF ANY REQUIRED PERMITS OR APPROVALS, IF ANY, OF ANY GOVERNMENTAL BODIES WHICH HAD JURISDICTION OVER THE CONSTRUCTION OF THE ORIGINAL STRUCTURE, ANY IMPROVEMENTS AND/OR ANY REMODELING OF THE STRUCTURE; AND

(C) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR IMPROVEMENTS INCLUDING REDHIBITORY VICES AND DEFECTS, APPARENT, NON APPARENT OR LATENT, WHICH NOW EXIST OR WHICH MAY HEREAFTER EXIST AND WHICH, IF KNOWN TO THE PURCHASER, WOULD CAUSE THE PURCHASER TO REFUSE TO PURCHASE THE PROPERTY.

Mold, mildew, spores and/or other microscopic organisms and/or allergens (collectively referred to in this Agreement as "Mold") are environmental conditions that are common in residential properties and may affect the Property. Mold, in some forms, has been reported to be toxic and to cause serious physical injuries, including but not limited to, allergic and/or respiratory reactions or other problems, particularly in persons with immune system problems, young children and/or elderly persons. Mold has also been reported to cause extensive damage to personal and real property. Mold may have been removed or covered in the course of any cleaning or repairing of the Property. The Purchaser acknowledges that, if Seller, or any of Seller's employees, contractors, or agents cleaned or repaired the Property or remediated Mold contamination, that Seller does not in any way warrant the cleaning, repairs or remediation. Purchaser accepts full responsibility for all hazards that may result from the presence of Mold in or around the Property. The Purchaser is satisfied with the condition of the Property notwithstanding the past or present existence of Mold in or around the Property and Purchaser has not, in any way, relied upon any representations of Seller, Seller's employees, officers, directors, contractors, or agents concerning the past or present existence of Mold in or around the Property.

If at any time the Property conditions result in violations of building code or other laws or regulations, either party shall have the right to terminate the Agreement at any time prior to closing. If there is an enforcement proceeding arising from allegations of such violations before an enforcement board, special master, court or similar enforcement body, and neither the Purchaser nor the Seller terminate this Agreement, the Purchaser agrees (a) to accept the Property subject to the violations, (b) to be responsible for compliance with the applicable code and with orders issued in any code enforcement proceeding and (c) to resolve the deficiencies as soon as possible after the closing. The Purchaser agrees to execute any and all documents necessary or required for closing by any agency with jurisdiction over the Property. The Purchaser further agrees to indemnify the Seller from any and all claims or liability arising from the Purchaser's breach of this Section 7 of this Addendum.

The closing of this sale shall constitute acknowledgement by the Purchaser that Purchaser had the opportunity to retain an independent, qualified professional to inspect the Property and that the condition of the Property is acceptable to the Purchaser. The Purchaser agrees that the Seller shall have no liability for any claims or losses the Purchaser or the Purchaser's successors or assigns may incur as a result of construction or other defects which may now or hereafter exist with respect to the Property.

8. Occupancy Status of Property: The Purchaser acknowledges that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise noted in Section 38 of this Addendum. Seller represents that the Property may have tenants occupying same under an active lease but expressly disclaims any warranties regarding the validity, enforceability, performance under or continuation of said lease. The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise

noted in Section 38 of this Addendum. The Seller, its representatives, agents or assigns, shall not be responsible for evicting or relocating any tenants, occupants or personal property at the Property prior to or subsequent to closing unless otherwise noted in Section 38 of this Addendum. All leases shall be deemed assigned to Purchaser upon closing to the extent permitted under applicable laws.

The Purchaser further acknowledges that, to the best of the Purchaser's knowledge, the Seller is not holding any security deposits from former or current tenants and has no information as to such security deposits as may have been paid by the former or current tenants to anyone and agrees that no sums representing such tenant security deposits shall be transferred to the Purchaser as part of this transaction. The Purchaser further agrees to assume all responsibility and liability for the refund of such security deposits to the tenants pursuant to the provisions of applicable laws and regulations. All rents due and payable and collected from tenants for the month in which closing occurs will be prorated according to the provisions of Section 10 of this Addendum.

The Purchaser acknowledges that this Property may be subject to the provisions of local rent control ordinances and regulations. The Purchaser agrees that upon the closing, all eviction proceedings and other duties and responsibilities of a property owner and landlord, including but not limited to those proceedings required for compliance with such local rent control ordinances and regulations, will be the Purchaser's sole responsibility.

9. <u>Personal Property</u>: Items of personal property, including but not limited to window coverings, appliances, manufactured homes, mobile homes, vehicles, spas, antennas, satellite dishes and garage door openers, now or hereafter located on the Property are not included in this sale or the Purchase Price unless the personal property is specifically described and referenced in Section 38 of this Addendum. Any personal property at or on the Property may be subject to claims by third parties and, therefore, may be removed from the Property prior to or after the closing. The Seller makes no representation or warranty as to the condition of any personal property, title thereto, or whether any personal property is encumbered by any liens. The Seller assumes no responsibility for any personal property remaining on the Property at the time of closing.

10. <u>Closing Costs and Adjustments</u>:

(a) The Purchaser and the Seller agree to prorate the following expenses as of the Settlement Date: real estate taxes and assessments, common area charges, condominium or planned unit development or similar community assessments, co-operative fees, maintenance fees and rents, if any. In determining prorations, the Settlement Date shall be allocated to the Purchaser. Payment of special assessment district bonds and assessments, and payment of homeowner's association or special assessments shall be paid current and prorated between the Purchaser and the Seller as of Settlement Date with payments not yet due and owing to be assumed by the Purchaser without credit toward Purchase Price. The Property taxes shall be prorated based on an estimate or actual taxes from the previous year on the Property. All prorations shall be based upon a 30-day month and all such prorations shall be final. The Seller shall not be responsible for any amounts due, paid or to be paid after closing, including but not limited to, any taxes, penalties or interest assessed or due as a result of retroactive, postponed or additional taxes resulting from any change in use of, or construction on, or improvement to the Property, or an adjustment in the appraised value of the Property. In the event the Seller has paid any taxes, special assessments or other fees and there is a refund of any such taxes, assessments or fees after closing, and the Purchaser as current owner of the Property receives the payment, the Purchaser will immediately submit the refund to the Seller.

(b) Fannie Mae is a congressionally chartered corporation and is exempt from realty transfer taxes pursuant to 12 U.S.C. 1723a(c)(2) and will not pay realty transfer taxes regardless of local practice . Any realty transfer taxes due on the sale as a result of the conveyance of the Property will be the sole responsibility of the Purchaser.

(c) The Seller shall pay the real estate commission per the listing agreement between the Seller and the Seller's listing broker.

(d) Purchaser shall release Seller from any and all claims arising from the adjustments or prorations or errors in calculating the adjustment or prorations that are or may be discovered after closing. THE PURCHASER AGREES TO EXECUTE AND DELIVER TO THE SELLER AT CLOSING FANNIE MAE'S Tax Proration Agreement 03/2011.

PURCHASER (Initials) JM
SELLER (Initials) KC

(e) Regardless of local custom, requirements or practice, the Purchaser shall pay all costs and fees incurred in the transfer of the Property, including the cost of any lender required fees and recording costs except as expressly assumed by the Seller in this Addendum.

(f) **Title and Closing Services. Purchaser will obtain title and escrow closing services from (Purchaser to select option below and initial in the space provided):**

J.M. ☑ Seller's escrow closing and title provider and title insurance company used by Seller's provider. If Purchaser selects this option, Seller shall pay for the owner's and lender's title insurance. Purchaser and Seller agree that Seller's payment of the title insurance products is limited to the amount that Seller would pay its provider under its agreement with the provider for a basic residential owner's and lender's title insurance policy or their equivalent.

☐ Other escrow closing and title provider. If Purchaser selects this option, Purchaser shall bear the expense for all title insurance costs associated with the transaction, regardless of local custom, requirements or practice.

11. Delivery of Funds: Regardless of local custom, requirements, or practice, upon delivery of the deed by the Seller to the Purchaser, the Purchaser shall deliver, or cause to be delivered, all funds due the Seller from the sale in the form of cash, bank check, certified check or wire transfer. An attorney's trust fund check shall not be sufficient to satisfy this provision unless the bank holding the account on which the trust fund check is drawn certifies the trust fund check.

12. Certificate of Occupancy: If the Property is located in a jurisdiction that requires a certificate of occupancy, smoke detector certification, septic certification or any similar certification or permit ("Certificate of Occupancy") or any form of improvement or repair to the Property to obtain such Certificate of Occupancy necessary for the Property to be occupied, the Purchaser understands that the Seller requires the Certificate of Occupancy to be obtained by the Purchaser at the Purchaser's sole expense. The Purchaser shall make application for all Certificates of Occupancy within ten (10) calendar days of the Acknowledgement Date. The Purchaser shall not have the right to delay the closing due to the Purchaser's failure or inability to obtain any required Certificate of Occupancy. Failure of the Purchaser to obtain and furnish the Certificate of Occupancy shall be a material breach of the Agreement.

13. Delivery of Possession of Property: The Seller shall deliver possession of the Property to the Purchaser at closing. The delivery of possession shall be subject to the rights of any tenants or parties in possession per Section 8 of this Addendum. If the Purchaser alters the Property or causes the Property to be altered in any way and/or occupies the Property or allows any other person to occupy the Property prior to closing without the prior written consent of the Seller, such event shall constitute a breach by the Purchaser under the Agreement and the Seller may terminate the Agreement and the Purchaser shall be liable to the Seller for damages caused by any such alteration or occupation of the Property prior to closing and waives any and all claims for damages or compensations for alterations made by the Purchaser to the Property including, but not limited to, any claims for unjust enrichment.

14. Deed: Regardless of local practice, the deed to be delivered by Seller at closing shall be a deed that covenants that grantor grants only that title which grantor may have and that grantor will only defend title against persons claiming by, through, or under the grantor, but not otherwise. Any reference to the term "Deed" or "Special Warranty Deed" herein shall be construed to refer to such form of deed. Under no circumstances shall Seller be required to deliver any form of deed which grants a general warranty of title.

☐ (check if applicable) Seller's deed shall include the following deed restriction:

GRANTEE HEREIN SHALL BE PROHIBITED FROM CONVEYING CAPTIONED PROPERTY FOR A SALES PRICE OF GREATER THAN $ 0.00 FOR A PERIOD OF 0 MONTH(S) FROM THE DATE OF THE RECORDING OF THIS DEED. GRANTEE SHALL ALSO BE PROHIBITED FROM ENCUMBERING SUBJECT PROPERTY WITH A SECURITY INTEREST IN THE PRINCIPAL AMOUNT OF GREATER THAN $ 0.00 FOR A PERIOD OF 0 MONTH(S) FROM THE DATE OF THE RECORDING OF THIS DEED. THESE RESTRICTIONS SHALL RUN WITH THE LAND AND ARE NOT PERSONAL TO GRANTEE.

THIS RESTRICTION SHALL TERMINATE IMMEDIATELY UPON CONVEYANCE AT ANY FORECLOSURE SALE RELATED TO A MORTGAGE OR DEED OF TRUST.

PURCHASER (Initials) J.M.
SELLER (Initials) RC

15. Defects in Title: If the Purchaser raises an objection to the Seller's title to the Property, which, if valid, would make title to the Property uninsurable, the Seller shall have the right unilaterally to terminate the Agreement by giving written notice of the termination to the Purchaser. However, if the Seller is able to correct the problem through reasonable efforts, as the Seller determines, at its sole and absolute discretion, prior to the Expiration Date, including any written extensions, or if title insurance is available from a reputable title insurance company at regular rates containing affirmative coverage for the title objections, then the Agreement shall remain in full force and the Purchaser shall perform pursuant to the terms set in the Agreement. The Seller is not obligated to remove any exception or to bring any action or proceeding or bear any expense in order to convey title to the Property or to make the title marketable and/or insurable but any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove those exceptions. The Purchaser acknowledges that the Seller's title to the Property may be subject to court approval of foreclosure or to mortgagor's right of redemption. In the event the Seller is not able to (a) make the title insurable or correct any problem or (b) obtain title insurance from a reputable title insurance company, all as provided herein, the Purchaser may terminate this Agreement and any earnest money deposit will be returned to the Purchaser as the Purchaser's sole remedy at law or equity. If the Purchaser elects to take title subject to the title objections, the Purchaser shall so notify the Seller. The Purchaser's silence as to any title objections shall be deemed as acceptance.

16. Representations and Warranties:

The Purchaser represents and warrants to the Seller the following:

(a) The Purchaser is purchasing the Property solely in reliance on its own investigation and inspection of the Property and not on any information, representation or warranty provided or to be provided by the Seller, its servicers, representatives, brokers, employees, agents or assigns;

(b) Neither the Seller, nor its servicers, employees, representatives, brokers, agents or assigns, has made any representations or warranties, implied or expressed, relating to the condition of the Property or the contents thereof, except as expressly set forth in Section 38 of this Addendum;

(c) The Purchaser has not relied on any representation or warranty from the Seller regarding the nature, quality or workmanship of any repairs made by the Seller;

(d) The Purchaser will not occupy or cause or permit others to occupy the Property prior to closing and, unless and until any necessary Certificate of Occupancy has been obtained from the appropriate governmental entity, will not occupy or cause or permit others to occupy the Property after closing;

(e) The undersigned, if executing the Agreement on behalf of the Purchaser that is a corporation, partnership, trust or other entity, represents and warrants that he/she is authorized by that entity to enter into the Agreement and bind the entity to perform all duties and obligations stated in the Agreement; and

(f) The Purchaser (check one): ☑ has ☐ **has not** previously purchased a Fannie Mae owned property.

17. WAIVERS:

AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, THE PURCHASER WAIVES THE FOLLOWING:

(A) ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST THE SELLER FOR SPECIFIC PERFORMANCE;

(B) RIGHT TO RECORD A LIS PENDENS AGAINST THE PROPERTY OR TO RECORD THIS AGREEMENT OR A MEMORANDUM THEREOF IN THE REAL PROPERTY RECORDS;

(C) RIGHT TO INVOKE ANY OTHER EQUITABLE REMEDY THAT MAY BE AVAILABLE THAT IF INVOKED, WOULD PREVENT THE SELLER FROM CONVEYING THE PROPERTY TO A THIRD PARTY PURCHASER;

PURCHASER (Initials) JM
SELLER (Initials) KL

(D) **ANY AND ALL CLAIMS ARISING FROM THE ADJUSTMENTS OR PRORATIONS OR ERRORS IN CALCULATING THE ADJUSTMENTS OR PRORATIONS THAT ARE OR MAY BE DISCOVERED AFTER CLOSING;**

(E) **ANY CLAIMS FOR FAILURE OF CONSIDERATION AND/OR MISTAKE OF FACT AS SUCH CLAIMS RELATE TO THE PURCHASE OF THE PROPERTY OR ENTERING INTO OR EXECUTION OF OR CLOSING UNDER THIS AGREEMENT;**

(F) **ANY REMEDY OF ANY KIND, INCLUDING BUT NOT LIMITED TO RESCISSION OF THIS AGREEMENT, OTHER THAN AS EXPRESSLY PROVIDED IN SECTION 19 OF THIS ADDENDUM, TO WHICH THE PURCHASER MIGHT OTHERWISE BE ENTITLED AT LAW OR EQUITY WHETHER BASED ON MUTUAL MISTAKE OF FACT OR LAW OR OTHERWISE;**

(G) **TRIAL BY JURY, EXCEPT AS PROHIBITED BY LAW, IN ANY LITIGATION ARISING FROM OR CONNECTED WITH OR RELATED TO THIS AGREEMENT;**

(H) **ANY CLAIMS OR LOSSES THE PURCHASER MAY INCUR AS A RESULT OF CONSTRUCTION ON, REPAIR TO, OR TREATMENT OF THE PROPERTY, OR OTHER DEFECTS, WHICH MAY NOW OR HEREAFTER EXIST WITH RESPECT TO THE PROPERTY;**

(I) **ANY CLAIMS OR LOSSES RELATED TO ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY INCLUDING, BUT NOT LIMITED TO, MOLD, DRYWALL, LEAD PAINT, FUEL OIL, ALLERGENS, OR TOXIC SUBSTANCES OF ANY KIND;**

(J) **ANY RIGHT TO AVOID THIS SALE OR REDUCE THE PRICE OR HOLD THE SELLER RESPONSIBLE FOR DAMAGES ON ACCOUNT OF THE CONDITION OF THE PROPERTY, LACK OF SUITABILITY AND FITNESS, OR REDHIBITORY VICES AND DEFECTS, APPARENT, NONAPPARENT OR LATENT, DISCOVERABLE OR NONDISCOVERABLE;**

(K) **ANY CLAIM ARISING FROM ENCROACHMENTS, EASEMENTS, SHORTAGES IN AREA OR ANY OTHER MATTER WHICH WOULD BE DISCLOSED OR REVEALED BY A SURVEY OR INSPECTION OF THE PROPERTY OR SEARCH OF PUBLIC RECORDS; AND**

(L) **ANY RIGHT TO MEDIATION OR ARBITRATION RELATING TO OR ARISING UNDER OR FROM THIS AGREEMENT, EXCEPT AS PROHIBITED BY LAW.**

References to the "Seller" in this Section 17 of this Addendum shall include the Seller and the Seller's servicers, representatives, agents, brokers, employees, and/or assigns.

In the event that the Purchaser breaches any of the terms described or contemplated under this Section 17 of this Addendum, the Purchaser shall pay all reasonable attorney fees and costs incurred by the Seller in defending such action, and the Purchaser shall pay Five Thousand Dollars ($5,000) as liquidated damages for breach of this Section 17 of the Addendum, which amount shall be in addition to any liquidated damages held or covered by the Seller pursuant to Section 19 of this Addendum.

18. <u>Conditions to the Seller's Performance</u>: The Seller shall have the right, at the Seller's sole discretion, to extend the Expiration Date or to terminate this Agreement if:

(a) full payment of any mortgage insurance claim related to the loan previously secured by the Property is not confirmed prior to the closing or the mortgage insurance company exercises its right to acquire title to the Property;

(b) the Seller determines that it is unable to convey title to the Property insurable by a reputable title insurance company at regular rates;

(c) the Seller at any time has requested that the servicing lender, or any other party, repurchase the loan previously secured by the Property and/or such lender or other party has elected to repurchase the property;

(d) a third party with rights related to the sale of the property does not approve the sale terms;

(e) full payment of any property, fire or hazard insurance claim is not confirmed prior to the closing ;

(f) any third party, whether tenant, homeowner's association, or otherwise, exercises rights under a right of first refusal to purchase the Property;

(g) the Purchaser is the former mortgagor of the Property, or is related to or affiliated in any way with the former mortgagor, and the Purchaser has not disclosed this fact to the Seller prior to the Seller's acceptance of this Agreement. Such failure to disclose shall constitute default under this Agreement, entitling the Seller to exercise any of its rights and remedies, including, without limitation, retaining the earnest money deposit;

(h) the Seller, at the Seller's sole discretion, determines that the sale of the Property to the Purchaser or any related transactions are in any way associated with illegal activity of any kind;

(i) the Agreement was accepted and executed by Seller in noncompliance with Fannie Mae procedures or guidelines;

(j) Seller determines in its sole discretion that the sale of the Property will subject Seller to liability and/or have an impact on pending, threatened or potential litigation; or

(k) material misrepresentation by the Purchaser.

In the event the Seller elects to terminate this Agreement as a result of (a), (b), (c), (d), (e), (f), (i) or (j) above, the Seller shall return the Purchaser's earnest money deposit.

19. Remedies for Default:

(a) In the event of the Purchaser's default, material breach or material misrepresentation of any fact under the terms of this Agreement, the Seller, at its option, may retain the earnest money deposit and any other funds then paid by the Purchaser as liquidated damages and/or invoke any other remedy available to Seller at law and/or equity and the Seller is automatically released from the obligation to sell the Property to the Purchaser and neither the Seller nor its representatives, agents, attorneys, successors, or assigns shall be liable to the Purchaser for any damages of any kind as a result of the Seller's failure to sell and convey the Property.

(b) In the event of the Seller's default or material breach under the terms of the Agreement or if the Seller terminates the Agreement as provided under the provisions of Paragraph 18 (a), (b), (c), (d), (e), (f), (i) or (j) of this Addendum, the Purchaser shall be entitled to the return of the earnest money deposit as Purchaser's sole and exclusive remedy at law and/or equity. The Purchaser waives any rights to file and maintain an action against the Seller for specific performance and the Purchaser acknowledges that a return of its earnest money deposit can adequately and fairly compensate the Purchaser. Upon return of the earnest money deposit to the Purchaser, this Agreement shall be terminated, and the Purchaser and the Seller shall have no further liability or obligation, each to the other in connection with this Agreement.

(c) The Purchaser agrees that the Seller shall not be liable to the Purchaser for any special, consequential or punitive damages whatsoever, whether in contract, tort (including negligence and strict liability) or any other legal or equitable principle, including but not limited to any cost or expense incurred by the Purchaser in selling or surrendering a lease on a prior residence, obtaining other living accommodations, moving, storage or relocation expenses or any other such expense or cost arising from or related to this Agreement or a breach of this Agreement.

(d) Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.

(e) In the event either party elects to exercise its remedies as described in this Section 19 of this Addendum and this Agreement is terminated, the parties shall have no further obligation under this Agreement except as to any provision that survives the termination of this Agreement pursuant to Section 24 of this Addendum.

PURCHASER (Initials) JM
SELLER (Initials) CRL

20. Indemnification: The Purchaser agrees to indemnify and fully protect, defend, and hold the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns harmless from and against any and all claims, costs, liens, loss, damages, attorney's fees and expenses of every kind and nature that may be sustained by or made against the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns, resulting from or arising out of:

(a) inspections or repairs made by the Purchaser or its agents, employees, contractors, successors or assigns;

(b) claims, liabilities, fines or penalties resulting from the Purchaser's failure to timely obtain any Certificate of Occupancy or to comply with equivalent laws and regulations;

(c) claims for amounts due and owed by the Seller for taxes, homeowner association dues or assessment or any other items prorated under Section 10 of this Addendum, including any penalty or interest and other charges, arising from the proration of such amounts for which the Purchaser received a credit at closing under Section 10 of this Addendum; and

(d) the Purchaser's or the Purchaser's tenants, agents or representatives use and /or occupancy of the Property prior to closing and/or issuance of required certificates of occupancy.

21. Risk of Loss: In the event of fire, destruction or other casualty loss to the Property after the Seller's acceptance of this Agreement and prior to closing, the Seller may, at its sole discretion, repair or restore the Property, or the Seller may terminate the Agreement. If the Seller elects to repair or restore the Property, then the Seller may, at its sole discretion, limit the amount to be expended. Whether or not Seller elects to repair or restore the Property, the Purchaser's sole and exclusive remedy shall be either to acquire the Property in its then condition at the Purchase Price with no reduction thereof by reason of such loss or terminate this Agreement and receive a refund of any earnest money deposit.

22. Eminent Domain: In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain or shall be in the process of being taken on or before the closing, either party may terminate the Agreement and the earnest money deposit shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder except as provided in Section 24 of this Addendum.

23. Keys: The Purchaser understands that the Seller may not be in possession of keys, including but not limited to, mailbox keys, recreation area keys, gate cards, or automatic garage remote controls, and any cost of obtaining the same will be the responsibility of the Purchaser. The Purchaser also understands that if the Property includes an alarm system, the Seller cannot provide the access code and/or key and that the Purchaser is responsible for any costs associated with the alarm and/or changing the access code or obtaining keys. If the Property is presently on a Master Key System, the Seller will re-key the exterior doors to the Property prior to closing at the Purchaser's expense. The Purchaser authorizes and instructs escrow holder to charge the account of the Purchaser at closing for the rekey.

24. Survival: Delivery of the deed to the Property to the Purchaser by the Seller shall be deemed to be full performance and discharge of all of the Seller's obligations under this Agreement. Notwithstanding anything to the contrary in the Agreement, any provision which contemplates performance or observance subsequent to any termination or expiration of the Agreement, shall survive the closing and/or termination of the Agreement by any party and continue in full force and effect.

25. Further Assurances: The Purchaser agrees to execute and deliver to the Seller at closing, or otherwise as requested by the Seller, documents including Fannie Mae's Waiver and Release 2012, Tax Proration Agreement 03/2011 or documents that are substantially the same, and to take such other action as reasonably may be necessary to further the purpose of this Agreement. Copies of referenced documents are available from the Seller's listing agent upon request by the Purchaser.

26. Severability: The lack of enforceability of any provision of this Agreement shall not affect the enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

27. Assignment of Agreement: The Purchaser shall not assign this Agreement without the express written consent of the Seller. The Seller may assign this Agreement at its sole discretion without prior notice to, or consent of, the Purchaser.

PURCHASER (Initials) JM
SELLER (Initials) KB

28. **EFFECT OF ADDENDUM: THIS ADDENDUM AMENDS AND SUPPLEMENTS THE CONTRACT AND, IF APPLICABLE, ESCROW INSTRUCTIONS. IN THE EVENT THERE IS ANY CONFLICT BETWEEN THIS ADDENDUM AND THE CONTRACT OR ESCROW INSTRUCTIONS OR NOTICE OR OTHER DOCUMENTS ATTACHED AND MADE A PART OF THE AGREEMENT, THE TERMS OF THIS ADDENDUM TAKE PRECEDENCE AND SHALL PREVAIL EXCEPT AS OTHERWISE PROVIDED BY LAW.**

29. Entire Agreement: The Agreement constitutes the entire agreement between the Purchaser and the Seller concerning the subject matter hereof and supersedes all previous communications, understandings, representations, warranties, covenants or agreements, either written or oral and there are no oral or other written agreements between the Purchaser and the Seller. All negotiations are merged into the Agreement. The Seller is not obligated by any other written or oral statements made by the Seller, the Seller's representatives, or any real estate licensee.

30. Modification: No provision, term or clause of the Agreement shall be revised, modified, amended or waived except by an instrument in writing signed by the Purchaser and the Seller.

31. Rights of Others: This Agreement does not create any rights, claims or benefits inuring to any person or entity, other than Seller's successors and/or assigns, that is not a party to the Agreement, nor does it create or establish any third party beneficiary to this Agreement.

32. Counterparts: This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original, but all of which, when taken together, shall constitute one agreement.

33. Headings: The titles to the sections and headings of various paragraphs of this Agreement are placed for convenience of reference only and in case of conflict, the text of this Agreement, rather than such titles or headings shall control.

34. Electronic Signature: An electronic signature shall be given the same effect as a written signature.

35. Force Majeure: Except as provided in Section 21 to this Addendum, no party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war and terrorism, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such party through use of alternate sources, workaround plans or other means.

36. Attorney Review: The Purchaser acknowledges that Purchaser has had the opportunity to consult with its legal counsel regarding the Agreement and that accordingly the terms of the Agreement are not to be construed against any party because that party drafted the Agreement or construed in favor of any Party because that Party failed to understand the legal effect of the provisions of the Agreement.

37. Notices: Any notices required to be given under the Agreement shall be deemed to have been delivered when actually received in the case of hand or overnight delivery, or five (5) calendar days after mailing by first class mail, postage paid, or by fax with confirmation of transmission to the numbers below. All notices to the Seller will be deemed sent or delivered to the Seller when sent or delivered to Seller's listing broker or agent or Seller's attorney, at the address or fax number shown below. All notices to the Purchaser shall be deemed sent or delivered when sent or delivered to the Purchaser or the Purchaser's attorney or agent at the address or fax number shown below.

38. Additional Terms or Conditions:

Comments:

Home is sold as is.Seller agrees to pay up to $0 towards buyer's closing costs, pre-paids, and/or points. Seller agrees to complete Contract Negotiated Repairs not to exceed $0 prior to closing.Waive earnest money/waive deed restrictions. NSP appraisal must be submitted within 15 days of acknowledgement date. NSP URA discount 1 percent. Buyer to provide document clarifying the funding source.Notwithstanding the language in section 8o of the state sales contract, nothing in this Agreement shall constitute a release or waiver by Seller of any claim or right that it may have with respect third parties, including but not limited to, the Brokers in this transaction.

PURCHASER (Initials) KG
SELLER (Initials) M

IN WITNESS WHEREOF, the Purchaser and the Seller have entered into this Addendum as of the date first set forth above.

PURCHASER(S):

Signature: Jeffrey J. McKibbin

Date: 12/2/13

Print Name: ______

Address: ______

______

Email Address: ______

Telephone: ______

Fax: ______

Signature: ______

Date: ______

Print Name: ______

Address: ______

______

Telephone: ______

Fax: ______

Email Address: ______

SELLER:

☑ **FANNIE MAE**

☐ ______, **as Attorney in Fact for Fannie Mae**

☐ **FANNIE MAE as Attorney in Fact for** ______

By: Karen Carrillo

Karen Carrillo
Assistant Vice President
Fannie Mae

Date: 12/6/13

PURCHASER'S AGENT:

Brokerage Firm: CITY OF SURPRISE

Purchaser's Agent Name: LARI BETH KIRKENDALL

Address: 16000 N CITY OF SURPRISE

SURPRISE AZ 85374

Telephone: 623-222-7525

Fax: ______

Email Address: LARIBETH.KIRKENDALL@SURPRISEAZ.GOV

SELLER'S AGENT:

Brokerage Firm: KELLER WILLIAMS, PROFESSIONAL PARTNERS

Seller's Agent Name: MANDI ROSS

Address: 13370 W FOXFIRE DRIVE, SUITE 2

SURPRISE AZ 85374-7138

Telephone: 6233448003

Fax: 6027085567

Email Address: MANDI@MANDIROSS.COM

PURCHASER (Initials) JJM
SELLER (Initials) KC

FANNIE MAE FORM 001 (12/05/2012)

PURCHASER'S ATTORNEY:

Name: ______________________

Address: ______________________

Telephone: ______________________

Fax: ______________________

Email Address: ______________________

SELLER'S ATTORNEY:

Name: ______________________

Address: ______________________

Telephone: ______________________

Fax: ______________________

Email Address: ______________________

PURCHASER (Initials) JM
SELLER (Initials) KC

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated: February 2011

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1. PROPERTY

1a. **BUYER:** CITY OF SURPRISE
BUYER'S NAME(S)

SELLER: FANNIE MAE or ☐ as identified in section 9c.
SELLER'S NAME(S)

Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon or incidental thereto, plus the personal property described herein (collectively the "Premises").

1b. Premises Address: 15963 W TASHA DR Assessor's #: 501-77-561

City: SURPRISE County: MARICOPA AZ, Zip Code: 85374

Legal Description: MOUNTAIN VISTA RANCH PARCEL 7 AMENDED MCR 475-47 LOT 90

1c. $ 164,900.00 Full Purchase Price, paid as outlined below

$ ______ Earnest money WAIVED

$ ______

$ 164,900.00 NSP FUNDING CASH

1d. **Close of Escrow:** Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing documents, and perform all other acts necessary in sufficient time to allow COE to occur on January (MONTH) 30 (DAY), 2014 (YEAR) ("COE Date"). If Escrow Company or recorder's office is closed on COE Date, COE shall occur on the next day that both are open for business.

Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on COE Date.

1e. **Possession:** Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security system/alarms, and all common area facilities to Buyer at COE or ☐ ______.
Broker(s) recommend that the parties seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of the Premises.

1f. **Addenda Incorporated:** ☒ AS IS ☐ Additional Clause ☐ Assumption and Carryback ☐ Buyer Contingency ☐ Domestic Water Well ☒ H.O.A. ☐ Lead-Based Paint Disclosure ☐ On-site Wastewater Treatment Facility ☐ Short Sale
☒ Other: FANNIE MAE REAL ESTATE PURCHASE ADDENDUM, AGENT DISCLOSURE

1g. **Fixtures and Personal Property:** Seller agrees that all existing fixtures on the Premises, and any existing personal property specified herein, shall be included in this sale, including the following:

- free-standing range/oven
- ceiling fans
- attached floor coverings
- window and door screens, sun screens
- garage door openers and controls
- outdoor landscaping, fountains, and lighting
- pellet, wood-burning or gas-log stoves
- storage sheds
- light fixtures
- towel, curtain and drapery rods
- flush-mounted speakers
- storm windows and doors
- attached media antennas/ satellite dishes
- attached fireplace equipment
- timers
- draperies and other window coverings
- shutters and awnings
- water-misting systems
- solar systems
- mailbox
- central vacuum, hose, and attachments
- built-in appliances

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15963 West Tasha

If owned by the Seller, the following items also are included in this sale:

- pool and spa equipment (including any mechanical or other cleaning systems)
- security and/or fire systems and/or alarms
- water softeners
- water purification systems

Additional existing personal property included in this sale (if checked): ☐ refrigerator ☐ washer ☐ dryer as described:

NONE PER SECTION 9 OF FANNIE MAE PURCHASE ADDENDUM

☐ Other: ______________________________

Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no monetary value, and free and clear of all liens or encumbrances.

Fixtures and leased items NOT included: AC CAGE

IF THIS IS AN ALL CASH SALE, GO TO SECTION 3.

2. FINANCING

2a. **Pre-Qualification:** A completed AAR Pre-Qualification Form ☐ is ☐ is not attached hereto and incorporated herein by reference.

2b. **Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval for the loan described in the AAR Loan Status Update ("LSU") form without Prior to Document ("PTD") conditions no later than three (3) days prior to the COE Date. If Buyer is unable to obtain loan approval without PTD conditions, Buyer shall deliver a notice of the inability to obtain loan approval without PTD conditions to Seller or Escrow Company no later than three (3) days prior to the COE Date.

2c. **Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the earnest money if after diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions no later than three (3) days prior to the COE Date. Buyer acknowledges that prepaid items paid separately from earnest money are not refundable.

2d. **Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest rate and "points" by separate written agreement with the lender during the Inspection Period or (ii) the failure to have the down payment or other funds due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan contingency.

2e. **Loan Status Update:** Buyer shall deliver to Seller the LSU with at a minimum lines 1-40 completed describing the current status of the Buyer's proposed loan within five (5) days after Contract acceptance and instruct lender to provide an updated LSU to Broker(s) and Seller upon request.

2f. **Loan Application:** Unless previously completed, during the Inspection Period, Buyer shall (i) complete, sign and deliver to the lender a loan application and grant lender permission to access Buyer's Trimerged Residential Credit Report; and (ii) provide to lender all initial requested signed disclosures and **Initial Requested Documentation** listed in the LSU on lines 32-35.

2g. **Loan Processing During Escrow:** Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with all additional documentation required. **Buyer shall sign all loan documents no later than three (3) days prior to the COE Date.**

2h. **Type of Financing:** ☐ Conventional ☐ FHA ☐ VA ☐ USDA ☐ Assumption ☐ Seller Carryback ☐ ____________________
(If financing is to be other than new financing, see attached addendum.)

2i. **Loan Costs:** All costs of obtaining the loan shall be paid by the Buyer, unless otherwise provided for herein.

2j. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller agrees to pay up to ________ % of the Purchase Price or $ _________ for Buyer's loan costs including pre-paids, impounds and Buyer's title / escrow closing costs.

2k. **VA Loan Costs:** In the event of a VA loan, Seller agrees to pay the escrow fee and up to $ ________________ of loan costs not permitted to be paid by the Buyer, in addition to the other costs Seller has agreed to pay herein, including Seller's concessions.

2l. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the Pre-Qualification Form if attached hereto or LSU provided within five (5) days after Contract acceptance and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan approval without PTD conditions, increase Seller's closing costs, or delay COE.

2m. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to lender for at least the purchase price. If the Premises fails to appraise for the purchase price in any appraisal required by lender, Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a refund of the Earnest Money or the appraisal contingency shall be waived.

2n. **Appraisal Fee(s):** Appraisal Fee(s), when required by lender, shall be paid by ☐ Buyer ☐ Seller ☐ Other ________________
Appraisal Fee(s) ☐ are ☐ are not included in Seller's Concessions, if applicable.

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KLV					

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3. TITLE AND ESCROW

3a. **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the terms of this Contract shall be:

AVAILABLE UPON EXECUTED CONTRACT
"ESCROW/TITLE COMPANY"

ADDRESS ______ CITY ______ STATE ______ ZIP ______

EMAIL ______ PHONE ______ FAX ______

3b. **Title and Vesting:** Buyer will take title as determined before COE. Taking title may have significant legal, estate planning and tax consequences. Buyer should obtain legal and tax advice.

3c. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, addressed pursuant to 8t and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Title Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy ("Plain Language"/"1-4 units") or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage at Buyer's own additional expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title Insurance Policy.

3d. **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of the Buyer to any homeowner's association in which the Premises is located. (ii) If the Escrow Company is also acting as the title agency but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to the Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying the Buyer and Seller for any losses due to fraudulent acts or breach of escrow instructions by the Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.

3e. **Tax Prorations:** Real property taxes payable by the Seller shall be prorated to COE based upon the latest tax information available.

3f. **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with Escrow Company, Buyer and Seller authorize Escrow Company to release Earnest Money pursuant to the terms and conditions of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or relating in any way to the release of Earnest Money.

3g. **Prorations of Assessments and Fees:** All assessments and fees that are not a lien as of the COE, including homeowner's association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, and service contracts, shall be prorated as of COE or ☐ Other: ______

3h. **Assessment Liens:** The amount of any assessment, other than homeowner's association assessments, that is a lien as of the COE, shall be ☒ paid in full by Seller ☐ prorated and assumed by Buyer. Any assessment that becomes a lien after COE is the Buyer's responsibility.

3i. **IRS and FIRPTA Reporting:** Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete, sign, and deliver to Escrow Company a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller acknowledge that if the Seller is a foreign person, the Buyer must withhold a tax equal to 10% of the purchase price, unless an exemption applies.

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SELLER	SELLER			BUYER	BUYER

 15963 West Tasha

4. DISCLOSURE

4a. **Seller Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR Residential SPDS form to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or five (5) days after receipt of the SPDS, whichever is later.

4b. **Insurance Claims History:** Seller shall deliver to Buyer a written five-year insurance claims history regarding Premises (or a claims history for the length of time Seller has owned the Premises if less than five years) from Seller's insurance company or an insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after Contract acceptance. (Seller may obscure any reference to date of birth or social security number from the document). Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever is later.

4c. **Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, the Seller shall: (i) notify the Buyer of any known lead-based paint ("LBP") or LBP hazards in the Premises; (ii) provide the Buyer with any LBP risk assessments or inspections of the Premises in the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to COE.

☐ LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk assessments or inspections during Inspection Period.

☐ Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days or ______ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five (5) days after expiration of the Assessment Period cancel this Contract.

Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in residential properties built before 1978 and to follow specific work practices to prevent lead contamination.

If Premises were constructed prior to 1978, **(BUYER'S INITIALS REQUIRED)** ______ BUYER ______ BUYER

If Premises were constructed in 1978 or later, **(BUYER'S INITIALS REQUIRED)** ______ BUYER ______ BUYER

4d. **Affidavit of Disclosure:** If the Premises is located in an unincorporated area of the county, and five or fewer parcels of property other than subdivided property are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in the form required by law to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.

4e. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein, in the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by Section 5a or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed five (5) days after delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

5a. **Seller Warranties:** Seller warrants and shall maintain and repair the Premises so that at the earlier of possession or COE: (i) all heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, motors, filter systems, cleaning systems, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other agreed upon repairs and corrections will be completed pursuant to Section 6j; (iii) the Premises, including all additional existing personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) all personal property not included in the sale and all debris will be removed from the Premises.

5b. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for all labor, professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding the COE in connection with the construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the information regarding connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is correct to the best of Seller's knowledge.

5c. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect the Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE, Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises. **Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:**

NONE

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SELLER | SELLER <Initials   Initials> BUYER | BUYER

 15963 West Tasha

6. DUE DILIGENCE

6a. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or ____________ days after Contract acceptance. During the Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards, violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is a material matter to the Buyer, it must be investigated by the Buyer during the Inspection Period. Buyer shall keep the Premises free and clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair all damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate *Buyer Advisory* provided by AAR to assist in Buyer's due diligence inspections and investigations.

6b. **Square Footage: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.**

6c. **Wood-Destroying Organism or Insect Inspection: IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS (SUCH AS TERMITES) ARE A MATERIAL MATTER TO THE BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.** The Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be performed at Buyer's expense.

6d. **Flood Hazard:** Flood hazard designations or the cost of flood hazard insurance shall be determined by Buyer during the Inspection Period. If the Premises are situated in an area identified as having any special flood hazards by any governmental entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to encumber or improve the Premises.

6e. **Insurance: IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO THE BUYER, BUYER SHALL APPLY FOR AND OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD.** Buyer understands that any homeowner's, fire, casualty, or other insurance desired by Buyer or required by lender should be in place at COE.

6f. **Sewer or On-site Wastewater Treatment System:** The Premises are connected to a:
☒ sewer system ☐ septic system ☐ alternative system

IF A SEWER CONNECTION IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD. If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment Facility Addendum is incorporated herein by reference.

(BUYER'S INITIALS REQUIRED) ________ BUYER ________ BUYER

6g. **Swimming Pool Barrier Regulations:** During the Inspection Period, Buyer agrees to investigate all applicable state, county, and municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt of the Arizona Department of Health Services approved private pool safety notice.

(BUYER'S INITIALS REQUIRED) ________ BUYER ________ BUYER

6h. **BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE SURROUNDING AREA IS BEYOND THE SCOPE OF THE BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.**

(BUYER'S INITIALS REQUIRED) ________ BUYER ________ BUYER

6i. **Inspection Period Notice:** Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be provided in a single notice.

6j. **Buyer Disapproval:** If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller notice of the items disapproved and state in the notice that Buyer elects to either:

(1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or

(2) provide the Seller an opportunity to correct the items disapproved, in which case:

(a) Seller shall respond in writing within five (5) days or ___________ days after delivery to Seller of Buyer's notice of items disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed Seller's refusal to correct any of the items disapproved.

(b) **If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days or _________ days prior to COE Date.**

(c) If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this Contract within five (5) days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and all Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided, Buyer shall close escrow without correction of those items that Seller has not agreed in writing to correct.

VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will extend response times or cancellation rights.

BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.

6k. **Notice of Non-Working Warranted Items:** Buyer shall provide Seller with notice of any non-working warranted item(s) of which Buyer becomes aware during the Inspection Period or the Seller warranty for that item(s) shall be waived. Delivery of such notice shall not affect Seller's obligation to maintain or repair the warranted item(s).

6l. **Home Warranty Plan:** Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and most plans exclude pre-existing conditions.

☐ A Home Warranty Plan will be ordered by ☐ Buyer or ☐ Seller with the following optional coverage

__________________________, to be issued by ____ at a cost not

to exceed $ ________________________, to be paid for by ☐ Buyer ☐ Seller

☒ Buyer declines the purchase of a Home Warranty Plan.

6m. **Walkthrough(s):** Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for the purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in working condition and that the Premises is in substantially the same condition as of the date of Contract acceptance. If Buyer does not conduct such walkthrough(s), Buyer releases Seller and Broker(s) from liability for any defects that could have been discovered.

6n. **Seller's Responsibility Regarding Inspections and Walkthrough(s):** Seller shall make the Premises available for all inspections and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane, until COE to enable Buyer to conduct these inspections and walkthrough(s).

7. REMEDIES

7a. **Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a breach of Contract.

7b. **Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute Resolution obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in the event of Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver the notice required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant to Section 2m, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled contingency is not a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and conditions of Section 1d to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a, will constitute a material breach of this Contract, rendering the Contract subject to cancellation.

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7c. **Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the mediation conference by notice to the other and in such event either party shall have the right to resort to court action.

7d. **Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the Small Claims Division of an Arizona Justice Court (up to $2,500) so long as the matter is not thereafter transferred or removed from the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action ("lis pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.

7e. **Attorney Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert witness fees, fees paid to investigators, and arbitration costs.

8. ADDITIONAL TERMS AND CONDITIONS

8a. PURSANT TO PARAGRAPH 28 OF THE REAL ESTATE PURCHASE ADDENDUM, THIS DOCUMENT IS SUBJECT TO ALL TERMS AND CONDITIONS SET FORTH IN THE REAL ESTATE PURCHASE ADDENDUM.

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SELLER | SELLER <Initials   Initials> BUYER | BUYER

 15963 West Tasha

8b. **Risk of Loss:** If there is any loss or damage to the Premises between the date of Contract acceptance and COE or possession, whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on the Seller, provided, however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price, either Seller or Buyer may elect to cancel the Contract.

8c. **Permission:** Buyer and Seller grant Broker(s) permission to advise the public of this Contract.

8d. **Arizona Law:** This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.

8e. **Time is of the Essence:** The parties acknowledge that time is of the essence in the performance of the obligations described herein.

8f. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer is obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. COMMISSIONS PAYABLE FOR THE SALE, LEASING, OR MANAGEMENT OF PROPERTY ARE NOT SET BY ANY BOARD OR ASSOCIATION OF REALTORS®, OR MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER THAN BETWEEN THE BROKER AND CLIENT.

8g. **Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original Contract. This Contract and any other documents required by this Contract may be executed by facsimile or other electronic means and in any number of counterparts, which shall become effective upon delivery as provided for herein, except that the Lead-Based Paint Disclosure Statement may not be signed in counterpart. All counterparts shall be deemed to constitute one instrument, and each counterpart shall be deemed an original.

8h. **Days:** All references to days in this Contract shall be construed as calendar days and a day shall begin at 12:00 a.m. and end at 11:59 p.m.

8i. **Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event from which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs on the date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Acts that must be performed three days prior to the COE Date must be performed three full days prior (i.e., if COE Date is Friday the act must be performed by 11:59 p.m. on Monday).

8j. **Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller and Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing signed by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.

8k. **Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands that any subsequent offer accepted by the Seller must be a backup offer contingent on the cancellation of this Contract.

8l. **Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by delivering notice stating the reason for cancellation to the other party or to the Escrow Company. Cancellation shall become effective immediately upon delivery of the cancellation notice.

8m. **Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing and deemed delivered and received when: (i) hand-delivered; (ii) sent via facsimile transmission; (iii) sent via electronic mail, if email addresses are provided herein; or (iv) sent by recognized overnight courier service, and addressed to Buyer as indicated in Section 8r, to Seller as indicated in Section 9a and to the Escrow Company indicated in Section 3a.

8n. **Earnest Money:** Earnest Money is in the form of: ☐ Personal Check ☒ Other: SEE LINE 9
If applicable, Earnest Money has been received by Broker named in Section 8r and upon acceptance of this offer will be deposited with: ☐ Escrow Company ☐ Broker's Trust Account. Buyer acknowledges that failure to pay the required closing funds by the scheduled Close of Escrow, if not cured after a cure notice is delivered pursuant to Section 7a, shall be construed as a material breach of this contract and all earnest money shall be subject to forfeiture.

8o. **Release of Broker(s): Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, governmental regulations, insurance, price and terms of sale, return on investment or any other matter relating to the value or condition of the Premises. The parties understand and agree that the Broker(s) do not provide advice on property as an investment and are not qualified to provide financial, legal, or tax advice regarding this real estate transaction.**

(SELLER'S INITIALS REQUIRED) ________ SELLER ________ SELLER **(BUYER'S INITIALS REQUIRED)** ________ BUYER ________ BUYER

8p. **Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and a signed copy delivered in person, by mail, facsimile or electronically, and received by Broker named in Section 8r
by ________________________, __________ at __________ ☐ a.m. ☐ p.m., Mountain Standard Time.
Buyer may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received by this date and time, this offer shall be deemed withdrawn and the Buyer's Earnest Money shall be returned.

>>

SELLER	SELLER	<Initials	Initials>	BUYER	BUYER

 15963 West Tasha

8q. THIS CONTRACT CONTAINS NINE PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE THAT YOU HAVE RECEIVED AND READ ALL NINE PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND ATTACHMENTS.

8r. **Broker on behalf of Buyer:**

LARI BETH KIRKENDALL		CITY OF SURPRISE	
PRINT SALESPERSON'S NAME	AGENT CODE	PRINT FIRM NAME	FIRM CODE

1600 W CITY OF SURPRISE — SURPRISE (FIRM ADDRESS) — AZ (STATE) — 85374 (ZIP CODE)

(623)222-7525 (PREFERRED TELEPHONE) — FAX — LARIBETH.KIRKENDALL@SURPRISEAZ.GOV (EMAIL)

8s. **Agency Confirmation:** The Broker named in Section 8r above is the agent of (check one):
☒ the Buyer; ☐ the Seller; or ☐ both the Buyer and Seller

8t. **The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of a copy hereof including the Buyer Attachment.**

Jeffrey J Mikolich 12/2/13
^ BUYER'S SIGNATURE MO/DA/YR — ^ BUYER'S SIGNATURE MO/DA/YR

CITY OF SURPRISE

ADDRESS — ADDRESS

CITY, STATE, ZIP CODE — CITY, STATE, ZIP CODE

9. SELLER ACCEPTANCE

9a. **Broker on behalf of Seller:**

MANDALYNN ROSS	MR419	KELLER WILLIAMS PROFESSIONAL PARTNERS	KWPR03
PRINT SALESPERSON'S NAME	AGENT CODE	PRINT FIRM NAME	FIRM CODE

14239 W BELL RD #101 — SURPRISE (FIRM ADDRESS) — AZ (STATE) — 85374 (ZIP CODE)

(623)344-8003 (PREFERRED TELEPHONE) — (602)708-5567 (FAX) — MANDI@MANDIROSS.COM (EMAIL)

9b. **Agency Confirmation:** The Broker named in Section 9a above is the agent of (check one):
☒ the Seller; or ☐ both the Buyer and Seller

9c. **The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a copy hereof and grant permission to Broker named on Section 9a to deliver a copy to Buyer.**

☐ Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

Karen Carrillo 12/6/13
^ SELLER'S SIGNATURE MO/DA/YR — ^ SELLER'S SIGNATURE MO/DA/YR

FANNIE MAE Karen Carrillo
Assistant Vice President
Fannie Mae
SELLER'S NAME PRINTED — SELLER'S NAME PRINTED

ADDRESS — ADDRESS

CITY, STATE, ZIP CODE — CITY, STATE, ZIP CODE

☐ **OFFER REJECTED BY SELLER:** ______ MONTH ______ DAY, ______ YEAR ______ (SELLER'S INITIALS)

For Broker Use Only:
Brokerage File/Log No. ______ Manager's Initials ______ Broker's Initials ______ Date ______ MO/DA/YR

>>

SURPRISE
ARIZONA

Finance Department
16000 N. Civic Center Plaza
Surprise, AZ 85374-7470
Ph: 623-222-1800
Fax: 623-222-1801
TTY: 623-222-1002

CERTIFICATION

This is to certify that the City of Surprise, an Arizona municipal corporation, has the necessary funds to cover all expenses related to the Neighborhood Stabilization Program (NSP), to include, but not limited to acquisition and rehabilitation. The funding of NSP was allocated by the U.S. Department of Housing and Urban Development.

This certification is being issued as supporting document to any and all purchase offers of foreclosed properties, in relation to the Neighborhood Stabilization Program.

Issued this 26th day of November, 2013.

Jeffrey Mihelich
Assistant City Manager

REAL ESTATE AGENCY DISCLOSURE AND ELECTION

Document updated: January 2009

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REALTOR® EQUAL HOUSING OPPORTUNITY

1. Firm Name ("Broker") City of Surprise

2. acting through Lari Beth Kirkendall hereby makes the following disclosure.
LICENSEE'S NAME

DISCLOSURE

Before a **Seller or Landlord (hereinafter referred to as "Seller") or a Buyer or Tenant (hereinafter referred to as "Buyer")** enters into a discussion with a real estate broker or licensee affiliated with a broker, the Seller and the Buyer should understand what type of agency relationship or representation they will have with the broker in the transaction.

I. **Buyer's Broker:** A broker other than the Seller's broker can agree with the Buyer to act as the broker for the Buyer. In these situations, the Buyer's broker is not representing the Seller, even if the Buyer's broker is receiving compensation for services rendered, either in full or in part, from the Seller or through the Seller's broker:
   a) A Buyer's broker has the fiduciary duties of loyalty, obedience, disclosure, confidentiality, and accounting in dealings with the Buyer.
   b) Other potential Buyers represented by broker may consider, make offers on, or acquire an interest in the same or similar properties as Buyer is seeking.

II. **Seller's Broker:** A broker under a listing agreement with the Seller acts as the broker for the Seller only:
   a) A Seller's broker has the fiduciary duties of loyalty, obedience, disclosure, confidentiality, and accounting in dealings with the Seller.
   b) Other potential Sellers represented by broker may list properties that are similar to the property that Seller is selling.

III. **Broker Representing both Seller and Buyer (Limited Representation):** A broker, either acting directly or through one or more licensees within the same brokerage firm, can legally represent both the Seller and the Buyer in a transaction, but only with the knowledge and informed consent of both the Seller and the Buyer. In these situations, the Broker, acting through its licensee(s), represents both the Buyer and the Seller, with limitations of the duties owed to the Buyer and the Seller:
   a) The broker will not, without written authorization, disclose to the other party that the Seller will accept a price or terms other than stated in the listing or that the Buyer will accept a price or terms other than offered.
   b) There will be conflicts in the duties of loyalty, obedience, disclosure and confidentiality. Disclosure of confidential information may be made only with written authorization.

Regardless of who the Broker represents in the transaction, the Broker shall exercise reasonable skill and care in the performance of the Broker's duties and shall be truthful and honest to both the Buyer and Seller and shall disclose all known facts which materially and adversely affect the consideration to be paid by any party. Pursuant to A.R.S. §32-2156, Sellers, Lessors and Brokers are not obligated to disclose that a property is or has been: (1) the site of a natural death, suicide, homicide, or any crime classified as a felony; (2) owned or occupied by a person exposed to HIV, or diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3) located in the vicinity of a sex offender. Sellers or Sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless there is a confidentiality agreement between the parties.

THE DUTIES OF THE BROKER IN A REAL ESTATE TRANSACTION DO NOT RELIEVE THE SELLER OR THE BUYER FROM THE RESPONSIBILITY TO PROTECT THEIR OWN INTERESTS. THE SELLER AND THE BUYER SHOULD CAREFULLY READ ALL AGREEMENTS TO ENSURE THAT THE DOCUMENTS ADEQUATELY EXPRESS THEIR UNDERSTANDING OF THE TRANSACTION.

ELECTION

Buyer or Tenant Election (Complete this section only if you are the Buyer.) The undersigned elects to have the Broker (check any that apply):

- [x] represent the Buyer as Buyer's Broker.
- [ ] represent the Seller as Seller's Broker.
- [ ] show Buyer properties listed with Broker's firm and Buyer agrees that Broker shall act as agent for both Buyer and Seller provided that the Seller consents to limited representation. In the event of a purchase, Buyer's and Seller's informed consent should be acknowledged in a separate writing other than the purchase contract.

Seller or Landlord Election (Complete this section only if you are the Seller.) The undersigned elects to have the Broker (check any that apply):

- [ ] represent the Buyer as Buyer's Broker.
- [ ] represent the Seller as Seller's Broker.
- [ ] show Seller's property to Buyers represented by Broker's firm and Seller agrees that Broker shall act as agent for both Seller and Buyer provided that Buyer consents to the limited representation. In the event of a purchase, Buyer's and Seller's informed consent should be acknowledged in a separate writing other than the purchase contract.

The undersigned ☐ Buyer(s) or ☐ Seller(s) acknowledge that this document is a disclosure of duties. This document is not an employment agreement.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE.

City of Surprise
^ PRINT NAME ^ PRINT NAME

12/2/13
^ SIGNED MO/DA/YR ^ SIGNED MO/DA/YR

"AS IS" ADDENDUM

Document updated: February 2011

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REALTOR® EQUAL HOUSING OPPORTUNITY

Seller: Fannie Mae

Buyer: City of Surprise

Premises Address: 15963 W Tasha Drive, Surprise, 85374

Date: November 26, 2013

The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises. All terms and conditions of the Contract are hereby included herein and delivery of all notices and documentation shall be deemed delivered and received when sent as required by Section 8m of the Contract.

A. Seller and Buyer agree that the Premises is being sold in its existing condition ("AS IS") and Seller makes no warranty to Buyer, either express or implied, as to the (1) condition of the Premises, including, but not limited to, Seller's Warranties in Lines 166-168 of Section 5a, which Buyer hereby waives; (2) zoning of the Premises; or (3) Premises' fitness for any particular use or purpose. However, Seller warrants and shall maintain and repair the Premises so that, pursuant to lines 169-170, at the earlier of possession or COE, the Premises, including all additional existing personal property included in the sale, will be in substantially the same condition as on the date of Contract acceptance and all personal property not included in the sale and all debris will be removed from the Premises.

B. Buyer is advised to conduct independent inspection(s) and investigations regarding the Premises within the Inspection Period as specified in Section 6a. Buyer retains the rights pursuant to Section 6j. Seller shall not be obligated to correct any defects that may be discovered during Buyer's inspection(s) and investigations or otherwise.

C. Notwithstanding the foregoing, if an On-Site Wastewater Treatment Facility (conventional septic or alternative system) ("Facility") has been installed on the Premises, Seller and Buyer agree to complete and execute the AAR On-Site Wastewater Treatment Facility Addendum and Seller agrees to pay for the Facility inspections, fees or repairs as set forth therein.

D. Seller acknowledges that selling the Premises "AS IS" does not relieve Seller of the legal obligation to disclose all known material latent defects to Buyer.

E. In the event that any provision contained in this Addendum conflicts in whole or in part with any of the terms contained in the Contract, the provisions of this Addendum shall prevail and the conflicting terms are hereby considered deleted and expressly waived by both Buyer and Seller.

F. Other Terms and Conditions:

BUYER ACKNOWLEDGES THAT BUYER IS HEREBY ADVISED TO SEEK APPROPRIATE COUNSEL REGARDING THE RISKS OF BUYING A PROPERTY IN "AS IS" CONDITION.
Buyer recognizes, acknowledges, and agrees that Broker(s) are not qualified, nor licensed, to conduct due diligence with respect to the premises or the surrounding area. Buyer is instructed to consult with qualified licensed professionals to assist in Buyer's due diligence efforts. Because conducting due diligence with respect to the premises and the surrounding area is beyond the scope of the Broker's expertise and licensing, Buyer expressly releases and holds harmless Broker(s) from liability for any defects or conditions that could have been discovered by inspection or investigation. **Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, governmental regulations, insurance or any other matter relating to the value or condition of the Premises.**

^ BUYER'S SIGNATURE 11/26/13 MO/DA/YR ^ BUYER'S SIGNATURE MO/DA/YR

City of Surprise

Karen Carrillo 12/6/13

^ SELLER'S SIGNATURE MO/DA/YR ^ SELLER'S SIGNATURE MO/DA/YR

Fannie Mae

Karen Carrillo
Assistant Vice President
Fannie Mae

For Broker Use Only:
Brokerage File/Log No. ____ Manager's Initials ____ Broker's Initials ____ Date ____ MO/DA/YR

(Added February 2012)

H.O.A. CONDOMINIUM / PLANNED COMMUNITY ADDENDUM

Document updated: February 2007

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REALTOR® EQUAL HOUSING OPPORTUNITY

Seller: Fannie Mae

Buyer: City of Surprise

Premises Address: 15963 W Tasha Drive, Surprise, 85374

Date: November 26, 2013

The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises.

If the Premises are located within a homeowner's association or a condominium/planned community:

Dues and Fees: The current regular association dues are: $ ______ monthly, or $ 76.00 / quarterly ;

Additional homeowner's association fees are: $ ______ monthly, or $ ______ / ______ ;

Any current homeowner's association assessment which is a lien as of Close of Escrow to be:
☒ paid in full by Seller ☐ prorated and assumed by Buyer.

Any assessment that becomes a lien after the Close of Escrow is the Buyer's responsibility.

Any transfer fees charged by a homeowner's association(s) shall be paid by ☒ Seller ☐ Buyer ☐ Other ______ .

Any inspection, certification or resale disclosure statement fee charged by the HOA for the cost of providing the resale information required by law shall be **paid by Seller.**

Other Fees: A homeowner's association may require fees, deposits or other payment at COE. These charges vary and may be labeled as community reserve, asset preservation, capital reserve, working capital, community enhancement or future improvement fees, payments, deposits or otherwise. **Any of these fees or deposits or similar payment required by a homeowner's association upon the conveyance of the Premises shall be paid by** ☐ **Seller** ☒ **Buyer** ☐ **Other** ______ .

If the homeowner's association has less than 50 units, no later than ten (10) days after Contract acceptance, the Seller shall provide in writing to Buyer the information described below as required by Arizona law.

If the homeowner's association has 50 or more units, Seller shall furnish notice of pending sale that contains the name and address of the Buyer to the homeowners' association within five (5) days after Contract acceptance and pursuant to Section 3d of the Contract has instructed Escrow Company to provide such notice on Sellers behalf. The association is obligated by Arizona law to provide the information described below to Buyer within ten (10) days after receipt of Seller's notice.

Buyer is allowed five (5) days after receipt of the information from the Seller or homeowner's association to provide written notice to Seller of any items disapproved.

Jeffrey J. McKelvick 11/26/13
^ BUYER'S SIGNATURE MO/DA/YR ^ BUYER'S SIGNATURE MO/DA/YR
City of Surprise

^ SELLER'S SIGNATURE MO/DA/YR ^ SELLER'S SIGNATURE MO/DA/YR
Fannie Mae

Information required by law to be provided:

1. A copy of the bylaws and the rules of the association.
2. A copy of the declaration of Covenants, Conditions and Restrictions ("CC&Rs").
3. A dated statement containing:
   (a) The telephone number and address of a principal contact for the association, which may be an association manager, an association management company, an officer of the association or any other person designated by the board of directors.
   (b) The amount of the common regular assessment and the unpaid common regular assessment, special assessment or other assessment, fee or charge currently due and payable from the Seller.
   (c) A statement as to whether a portion of the unit is covered by insurance maintained by the association.
   (d) The total amount of money held by the association as reserves.
   (e) If the statement is being furnished by the association, a statement as to whether the records of the association reflect any alterations or improvements to the unit that violate the declaration. The association is not obligated to provide information regarding alterations or improvements that occurred more than six years before the proposed sale. Seller remains obligated to disclose alterations or improvements to the Premises that violate the declaration. The association may take action against the Buyer for violations apparent at the time of purchase that are not reflected in the association's records.
   (f) If the statement is being furnished by the Seller, a statement as to whether the Seller has any knowledge of any alterations or improvements to the unit that violate the declaration.
   (g) A statement of case names and case numbers for pending litigation with respect to the Premises or the association.
4. A copy of the current operating budget of the association.
5. A copy of the most recent annual financial report of the association. If the report is more than ten pages, the association may provide a summary of the report in lieu of the entire report.
6. A copy of the most recent reserve study of the association, if any.
7. Any other information required by law.
8. A statement for Buyer acknowledgment and signature as required by Arizona Law.

For Broker Use Only:

Brokerage File/Log No. ______ Manager's Initials ______ Broker's Initials ______ Date ______
MO/DA/YR

(Added February 2012)

SUPPLEMENT TO THE REAL ESTATE PURCHASE ADDENDUM

REO D130FQ6

Address **15963 West Tasha Surprise, Az**

"The Purchaser represents that the Purchaser is eligible for Neighborhood Stabilization Program (NSP) funds through City of Surprise (the "Agency"). The purchase price for a property acquired with Agency NSP funds must be not more than 1 % (the "Agency NSP Discount Percentage) less than the appraised value of the Property (the "NSP Appraised Value"), as determined by a URA appraisal or other evidence of value acceptable to the Agency and obtained by the Purchaser at no expense to the Seller (the "NSP Appraisal"). The NSP Appraised Value less an amount equal to the Agency NSP Discount Percentage is the "Agency Maximum Purchase Price". Accordingly, the following additional provisions apply to this Contract:

(a) Promptly following the Purchaser's execution of this Agreement, the Purchaser shall provide to Seller or Seller's agent evidence of (i) the Purchaser's eligibility to receive NSP funds through the Agency and (ii) the NSP Appraised Value, each in such form as the Seller shall reasonably require, and shall provide a copy of the NSP Appraisal to the Seller or to the Seller's agent upon request.

(b) If the Purchase Price stated in the Contract is less than the Agency Maximum Purchase Price, the Purchase Price stated in the Contract shall be the Purchase Price for the Property. If the Purchase Price stated in the Contract is more than the Agency Maximum Purchase Price, the Purchaser shall have until the earlier of (i) 5 days after the Purchaser's receipt of the NSP Appraisal or (ii) 15 days after the date of this Agreement (the "Purchase Price Negotiation Deadline") in which to negotiate a modified purchase price that conforms to Agency NSP requirements.

(c) If (i) the Purchaser does not obtain a NSP Appraisal prior to the Purchase Price Negotiation Deadline or (ii) the Purchase Price stated in the Agreement is more than the Agency Maximum Purchase Price and the Purchaser and the Seller are unable to agree upon a modified purchase price prior to the Purchase Price Negotiation Deadline, either the Purchaser or the Seller shall have the right to terminate the Contract as provided in Section 18 of this Addendum, in which event the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum.

(d) The Seller's obligations under this Agreement are contingent upon the Seller's and the Purchaser's voluntary approval of the Purchase Price as negotiated pursuant to this Addendum. If the Purchase Price negotiated on the basis of the NSP Appraised Value (the "Appraisal Price") differs from the Purchase Price offered by the Purchaser in the original Contract, and the Seller and the Purchaser approve the Appraisal Price, the Seller and the Purchaser shall sign an amendment to this Contract stating that the Appraisal Price is the Purchase Price (the "Purchase Price Amendment"), and the Purchase Price shall be as

PURCHASER (Initials) JM

SELLER (Initials) RC

stated in the Purchase Price Amendment. If the Seller does not approve the Appraisal Price, or if either the Seller or the Purchaser does not sign the Purchase Price Amendment, the Seller shall have the right to terminate this Contract as provided in Section 18 of this Addendum, in which event the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum. If the Appraisal Price is the same as or greater than the Purchase Price offered by the Purchaser in the original Contract, no Purchase Price Amendment will be required and the parties will proceed to closing on the original Contract terms using the Purchase Price as stated in the Purchaser's original offer.

(e) The Seller acknowledges that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, as evidenced by both parties' execution and delivery of the Purchase Price Amendment, the acquisition will not take place. The Seller is familiar with NSP, understands its appraisal and pricing requirements, and agrees voluntarily to any purchase price discount negotiated pursuant to clause (b) of this Section 38. The Seller further acknowledges that the Purchaser is acquiring the Property voluntarily and is not using any power of eminent domain to acquire the Property.

(f) At or prior to closing, the Purchaser shall deliver to the Seller a Statement of NSP Eligibility issued by the Agency. The Purchaser is responsible for satisfaction of all Agency requirements to maintain NSP eligibility. The Seller's obligations under this Agreement are contingent upon the Purchaser's NSP eligibility, provided, however, that if the Purchaser does not receive NSP funds at closing, the Purchaser will have the right to close using non-NSP funds. If the Purchaser does not receive NSP funds and does not elect to close using other funds, the Seller shall have the right to terminate this Agreement as provided in Section 18 of this Addendum, in which event the Seller shall return the Purchaser's earnest money deposit and the parties shall have no further obligation under this Agreement except as to any provision that survives termination pursuant to Section 24 of this Addendum.

(g) If the Seller terminates this Agreement for any reason permitted under the Contract or this Addendum, the Seller shall have no obligation to pay or reimburse the Purchaser for the Purchaser's Closing Costs or for the cost of the NSP Appraisal or for any other costs associated with NSP."

PURCHASER (Initials) JM

SELLER (Initials) KC

CITY OF SURPRISE
Regular City Council Meeting

January 14, 2014 @ 6:00:00 PM

Back Print

Council Meeting Date:	January 14, 2014	Contact Person:	Jeff Mihelich, Assistant City Manager
Submitting Department:	CD	District:	4
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Resolution 2014-04, approving a final plat entitled "Avenue of the Arts Clinic, A Condominium," generally located on the northeast corner of Bell Road and Avenue of the Arts.

Motion:

I move to approve Resolution 2014-04.

Background:

The applicant is requesting final plat approval that will provide a condominium plat for three (3) units interior to an existing building within the Canyon Ridge West Planned Area Development (PAD) for a clinic and two (2) currently unspecified uses.

Financial Impact Statement:

All activity related to the ongoing development of the City of Surprise has an economic and fiscal impact on the city and the region.

ATTACHMENTS:

Click to download

- Staff Report
- Vicinity Map
- Plat
- Resolution 2014-04

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Bart Wingard, Planner, Community & Economic Development

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: January 14, 2014

To: Mayor and City Council

From: Jeffrey J. Mihelich, Assistant City Manager
Hobart Wingard, Planner
hobart.wingard@surpriseaz.gov 623-222-3156

Re: FS13-357 – Condominium Final Plat for Avenue of the Arts Clinic

Application Summary

The applicant is requesting final plat approval that will provide a condominium plat for three (3) units interior to an existing building for a clinic and two (2) currently unspecified uses.

Location

The subject parcel is generally located on the northeast corner of Bell Road and Avenue of the Arts within the Canyon Ridge West Planned Area Development (PAD).

History

- On October 12, 1995, the subject property was annexed into the City of Surprise.
- On August 28, 1997, the Mayor and City Council approved the Canyon Ridge West PAD.
- On September 19, 2006, The Planning and Zoning Commission approved the site plan for the Bell Mar commercial development.
- On November 7, 2006, The Planning and Zoning Commission approved the site plan for the Los Padres Bank.
- On November 30, 2007, a minor land division was administratively approved by city staff.

Economic Impact

All activity related to the ongoing development of the City of Surprise has an economic and fiscal impact on the city and the region.

Findings

1. Staff finds that the proposed final plat complies with the Surprise General Plan.
2. Staff finds that the proposed final plat complies with the Surprise Municipal Code.
3. Staff finds that the proposed final plat complies with the Canyon Ridge West PAD.

Recommendation

Staff recommends approval of the project.

Attachments

Resolution, Vicinity Map, and Final Plat

VICINITY MAP – FS13-357

CONDOMINIUM PLAT

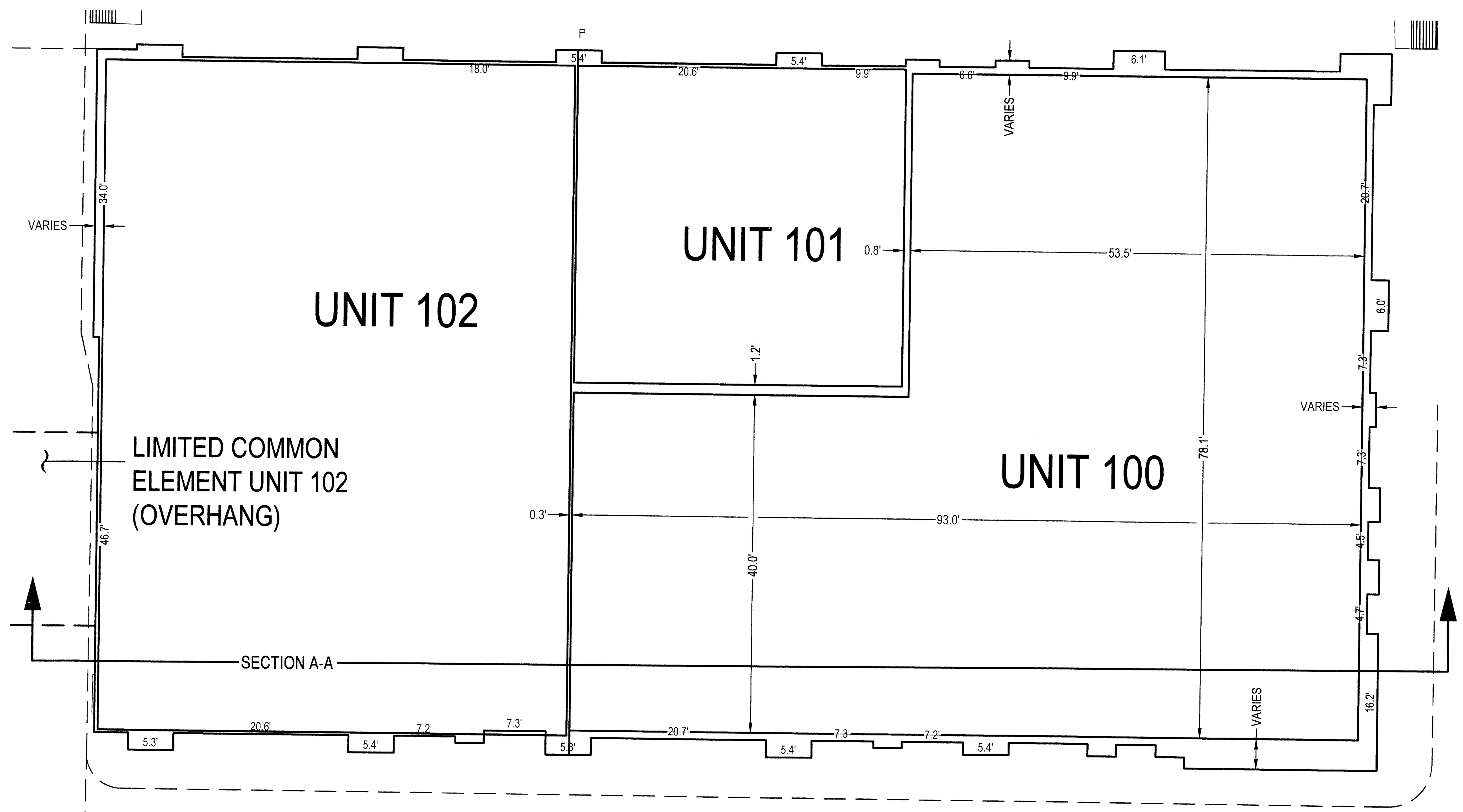
FOR

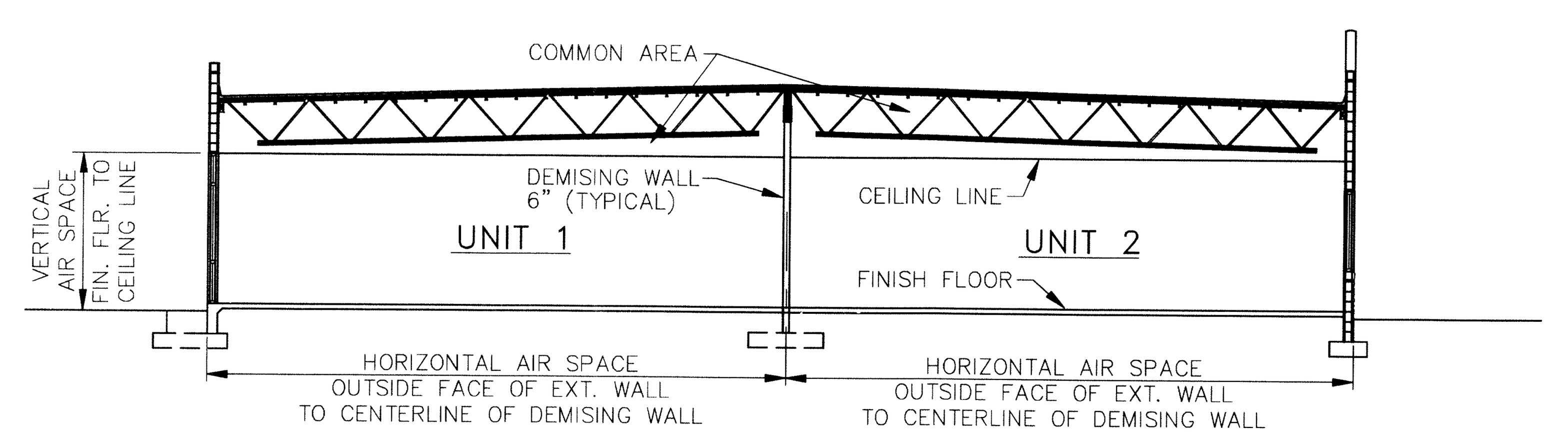
AVENUE OF THE ARTS CLINIC, A CONDOMINIUM

BEING A CONDOMINIUM PLAT FOR "ARIZONA PROPERTY MANAGEMENT / LOS PADRES BANK" AS RECORDED IN BOOK 960 OF MAPS, PAGE 21, MARICOPA COUNTY, RECORDS. BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA & SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

10 0 10

1 inch = 10 ft.





CROSS SECTION A-A

NOT TO SCALE

O'NEILL ENGINEERING, L.L.C.
Engineering • Planning • Surveying • SUE
2001 West Camelback Road, Suite 200 Phoenix, AZ 85015
Phone: 602.242.0020 Fax: 602.242.5722
www.oneilleng.com
Engineering Answers

AVENUE OF THE ARTS CLINIC
17061 NORTH AVENUE OF THE ARTS
SURPRISE, ARIZONA

CONDOMINIUM PLAT

REGISTERED LAND SURVEYOR CERTIFICATE NO. 17403 TIMOTHY M. O'NEILL ARIZONA, U.S.A.

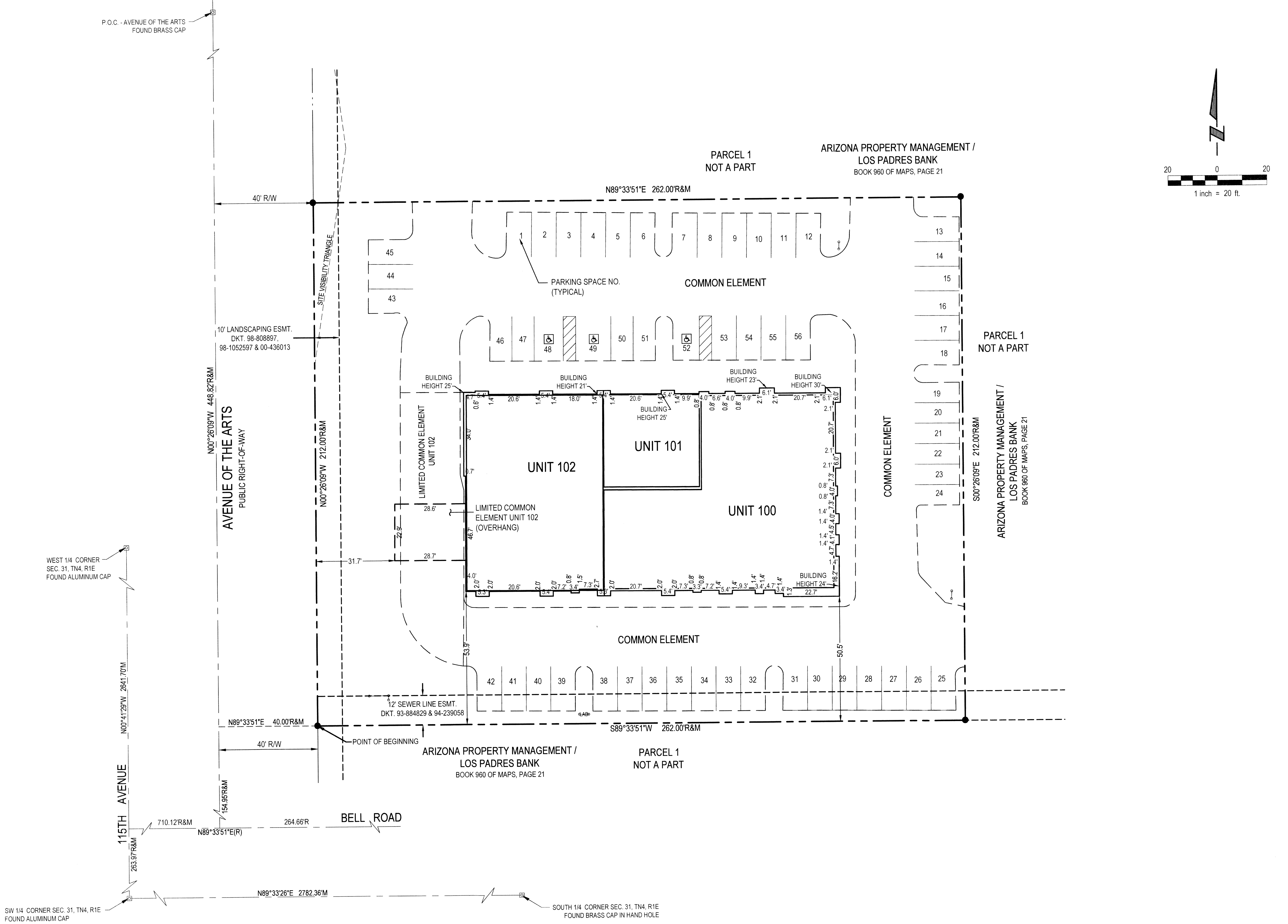
EXPIRES 12/31/2015

No	Date	Revision Description

Proj No: 2013.252.001
Date: 05/28/2013
Designed By: JHVD
Drawn By: JHVD
Scale: 1"=20'
Sheet: 3 of 3

CONDOMINIUM PLAT
FOR
AVENUE OF THE ARTS CLINIC, A CONDOMINIUM

BEING A CONDOMINIUM PLAT FOR "ARIZONA PROPERTY MANAGEMENT / LOS PADRES BANK" AS RECORDED IN BOOK 960 OF MAPS, PAGE 21, MARICOPA COUNTY, RECORDS. BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA & SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.



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REGISTERED LAND SURVEYOR
CERTIFICATE NO. 17403
TIMOTHY M. O'NEILL
ARIZONA, U.S.A.
EXPIRES 12/31/2015

Proj. No:	2013.252.001
Date:	11-21-2013
Designed By:	JHVD
Drawn By:	JHVD
Scale:	1"=20'
Sheet:	2 of 3

CONDOMINIUM PLAT

FOR

AVENUE OF THE ARTS CLINIC, A CONDOMINIUM

BEING A CONDOMINIUM PLAT FOR "ARIZONA PROPERTY MANAGEMENT / LOS PADRES BANK" AS RECORDED IN BOOK 960 OF MAPS, PAGE 21, MARICOPA COUNTY, RECORDS. BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA & SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

NOTES

1. NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, WIRE OR REMOVABLE SECTION TYPE FENCING, AND/OR PAVING, NOR ANY PLANTING EXCEPT GRASS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF SURPRISE SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION.
2. ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 69 KVA, CABLE T.V., TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC. SHALL BE INSTALLED UNDERGROUND AS PART OF THE STREET IMPROVEMENTS.
3. MAINTENANCE OF SURFACE AND UNDERGROUND DRAINAGE FACILITIES WITHIN ALL TRACTS, EASEMENTS AND RIGHTS-OF-WAY SHALL BE THE RESPONSIBILITY OF THE DEVELOPER.
4. ALL LOT CORNERS SHALL BE MONUMENTED WITH 1/2" REBAR AND CAPPED OR TAGGED BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
5. SIGNS, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHRUBS, HEDGES OR OTHER PLANTS, BUT EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN VIEW EASEMENTS OR THE SITE DISTANCE TRIANGLES. NO LIMBS, LEAVES, NEEDLES OR OTHER FOLIAGE ABOVE 30 INCHES IN HEIGHT OR BELOW 84 INCHES ARE PERMITTED. TREES ARE TO BE PLANTED SO AS NOT TO OBSTRUCT 20% OF THE VISIBILITY WHEN COMBINED WITH OTHER OBSTRUCTIONS.
6. THIS SUBDIVISION IS LOCATED WITHIN THE EPCOR WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING A 100-YEAR ASSURED WATER SUPPLY.
7. THIS SUBDIVISION IS LOCATED WITHIN THE EPCOR SEWER SERVICE AREA.
8. THIS SUBDIVISION IS LOCATED WITHIN THE VICINITY OF A MILITARY AIRPORT.
9. NO STRUCTURE OF ANY KIND WILL BE CONSTRUCTED OR ANY VEGETATION BE PLANTED NOR BE ALLOWED TO GROW WITHIN THE DRAINAGE EASEMENT OR TRACT WHICH WOULD IMPEDE THE FLOW OF WATER OVER, UNDER, OR THROUGH THE EASEMENT OR TRACT.
10. AN ASSOCIATION, CONSISTING OF ALL PROPERTY OWNERS IN THE DEVELOPMENT, WILL BE FORMED AND HAVE THE RESPONSIBILITY FOR MAINTAINING ALL COMMON AREAS TO BE NOTED AS "TRACT A" OR EASEMENTS (INCLUDING LANDSCAPED AREAS, PARKING/ACCESS, ALL COMMON ELEMENTS AND DRAINAGE FACILITIES IN THE PROPERTY) IN ACCORDANCE WITH APPROVED PLANS.
11. A DECLARATION OF CONDOMINIUM AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND EASEMENTS FOR AVENUE OF THE ARTS CLINIC, A CONDOMINIUM (DECLARATION) IS RECORDED IN THE OFFICE OF THE MARICOPA COUNTY RECORDER. UNIT OWNERS SHOULD REFER TO THE DECLARATION FOR SPECIFIC INFORMATION ABOUT THEIR RESPONSIBILITIES IN CONNECTION WITH OWNING A UNIT.
12. THE UNIT BOUNDARIES ARE DESCRIBED AS FOLLOWS: "THE HORIZONTAL BOUNDARIES ARE THE EXTERIOR FINISHED SURFACES OF THE EXTERIOR PERIMETER WALLS AND COLUMNS OF THE UNIT TO THE CENTER OF THE INTERIOR DEMISING WALL OF THE UNIT. THE LOWER VERTICAL BOUNDARY IS THE UNFINISHED SURFACE OF THE SLAB FLOOR OF THE UNIT AND FOR PERIMETER WALLS WITH WINDOWS AND DOORS TO THE EXTERIOR FACE OF THE GLASS AND DOORS IN ACCORDANCE WITH BOMA STANDARDS. THE UPPER VERTICAL BOUNDARY IS THE UNDERSIDE SURFACE OF THE CEILING ABOVE THE UNIT AND ALL STRUCTURAL JOISTS AND BEAMS SUPPORTING THE SAME."

BENCH MARK

CITY OF SURPRISE BENCH MARK #131, BEING A 1/2" STEEL ROD IN HAND HOLE (GDACS) POINT I.D. "4GA2", APRROXIMATELY 200' NORTH OF BELL ROAD AND APROXIMATELY 2570' EAST OF THE INTERSECTION OF BELL ROAD AND EL MIRAGE ROAD.
ELEVATION = 1165.97 (C.O.S. DATUM)

BASIS OF BEARING

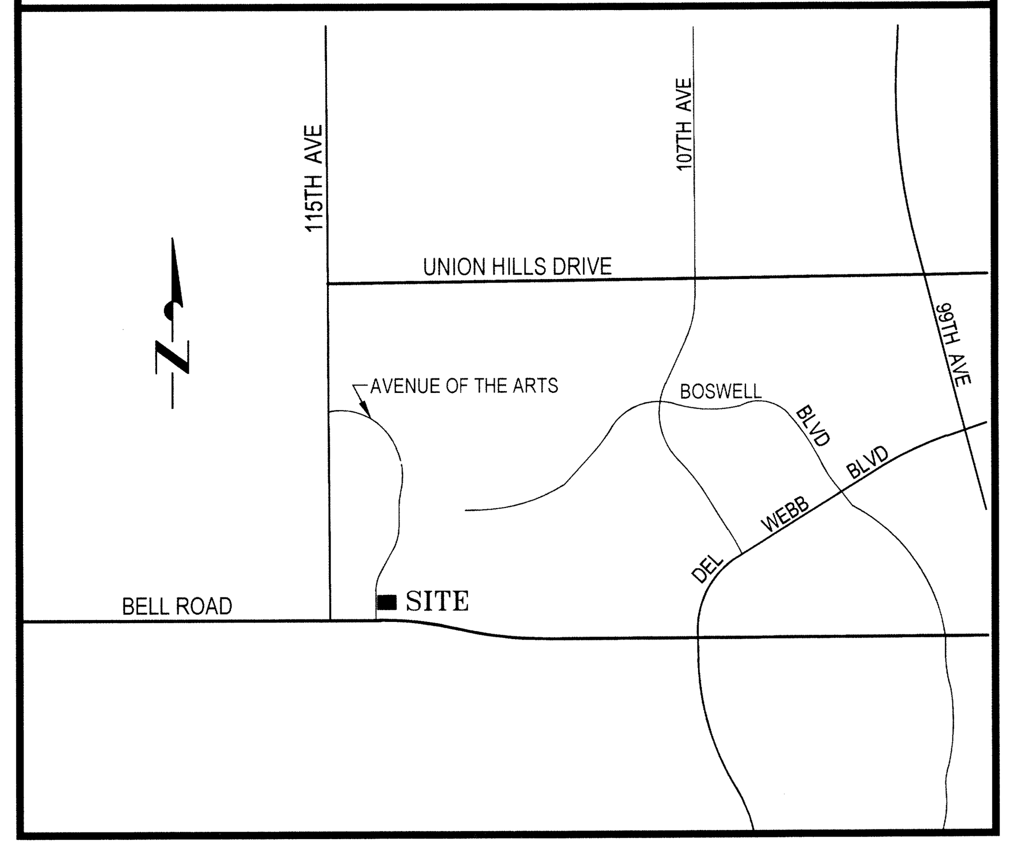
N 00°26'09" W ALONG THE MONUMENT LINE OF 114TH AVENUE AS RECORDED IN MINOR LAND DIVISION, "ARIZONA PROPERTY MANAGEMENT / LOS PADRES BANK" AS RECORDED IN BOOK 960 OF MAPS, PAGE 21, MARICOPA COUNTY RECORDS.

FLOOD ZONE

ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 04013C1170 H DATED SEPTEMBER 30, 2005, THE SUBJECT PROPERTY IS LOCATED IN ZONE X (FLOOD). DESCRIBED AS: "AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD".

VICINITY MAP

NOT TO SCALE



AREA

ARIZONA PROPERTY MANAGEMENT/ LOS PADRES BANK

55,544 SQUARE FEET (1.2751 ACRES)

BUILDING AREA

TAKEN FROM OUTSIDE FACE OF EXTERIOR WALLS TO CENTERLINE OF PROPOSED DEMISING WALL

BUILDING	12,227 SQ. FT.
UNIT 100	5,758 SQ. FT.
UNIT 101	1,447 SQ. FT.
UNIT 102	4,369 SQ. FT.
L.C.E. (BUILDING)	653 SQ. FT.
TOTAL	12,227 SQ. FT.

LEGAL DESCRIPTION

THAT PORTION OF LOTS 4 AND 6, PHOENIX FIG FARMS, ACCORDING TO BOOK 18 OF MAPS,PAGE 35, RECORDS OF MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CITY OF SURPRISE BRASS CAP IN A HAND HOLE AT THE INTERSECTION OF BELL ROAD AND AVENUE OF THE ARTS FROM WHICH A CITY OF SURPRISE BRASS CAP FLUSH BEARS ALONG THE MONUMENT LINE OF AVENUE OF THE ARTS NORTH 00 DEGREES 26 MINUTES 09 SECONDS WEST 448.82 FEET AS SHOWN ON THAT CERTAIN FINAL PLAT OF CANYON RIDGE WEST, PARCEL 6, FILED IN BOOK 508 OF MAPS, PAGE 30, IN THE OFFICE OF SAID COUNTY RECORDER, LINE BETWEEN SAID BRASS CAP MONUMENTS IS THE BASIS OF BEARING FOR THIS DESCRIPTION;
THENCE ALONG SAID MONUMENT LINE NORTH 00 DEGREES 26 MINUTES 09 SECONDS WEST 154.95 FEET TO A POINT;
THENCE LEAVING SAID MONUMENT LINE NORTH 89 DEGREES 33 MINUTES 51 SECONDS EAST 40.00 FEET TO THE POINT OF BEGINNING MARKED BY AN 1/2" REBAR STAMPED RLS 37937;
THENCE FROM SAID POINT OF BEGINNING NORTH 00 DEGREES 26 MINUTES 09 SECONDS WEST 212.00 FEET PARALLEL AND DISTANT 40.00 FEET MEASURED AT RIGHT ANGLES TO SAID MONUMENT LINE TO A SIMILAR REBAR;
THENCE NORTH 89 DEGREES 33 MINUTES 51 SECONDS EAST 262.00 FEET TO A SIMILAR REBAR;
THENCE SOUTH 00 DEGREES 26 MINUTES 09 SECONDS EAST 212.00 FEET TO A SIMILAR REBAR;
THENCE SOUTH 89 DEGREES 33 MINUTES 51 SECONDS WEST 262.00 FEET TO THE POINT OF BEGINNING.

SHEET INDEX

SHEET 1	COVER SHEET
SHEET 2	OVERALL SITE EXHIBIT
SHEET 3	BUILDING LAYOUT

OWNER/DEVELOPER

SCOTTSDALE HEALTH OFFICE PROPERTIES, LLC
4620 N. 16TH STREET, SUITE E218
PHOENIX, AZ 85016
(602) 953-8480

CITY OF SURPRISE ENGINEER APPROVAL

DATA ON THIS PLAT REVIEWED AND APPROVED THIS ______ DAY, OF __________________, 2013, BY

THE CITY ENGINEER OF SURPRISE, ARIZONA.

APPROVED ______________________________
CITY ENGINEER DATE

CITY OF SURPRISE COUNCIL APPROVAL

APPROVED BY THE CITY COUNCIL OF THE CITY OF SURPRISE, ARIZONA. THIS ______ DAY,

OF __________________, 2013.

____
MAYOR DATE

ATTEST:
____
CITY CLERK DATE

ACKNOWLEDGMENTS

STATE OF ARIZONA)
)S.S.
COUNTY OF MARICOPA)

ON THIS ________ DAY OF ______________________, 2013 BEFORE ME THE UNDERSIGNED

PERSONALLY APPEARED, ____________________ WHO HEREBY EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED BY SIGNING THE NAME OF SCOTTSDALE HEALTH OFFICE PROPERTIES, LLC, AND ACKNOWLEDGED THAT HE, AS SUCH OFFICER, BEING AUTHORIZED SO TO DO, EXECUTED THE FORGOING INSTRUMENT FOR THE PURPOSE THEREIN CONTAINED.

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

NOTARY PUBLIC ____________________

MY COMMISSION EXPIRES ____________________

CERTIFICATION

THIS IS TO CERTIFY THAT THE SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREON WAS MADE UNDER MY DIRECTION DURING THE MONTH OF MAY 2013; THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT THE MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN; THAT THEIR POSITIONS ARE CORRECTLY SHOWN; AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE REFERENCED.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
17403
TIMOTHY M. O'NEILL
Date Signed 11/21/13
ARIZONA, U.S.A.
EXPIRES 12/31/2015

Timothy M O'Neill
TIMOTHY M. O'NEILL, R.L.S. #17403

11/21/13
DATE

DEDICATION

STATE OF ARIZONA)
)S.S.
COUNTY OF MARICOPA)

KNOW ALL MEN BY PRESENTS, THAT SCOTTSDALE HEALTH OFFICE PROPERTIES, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, THE OWNER OF THE PROPERTY SHOWN HEREON, HAS PUBLISHED THIS CONDOMINIUM PLAT PURSUANT TO A.R.S. S33-1219, AS AN INTEGRAL PART OF THE CONDOMINIUM DECLARATION, UNDER THE NAME OF "AVENUE OF THE ARTS CLINIC, A CONDOMINIUM", BEING A RE-PLAT OF THE MAP OF "ARIZONA PROPERTY MANAGEMENT / LOS PADRES BANK", AS RECORDED IN BOOK 960, PAGE 21, MARICOPA COUNTY RECORDS, AND BEING LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA. OWNER HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE MEASUREMENTS AND HORIZONTAL AND VERTICAL DIMENSIONS OF THE UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS, AND EACH UNIT SHALL BE KNOWN BY THE NUMBER OR NAME GIVEN TO EACH RESPECTIVELY ON SAID CONDOMINIUM PLAT.

ALL NOTATIONS AND DEDICATIONS STATED ON OR WITHIN THE FINAL PLAT OF "ARIZONA PROPERTY MANAGEMENT / LOS PADRES BANK" AS RECORDED IN BOOK BOOK 960, PAGE 21, MARICOPA COUNTY RECORDS, SHALL REMAIN IN FULL FORCE AND EFFECT WITH THE RECORDATION OF THE REPLAT.

OWNER 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 LUKE AIR FORCE BASE AND AUXILIARY FIELD.

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

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.

RELEASE OF LIABILITY

SCOTTSDALE HEALTH OFFICE PROPERTIES, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, ("OWNER") DOES HEREBY (1) RELEASE AND DISCHARGE THE USAF AND 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 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. 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.

IN WITNESS WHEREOF, AN OFFICER OF SCOTTSDALE HEALTH OFFICE PROPERTIES, LLC, AN ARIZONA LIMITED LIABILITY COMPANY HAS HEREUNTO CAUSED HIS OR HER NAME TO BE SIGNED AND THE SAME TO BE ATTESTED BY HIS OR HER SIGNATURE.

SCOTTSDALE HEALTH OFFICE PROPERTIES, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY ARROWHEAD HEALTH OFFICE PROPERTIES, LLC, AN ARIZONA LIMITED LIABILITY COMPANY
ITS MEMBER

BY PJJR CONSULTING LLC, AN ARIZONA LIMITED LIABILTY COMPANY
ITS MANAGER

BY: ______________________________ DATE: ________________
PAUL E. JOHNSON, JR. MEMBER

O'NEILL ENGINEERING, L.L.C.
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Engineering Answers

AVENUE OF THE ARTS CLINIC
17061 NORTH AVENUE OF THE ARTS
SURPRISE, ARIZONA

CONDOMINIUM PLAT

Revision		
No	Date	Description

Proj No:	2013.252.001
Date:	05/28/2013
Designed By:	JHVD
Drawn By:	JHVD
Scale:	1"=20'
Sheet:	1 of 3

Blair T. Haines 11/21/2013 12:38 PM K:\Projects\2013\252\p01\Plat\Final Design\LOS PADRES HEALTH CENTER PLAT -000.dwg

RESOLUTION #2014-04

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A FINAL PLAT ENTITLED "AVENUE OF THE ARTS CLINIC, A CONDOMINIUM," GENERALLY LOCATED ON THE NORTHEAST CORNER OF BELL ROAD AND AVENUE OF THE ARTS.

WHEREAS, on October 12, 1995, the Mayor and City Council approved an annexation of the subject parcel;

WHEREAS, on August 28, 1997, the Mayor and City Council approved the Canyon Ridge West Planned Area Development;

WHEREAS, on September 19, 2006, the Planning and Zoning Commission approved the Bell Mar Site Plan;

WHEREAS, on November 7, 2006, the Planning and Zoning Commission approved the Los Padres Bank Site Plan;

WHEREAS, on November 30, 2007, a Minor Land Division was administratively approved by city staff; and

WHEREAS, the Proposed Final Plat in compliance with the approved Surprise General Plan, Surprise Municipal Code, and the Canyon Ridge West Planned Area Development.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Surprise, Arizona, as follows:

Section 1. The Final Plat Case FS13-357 entitled "Avenue of the Arts Clinic, a Final Plat" is approved.

APPROVED AND ADOPTED this_______day of ____________2014.

____
Sharon R. Wolcott, Mayor

Attest:

____
Sherry Aguilar, City Clerk

Approved as to form:

____
Misty Leslie, City Attorney

Council Meeting Date:	January 14, 2014	Contact Person:	Jeff Mihelich, Assistant City Manager
Submitting Department:	CD	District:	Citywide
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Resolution #2014-01, approving the Maricopa HOME Consortium Intergovernmental Agreement.

Motion:

I move to approve Resolution #2014-01.

Background:

HOME funding is provided by the U.S. Department of Housing and Urban Development (HUD) to municipalities in order to provide decent and affordable housing, for income qualified residents of Surprise. This funding would be applied towards the continuation of the Housing Rehabilitation Program that addresses homes that are in need of health and safety repairs or replacement. The City of Surprise receives funding as a member of the Maricopa County Housing Consortium through an intergovernmental agreement. This is necessary as Surprise does not meet the necessary thresholds to receive funding directly from HUD.

Financial Impact Statement:

Acceptance of the HOME grant funds for Fiscal Year 2013 will increase the amount of money in the Neighborhood Services HOME program by $117,975.00, providing more opportunity to continue assistance for City of Surprise residents, who are living in homes that are in need of health and safety repairs or replacement. Expenses will match the grant award with overruns being addressed either by scaling back the project or matching with other grant awards.

ATTACHMENTS:

Click to download

- Staff Report
- Resolution and IGA

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Christina Ramirez, Neighborhood Services Supervisor

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: January 14, 2014

To: Mayor and City Council

From: Jeffrey J. Mihelich, Assistant City Manager
Christina Ramirez, Neighborhood Services Supervisor

Re: Intergovernmental Agreement/Maricopa County HOME funds

Introduction

The Neighborhood Services Division has been awarded $117,975.00 for Fiscal Year (FY) 2013 from the U.S. Department of Housing and Urban Development (HUD) under the HOME program. Approval of the Intergovernmental Agreement with Maricopa County and its remaining members of the Consortium; City of Avondale, City of Chandler, Town of Gilbert, City of Glendale, City of Peoria, City of Scottsdale, and City of Tempe is necessary in order to accept the funds.

Background

HOME funding is provided by the U.S. Department of Housing and Urban Development (HUD) to municipalities in order to provide decent and affordable housing, for income qualified residents of Surprise. This funding would be applied towards the continuation of the Housing Rehabilitation Program that addresses homes that are in need of health and safety repairs or replacement. The City of Surprise receives funding as a member of the Maricopa County Housing Consortium through an intergovernmental agreement. This is necessary as Surprise does not meet the necessary thresholds to receive funding directly from HUD.

Previous Actions

Through the City's Annual Action Plan, HOME grant funds have previously been received for FY 2006-2012 through the HOME consortium and approved for the proposed activities.

Conclusion

Accepting this award in the amount of $117,975.00 from (HUD) through our intergovernmental agreement with Maricopa County for FY 2013, it is believed that the recommended projects and programs will provide assistance to residents in need, thus supporting the national objective and intent of the HOME program.

Recommendations

Accept HOME funds through approval of the Intergovernmental Agreement with Maricopa County and the remaining members of the Consortium.

Future Actions

Accept funds from Maricopa County and the remaining members of the Consortium to utilize on previously mentioned projects and programs.

RESOLUTION # 2014-01

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA APPROVING THE MARICOPA HOME CONSORTIUM INTERGOVERNMENTAL AGREEMENT.

WHEREAS, pursuant to Arizona Revised Statutes § 11-952, the City of Surprise has the authority to enter into intergovernmental agreements with other governmental entities;

WHEREAS, the City of Surprise desires to receive HUD HOME Program funds;

WHEREAS, the federal funding is unlikely to provide grants to individual municipalities, but by cooperating in consortium they may as a group become eligible participants in the HOME Program; and

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

Section 1. The City of Surprise hereby agrees to enter into the Maricopa Home Consortium Intergovernmental Agreement between the Cities of Avondale, Chandler, Glendale, Peoria, Scottsdale, Surprise, and Tempe (collectively, the "Consortium"), and the Mayor is hereby authorized and directed to sign, attached hereto as *Exhibit A*.

PASSED AND ADOPTED this __day of ___________, 2014.

____
Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

____
Sherry Aguilar, City Clerk

____
Misty Leslie, City Attorney

INTERGOVERNMENTAL AGREEMENT

for services between

MARICOPA COUNTY

Administered by its

Human Services Department

and

City of Surprise

Contract Amount: $117,975.00____________
Contract Start Date: July 1, 2013____________
Contract Termination Date: Contract Term 24 months from Contract Start Date.
Contract Number: C-22-_______
Program Number: ________________
CFDA Number: 14.239, HOME Investment Partnership Program

County shall provide financial assistance in an amount up to One Hundred Seventeen Thousand Nine Hundred Seventy-Five dollars ($117,975.00) subject to the terms of this Agreement and availability of funds. This Agreement price constitutes the County entire participation and obligation in the performance and completion of all work to be performed under this Agreement.

This Agreement is entered into by and between The City of Surprise a member of the HOME Consortium (hereinafter referred to as the "City and/or "Subrecipient"), and Maricopa County, administered by its Human Services Department, (hereinafter referred to as the "Lead Agency" and/or "County"). The Subrecipient and County are collectively referred to herein as the "Parties" and individually as a "Party."

The Subrecipient, for and in consideration of the covenants and conditions set forth in this Agreement, shall provide and perform the services set forth herein. All rights and obligations of the Parties shall be governed by the terms of this Agreement, its exhibits, attachments, and appendices, including any Subcontracts, Amendments, or Change Orders as set forth herein and in:

Section I – General Provisions – Contain uniform administrative requirements applicable to both Parties participating in the HOME Investment Partnerships (HOME) Program, which include, but are not limited to, definitions; non-discrimination and equal opportunity requirements; disclosure and retention requirements; and debarment, suspension, or ineligibility exclusions.

Section II – Special Provisions – Provides specific programmatic requirements upon the Subrecipient that are established by the HOME Program and applicable HUD regulations. This includes, but is not limited to, disposition of program income; financial record management; reporting requirements; and Subrecipient certifications.

Section III – Work Statement – The section contains, but is not limited to, a narrative of the project; a list of the tasks to be performed; established goals; performance measures; scheduling; budget; planned expenditures of income.

Section IV – Compensation – Contains provisions relating to compensation for Subrecipient, method of payment, terms of reimbursement, conditions-prior to the release of funds.

Subrecipient Representative: Christina Ramirez____________________ Phone: (623) 222-3238_______

_________________________E-mail: christina.ramirez@surpriseaz.gov

Address: 16000 N. Civic Center Plaza, Surprise, AZ 85374______________________________

____

Lead Agency: Ursula Strephans___________________________________ Phone: (602) 372-1526_______

_________________________E-mail: strephansu@mail.maricopa.gov

Address: 234 N. Central Avenue, Third Floor, Phoenix, AZ 85004________________________

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Notice under this Agreement shall be given by personal delivery or by registered or certified mail, postage prepaid and return receipt requested, to the persons at the addresses set forth above and shall be effective three (3) days after being mailed unless otherwise indicated in the notice.

This Agreement contains all the terms and conditions agreed to by the Parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any Party hereto. Nothing in this Agreement shall be construed as consent to any lawsuit or waiver of any defense in a lawsuit brought against the State of Arizona, County, or the Subrecipient in any State or federal court.

IN WITNESS THEREOF, the Parties have signed this Agreement:

Approved By: SUBRECIPIENT	Approved By: MARICOPA COUNTY (LEAD AGENCY)
______________________________ Authorized Signature	______________________________ Chairman, Board of Supervisors
______________________________ DATE	______________________________ DATE
Attested to:	Attested to:
______________________________ City/Town Clerk	______________________________ Clerk, Board of Supervisors
______________________________ DATE	______________________________ DATE

IN ACCORDANCE WITH A.R.S. §§ 11-952, 11-201, AND 11-251, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED DEPUTY COUNTY ATTORNEY**, AND, IN ACCORDANCE WITH A.R.S. § 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY FOR SUBRECIPIENT ON BEHALF OF SUBRECIPIENT, AND, AS TO THEIR RESPECTIVE CLIENTS ONLY, EACH ATTORNEY** HAS DETERMINED THAT THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWER AND AUTHORITY GRANTED UNDER THE LAWS OF THE STATE OF ARIZONA.

APPROVED AS TO FORM:	APPROVED AS TO FORM:
______________________________ Attorney for the Subrecipient	______________________________ Attorney for the Board of Supervisors
______________________________ DATE	______________________________ DATE

SECTION I

GENERAL PROVISIONS

Maricopa County

Human Services Department

A. **EFFECT**

To the extent that the Special Provisions are in conflict with the General Provisions, the Special Provisions shall control. To the extent that the Work Statement and the Special or General Provisions are in conflict, the Work Statement shall control. To the extent that the Compensation Provisions are in conflict with the General Provisions, Special Provisions or Work Statement, the Compensation Provisions shall control. Nothing herein shall operate to increase the Operating Budget without a written amendment thereto.

B. **DEFINITIONS**

As used throughout this Agreement, the following terms shall have the following meanings:

1. **Agreement** means this Contract for Services, which includes the General Provision, Special Provisions, Work Statement, Compensation, and all applicable attachments, exhibits, appendix, and any laws, rules, or regulations incorporated by reference.

2. **Assistant Director** means the Director of a specific Division within the Human Services Department.

3. **Board of Supervisors** means the Maricopa County Board of Supervisors.

4. **Contract Administrator** means the person administering this Agreement on behalf of the Department.

5. **Contract Specialist** means the liaison between the Department and the Subrecipient that is responsible for contract monitoring and technical assistance.

6. **County** means Maricopa County.

7. **Department** means the Maricopa County Human Services Department.

8. **Director** means the Director of the Maricopa County Human Services Department.

9. **Division** means a section of the Human Services Department.

10. **Fidelity Bond** means a bond to indemnify the Subrecipient against losses resulting from fraud or lack of integrity, honesty or fidelity of one or more employees, officers or other persons holding a position of trust.

11. **Intergovernmental Agreement** means an agreement entered between two or more public agencies for services, to jointly exercise any power common to them, or for joint or cooperative action to perform some or all of the services specified in their agreement as provided by A.R.S. § 11-952.

12. **Juvenile** means any person under the age of eighteen (18).

13. **Payment Bond** means a bond executed to assure payment as required by law of all persons performing work or providing materials in the execution of work provided in this Agreement.

14. **Performance Bond** means a bond executed to secure fulfillment of all of the Subrecipient's obligations under this Agreement.

15. **Program** means HOME subrecipients receive funds to carry out programs (e.g., downpayment assistance, homeowner rehabilitation, or tenant-based rental assistance

programs, etc.), and not to undertake specific projects. (Entities that carry out projects are generally owners, developers, or sponsors.) Work Statement include herein describe the Subrecipient programs to be administered.

16. **Program Manager** means the Assistant Director of a Division of Human Services.
17. **Projects** means HOME subrecipients that will commit home funds to projects in their jurisdictions.

18. **Provider** means any Subrecipient and/or Subrecipient providing services required by this Agreement.

19. **Public Agency** has the meaning prescribed by A.R.S. § 11-951.

20. **Subcontract** means any contract entered into by a Subrecipient with a third party for performance of any of the work or provision of any of the services covered by this Agreement.

21. **Subrecipient** means a public agency to administer all requirements of the HOME program and is the person, firm or organization listed on the Cover Page of this Agreement.

22. **Vendor** means an entity funded through the Subrecipient to provide services required by the Work Statement.

23. **Work Statement** means the section of this Agreement that contains a description of services to be delivered pursuant to this Agreement.

C. <u>GENERAL REQUIREMENTS</u>

1. The terms of this Agreement shall be construed in accordance with Arizona law and the applicable regulations of the United States Department of Housing and Urban Development (HUD). Any lawsuit arising out of this Agreement shall be brought in the appropriate court in Maricopa County, Arizona.

2. The Subrecipient shall, without limitation, obtain and maintain all licenses, permits and authority necessary to do business, render services and perform work under this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance and worker's compensation.

3. The Subrecipient is independent in the performance of work and the provision of services under this Agreement and is not to be considered an officer, employee or agent of the County.

4. Subrecipient shall comply with the regulations prohibiting a conflict of interest, and not make any payments, either directly or indirectly, to any person, partnership, corporation, trust or other organization that has a substantial interest in Subrecipient's organization or with which Subrecipient (or one of its directors, officers, owners, trust certificate holders or a relative thereof) has a substantial interest, unless Subrecipient has made full written disclosure of the proposed payments to the Department and has received written approval therefore. For purposes of this provision, the terms "substantial interest" and "relative" shall have the meanings prescribed by A.R.S. § 38-502.

D. <u>ACCEPTANCE OF FUNDS</u>

Subrecipient hereby accepts the award of funds under the terms of this Agreement and agrees to execute and return this Agreement to the County within 30 days of receipt unless Subrecipient received a written waiver of this requirement by the County.

E. AMENDMENTS

All Amendments to this Agreement shall be in writing, signed by authorized signers for both Parties, and be requested to the County no later than six (6) months prior to contract expiration.

F. ASSIGNMENT AND SUBCONTRACTING

No right, liability, obligation or duty under this Agreement may be assigned, delegated or subcontracted, in whole or in part, without the prior written approval of the Contract Administrator. Subrecipient shall bear all liability under this Agreement, even if it is assigned, delegated or subcontracted, in whole or in part, unless the Department agrees otherwise.

G. AVAILABILITY OF FUNDS

1. The provisions of this Agreement relating to the payment for services shall become effective when funds assigned for the purpose of compensating the Subrecipient, as provided herein, are actually available to the Department for disbursement. The Director shall be the sole authority in determining the availability of funds under this Agreement and the Department shall keep the Subrecipient fully informed as to the availability of funds.

2. If any action is taken by any State agency, federal department or any other agency or instrumentality to suspend, decrease or terminate its fiscal obligation under, or in connection with this Agreement, the Board of Supervisors may amend, suspend, decrease or terminate its obligations under or in connection with this Agreement. In the event of termination, the County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services performed are in accordance with the provisions of this Agreement. The Department shall give written notice of the effective date of any suspension, amendment, or termination under this section at least ten (10) calendar days in advance.

H. BUDGET ADJUSTMENTS

Subrecipient must receive prior written approval from the County to move funds from one Budget Activity Line Item to another. If the County agrees to the budget adjustments, the County shall follow section E of this Agreement to amend this Agreement. Any requests for reasonable budget adjustments must be submitted six (6) months prior to the expiration of this Agreement. Requests for adjustments to this Agreement must be supported by appropriate documentation. The Subrecipient shall not retain any funds drawn down in excess of immediate cash needs (to be used within 15 days of draw down) to cover subsequent requests for reimbursement, and must return them to the County within 30 days of receipt. The Subrecipient must also return to the County any interest that is earned on these funds that are drawn down and not expended for eligible costs within 15 days of draw down.

I. DISPUTES

1. Except as may otherwise be provided for in this Agreement, any dispute arising out of this Agreement that is not resolved between the Parties within a reasonable period of time, which shall not exceed one hundred twenty (120) days, shall be submitted in accordance with the following dispute resolution process.

2. Disputes must be in writing and filed with the Contract Administrator, if one has been appointed, or, if not, with the County Procurement Officer within ten (10) working days from the date the Subrecipient knew or should have known of the basis of the dispute. The Contract Administrator or County Procurement Officer, as applicable, shall respond in writing to the Subrecipient within fourteen (14) working days. The decision of the Contract Administrator or County Procurement Officer shall be final and conclusive unless, within seven (7) working days from the date the Subrecipient receives the decision, Subrecipient files a written notice of appeal with the Director of the Materials Management Department of Maricopa County, who shall provide the

Subrecipient with a written response within fourteen (14) working days following receipt of the Subrecipient's notice of appeal. The decision of the Director shall be final.

3. Pending a final decision of the Director of the Materials Management Department, the Subrecipient shall proceed diligently with the performance of this Agreement in accordance with the Contract Administrator or County Procurement Officer's decision.

J. DEFAULT AND REMEDIES FOR NONCOMPLIANCE

Notwithstanding anything to contrary, this Section shall not be deleted or superseded by any other provision of this Agreement.

This Agreement may be immediately terminated by the County if the Subrecipient defaults by failing to perform any objective or breaches any obligation under this Agreement, or any event occurs that jeopardizes the Subrecipient's ability to perform any of its obligations under this Agreement. The County reserves the right to have service provided by persons other than the Subrecipient if the Subrecipient is unable or fails to provide required services with the specified time frame.

Failure to comply with the requirements of this Agreement and all the applicable federal, state, or local laws, rules, and regulations may result in suspension or termination of this Agreement, the return of unexpended funds (less just compensation for work satisfactorily completed that, to date, has not been paid), the reimbursement of funds improperly expended, or the recovery of funds improperly acquired. Noncompliance includes, but is not limited to:

a. Nonperformance of any obligations required by this Agreement.
b. Noncompliance with any applicable federal, state, or local laws, rules or regulations, including HUD guidelines, policies, or directives.
c. Unauthorized expenditure of funds.
d. Violation of the applicable affordability period.
e. Improper disposition of resale or recapture proceeds.
f. Improper disposition of program income.
g. Noncompliance with applicable financial record requirements, accounting principles, or standards established by OMB circulars.
h. Noncompliance with recordkeeping, record retention, or reporting requirements.

Notwithstanding the suspension or termination of this Agreement, or the final determination of the proper disposition of funds, SUBRECIPIENT shall, without intent to limit or with restrictions, be subject to the following:

a. All awards of funding shall be immediately revoked, and any approvals related to the project described in the Special Provision or Work Statement shall be deemed revoked and canceled. Thereby, any entitlements to compensation after suspension or termination of this Agreement are similarly revoked and unavailable.
b. Not be relieved of any liability or responsibility associated with the Special Provision or Work Statement.
c. Acknowledge that suspension or termination of this Agreement does not affect or terminate any rights against the SUBRECIPIENT at the time of suspension or termination, or that may accrue later. Nothing herein shall be construed to limit or terminate any right or remedy available under contract or rule.
d. Wavier of a breach or default of any term, covenant, or condition of this Agreement or any federal, state, or local law, rule, or regulation shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, condition, law, rule, or regulation.

K. TERMINATION

1. Either Party may terminate this Agreement at any time by giving the other Party at least sixty (60) calendar days prior notice in writing (unless terminated by the Board of Supervisors under the Availability of Funds provision). The notice shall be given by personal delivery or by registered or certified mail, postage prepaid and return receipt requested.

2. This Agreement may be terminated by mutual written agreement of the Parties specifying the termination date therein.

3. The County has the right to terminate this Agreement upon twenty-four (24) hour notice when the County deems the health or welfare of the service recipients are endangered or Subrecipient's non-compliance jeopardizes funding source financial participation. If not terminated by one of the above methods, this Agreement will terminate upon the expiration of the term of this Agreement stated on the Page One of this Agreement.

4. In accordance with 24 CFR § 85.43, COUNTY may suspend or terminate this Agreement if SUBRECIPIENT violates any term or condition of this Agreement or if SUBRECIPIENT fails to maintain a good faith effort to carry out the purpose of this Agreement.

5. COUNTY or SUBRECIPIENT may terminate this Agreement for convenience in accordance with 24 CFR § 85.44. Both Parties shall agree upon the termination conditions including the effective date of the termination. The party initiating the termination shall notify the other party in writing stating the reasons for such termination.

L. SEVERABILITY

Any provision of this Agreement that is determined to be invalid, void or illegal by a court shall in no way affect, impair or invalidate any other provision hereof, and the remaining provisions shall remain in full force and effect.

M. STRICT COMPLIANCE

The Department's acceptance of Subrecipient's performance that is not in strict compliance with the terms hereof shall not be deemed to waive the requirements of strict compliance for all future performance. All changes in performance obligations under this Agreement shall be in writing and signed by both Parties.

N. NON-LIABILITY

The County, its officers, representatives, agents and employees shall not be liable for any act or omission by the Subrecipient or Vendor or any officer, representative, agent or employee of Subrecipient or Vendor occurring in the performance of this Agreement, nor shall these entities be liable for purchases or contracts made by the Subrecipient, Vendor or any officer, representative, agent and employee of Subrecipient or Vendor, in connection with this Agreement.

O. RECIPROCAL INDEMNIFICATION

Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "Indemnitee") from and against all claims, losses, liability, costs, or expenses (including reasonable attorneys' fees, expert witnesses' fees and other litigation costs) (hereinafter collectively referred to as "Claims") arising out of bodily injury (including death) of any person or property damage, but only to the extent that such claims, which result in vicarious liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

P. TECHNICAL ASSISTANCE

The Department will provide reasonable technical assistance to the Subrecipient to assist in complying with State and federal laws, regulations and accountability for diligent performance and compliance with the terms and conditions of this Agreement and all applicable laws, regulations and standards. However, this assistance in no way relieves the Subrecipient of full responsibility and accountability for its actions and performance in compliance with the terms of this Agreement.

Q. SINGLE AUDIT ACT REQUIREMENTS

Subrecipients in receipt of federal funds through the Department are subject to the federal audit requirements of the Single Audit Act of 1984, as amended (Pub. L. No. 98-502) (codified at 31 U.S.C. §§ 7501, *et seq*.). Subrecipients shall comply with OMB Circular A-133. Upon completion, such audits shall be made available for public inspection. Audits shall be submitted within the twelve (12) months following the close of the fiscal year. Subrecipients shall take corrective actions within six (6) months of the date of receipt of the reports. The Department shall consider sanctions as described in OMB Circular A-133 for subrecipients not in compliance with the audit requirements.

R. AUDIT DISALLOWANCES

1. The Subrecipient shall, upon written notice thereof, reimburse the County for any payments made under this Agreement that are disallowed by a federal, State or County audit in the amount of the disallowance, as well as court costs and attorney's fees the County spends to pursue legal action relating to a disallowance. Court costs and attorney's fees incurred will be specifically identified as applicable to the recovery of the disallowed costs in question.

2. If the County determines that a cost for which payment has been made is a disallowed cost, the Department will notify the Subrecipient in writing of the disallowance and the required course of action, which shall be at the option of the Department, either to adjust any future claim submitted by the Subrecipient by the amount of the disallowance or to require immediate repayment of the disallowed amount by the Subrecipient issuing a check payable to the County.

S. STAFF AND VOLUNTEER TRAINING

The Department may make available to the Subrecipient the opportunity to participate in any applicable training activities conducted by the Department.

T. CLEAN AIR ACT

If the total face value of this Agreement exceeds $100,000, the Subrecipient agrees to comply with all regulations, standards and orders issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. §§ 7401, *et seq*.), to the extent any are applicable by reason of performance of this Agreement.

U. LOBBYING

1. No federal appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds, other than federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal contract, grant, loan or cooperative agreement, the Subrecipient shall

complete and submit OMB Form-LLL, titled "Disclosure of Lobbying Activities," in accordance with its instructions and 31 U.S.C. § 1352.

V. RELIGIOUS ACTIVITIES

The Subrecipient agrees that none of its costs and none of the costs incurred by any Vendor will include any expense for any religious activity.

W. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services contributed by the County or the Subrecipient under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

X. COVENANT AGAINST CONTINGENT FEES

The Subrecipient warrants that no person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the County may immediately terminate this Agreement without liability.

Y. SAFEGUARDING OF PARTICIPANT INFORMATION

The use or disclosure by any Party of any information concerning an applicant for, or recipient of, services under this Agreement is directly limited to the conduct of this Agreement. Subrecipient and its agents shall safeguard the confidentiality of this information, just as Subrecipient would safeguard its own confidential information. Subrecipient shall include a clause to this effect in all Subcontracts.

Z. RIGHTS IN DATA

The Parties shall have the use of data and reports resulting from this Agreement without cost or other restriction, except as otherwise provided by law or applicable regulation. Each Party shall supply to the other Party, upon request, any available information that is relevant to this Agreement and to the performance hereunder.

AA. COPYRIGHTS

If this Agreement results in a book or other written material, the author is free to copyright the work, but the County reserves a royalty-free, nonexclusive, perpetual and irrevocable license to reproduce, publish, or otherwise use and to authorize other to use, all copyrighted material and all material which can be copyrighted resulting from this Agreement.

BB. PATENTS

Any discovery or invention arising out of, or developed in the course of, work aided by this Agreement shall be promptly and fully reported to the Department for determination as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

CC. CONTRACT COMPLIANCE MONITORING

The Department will monitor the Subrecipient's compliance with, and performance under, the terms and conditions of this Agreement and the applicable federal regulations promulgated by HUD. On-site visits for compliance monitoring may be made by the Department and/or its grantor agencies at any time during the Subrecipient's normal business hours, announced or unannounced. During an on-site visit, the Subrecipient shall make all of its records and accounts related to work performed or services provided under this Agreement available to the Department for inspection and copying.

DD. CONTINGENCY RELATING TO OTHER CONTRACTS AND GRANTS

1. The Subrecipient shall, during the term of this Agreement, immediately inform the Contract Administrator in writing of the award of any other agreement or grant, including any other agreement or grant awarded by the County, where the award may affect either the direct or indirect costs being paid or reimbursed under this Agreement. Failure by the Subrecipient to notify the Department of such award shall be considered a violation of this Agreement and the County may immediately terminate this Agreement without liability.

2. The Contract Administrator may request, and the Subrecipient shall provide within a reasonable time, which shall not exceed ten (10) working days, a copy of such other agreement or grant, when in the opinion of the Contract Administrator the award of the agreement or grant may affect the costs being paid or reimbursed under this Agreement.

3. If the Contract Administrator determines that the award to the Subrecipient of such other agreement or grant has affected the costs being paid or reimbursed under this Agreement, the Contract Administrator will prepare an amendment to this Agreement effecting a cost adjustment. If the Subrecipient disputes the proposed cost adjustment, the dispute shall be resolved pursuant to the "Disputes" section contained herein.

EE. <u>MINIMUM WAGE REQUIREMENTS</u>

The Subrecipient warrants that it shall pay all its employees who are performing work or providing services under this Agreement not less than the minimum wage specified under Section 206(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201, *et seq.*).

FF. <u>RECOGNITION OF DEPARTMENT SUPPORT</u>

The Subrecipient shall give recognition to the Department, the County and the funding source for its support when the Subrecipient publishes materials or releases public information that is paid for in whole or in part with funds received by the Subrecipient under this Agreement.

GG. <u>INSURANCE</u>

The Subrecipient shall have in effect at all times during the term of this Agreement, insurance which is adequate to protect the County, its officers and employees, participants and equipment funded under this Agreement against such losses as are set forth below. The Subrecipient shall name the County as an additional insured party. The Subrecipient shall provide the Department with documentation of insurance coverage by furnishing the Contract Administrator a certificate of insurance or a certified copy of the insurance policy or other documentation that is required by the Contract Administrator.

1. The following types and amounts of insurance are required as minimum:

   a. Worker's Compensation according to statutory limits.
   b. Unemployment Insurance as required by Arizona Law.
   c. Public Liability, Bodily Injury and Property Damage;
      1) General Liability, each occurrence, $1,000,000
      2) Property Damage $1,000,000; or
      3) Combined single limit, each occurrence, $1,000,000 minimum.
   d. Automobile and Truck Liability, Bodily Injury and Property Damages:
      1) General Liability, each occurrence, $1,000,000
      2) Property Damage $1,000,000; or
      3) Combined single limit, each occurrence, $1,000,000 minimum.
   e. Standard minimum deductible amounts are allowable. Any deductible amounts are the responsibility of the Subrecipient and reimbursement, if any, under this Agreement are subject to regulatory provisions of the funding source(s) of this Agreement.

f. Property or equipment purchased or furnished through funds provided under this Agreement shall be fully insured for the purchase or replacement cost of such property or equipment.

2. Subrecipients providing professional or semi-professional personal services for which malpractice or professional liability coverage is available, such as medical, psychiatric or legal services, shall carry minimum liability coverage of $1,000,000 each occurrence and provide the Department with proof of coverage.

HH. BONDING

1. The Subrecipient shall not receive any initial reimbursements under this Agreement in an amount greater than the Subrecipient's bonding limit. Subrecipient shall provide the Contract Administrator with documentation of required bonding.

2. Subrecipient shall have fidelity bonding of not less than the maximum amount of cash on hand or an amount equal to the initial reimbursement, whichever is greater.

3. Bonding requirements shall prevail throughout the term of this Agreement.

II. GRIEVANCE PROCEDURE

The Subrecipient shall establish a system through which applicants for, and recipients of, services may present grievances and may take appeals about eligibility and other aspects of the Subrecipient's work under this Agreement. The grievance procedure shall include provisions for notifying the applicants for, and recipients of, services of their eligibility or ineligibility for service and their right to appeal to the Department if the grievance is not satisfied at the Subrecipient's level.

JJ. NONDISCRIMINATION

The Subrecipient, in connection with any service or other activity under this Agreement, shall not in any way, discriminate against any person on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The Subrecipient shall include this clause in all of its Subcontracts.

KK. EQUAL EMPLOYMENT OPPORTUNITY

The Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, disability, color, religion, sex or national origin. The Subrecipient shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, disability, color, religion, sex or national origin. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient shall, to the extent such provisions apply, comply with Title VI and VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000a, *et seq.*); the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 701, *et seq.*); the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. §§ 621, *et seq.*); the Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*); and Arizona Executive Order 99-4, which mandates that all persons shall have equal access to employment opportunities.

LL. FINANCIAL MANAGEMENT

The Subrecipient shall establish and maintain a separate, interest-bearing bank account for money provided under this Agreement, or an accounting system that assures the safeguarding and accountability of all money and assets provided under this Agreement. No part of the money deposited in the bank account shall be commingled with other funds or money belonging to the Subrecipient. All interest earned on the account shall be disposed of in a manner specified by the County in accordance with applicable State and federal regulations. The Subrecipient shall provide a signed bank account agreement authorizing the County to obtain information about the account. If an accounting system is used, it shall be in accord with generally accepted accounting principles.

MM. RETENTION OF RECORDS

1. This provision applies to all financial and programmatic records, supporting document, statistical records and other records of the Subrecipient that are related to this Agreement.
2. The Subrecipient shall retain all records relevant to this Agreement for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer, and the Department, federal and State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of any and all of the records.

NN. ADEQUACY OF RECORDS

If the Subrecipient's books, records and other documents related to this Agreement are not sufficient to support and document that allowable services were provided to eligible participants, the Subrecipient shall reimburse the County for the services not supported and documented.

OO. COMPETITIVE BID REQUIREMENTS

1. Equipment
   If this Agreement is with other than a Public Agency, the Subrecipient shall obtain all equipment to be utilized under this Agreement and purchased with funds provided under this Agreement at the lowest practical cost pursuant to the following competitive bidding system:
   a. Procurements in excess of $300, but less than $1,000, require oral price quotations from two or more vendors. The Subrecipient shall keep and maintain a record of the vendors' verbal quotations. The Subrecipient's award shall be made to the lowest bidder meeting specification requirements concerning price, conformity to specifications, and other purchasing factors.
   b. Procurements exceeding an aggregate amount of $1,000 must be approved by the Contract Administrator. At least three (3) bidders shall be solicited to submit written quotations. The Subrecipient shall solicit written quotations by issuing a Request for Quotation to at least three (3) vendors. The award shall be made to the lowest bidder meeting specification requirements concerning price, conformity to specifications, and other purchasing factors.
2. Supplies
   If this Agreement is with other than a Public Agency, the Subrecipient shall obtain all supplies to be utilized under this Agreement and purchased with funds provided under this Agreement at the lowest practical cost and pursuant to a system of written quotes whenever the price is expected to be greater than $300, unless the Subrecipient obtains the Contract Administrator's prior written approval to purchase supplies by an alternate method.
3. Minority, Women and Small Business Enterprises
   The Subrecipient shall take affirmative steps to provide an opportunity for minorities, women, and small businesses to compete in the procurement of equipment and supplies under this Agreement.
4. Bidding Procedures
   If the Subrecipient is a Public Agency, the Subrecipient's own bidding procedures shall govern.
5. Funding source requirements relating to competitive bid procedures may supersede any or all subparts of this clause and will be specified in the Special Provisions Section of this Agreement.

PP. PROPERTY

Any property furnished or purchased pursuant to the terms of this Agreement shall be utilized, maintained, repaired and accounted for in accordance with instructions furnished by the Department, and shall revert to the County upon termination of this Agreement, unless the Contract Administrator determines otherwise. The costs to repair such property are the responsibility of the Subrecipient within the limits budgeted herein. Repair costs beyond the budgeted amount shall be approved by the Contract Administrator.

QQ. IMMIGRATION REFORM AND CONTROL COMPLIANCE

Subrecipient understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (Pub. L. No. 99-603) ("IRCA"). Subrecipient shall comply with the IRCA in performing under this Agreement and shall grant the County access to inspect its personnel records to verify such compliance.

RR. DRUG FREE WORKPLACE ACT

The Subrecipient agrees to comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701, *et seq*.), which requires that subrecipients and grantees of federal funds must certify that they will provide drug-free workplaces. This certification is a precondition to receiving a grant or entering into this Agreement.

SS. GOVERNOR'S EXECUTIVE ORDER NO. 88-26

The Subrecipient is required to use the Arizona Taxonomy of Human Services for reporting and contracting purposes.

TT. STATUTORY RIGHT OF CANCELLATION

Notice is given that pursuant to A.R.S. § 38-511, the County may cancel this Agreement without penalty or further obligation within three years after execution of this Agreement, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the County is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of any other Party to this Agreement in any capacity or consultant to any other Party of this Agreement with respect to the subject matter of this Agreement. The County may also recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of this County from any other Party to this Agreement arising as the result of this Agreement.

UU. EMPLOYMENT DISCLAIMER

This Agreement is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement, partnership or other formal business association or organization of any kind between the Parties, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement.

The Parties agree that no individual performing under this Agreement on behalf of the Subrecipient is to be considered a County employee, and that no rights of County civil service, County retirement, or County personnel rules shall accrue to such individual. The subrecipient shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workman's compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and shall save and hold the County harmless with respect thereto.

VV. CERTIFICATION REGARDING DEBARMENT, SUSPENSION INELIGIBILITY AND VOLUNTARY EXCLUSION

The undersigned by signing and submitting this Agreement has the authority to certify the Subrecipient to the terms, representations and/or warrants of this Certification. The City of Surprise ("Subrecipient"), defined as the primary participant in accordance with 45 C.F.R. Part 76, certifies to the best of its knowledge and belief that it and its principals:

1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

2 have not within a 3-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3 are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

4 have not within a 3-year period preceding this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default.

5 shall immediately notify the Department if, at any time during the term of this Agreement, it is debarred, suspended, declared ineligible, or voluntarily excluded from participation, The Department may pursue available remedies in the event of such occurrence, including immediate termination of this Agreement.

6 shall not enter into a subcontract or sub-recipient agreement with a person or organization that is debarred, suspended, declared ineligible, or voluntarily excluded from participation. The Department may pursue available remedies in the event of such occurrence, including immediate termination of this Agreement.

The Subrecipient shall include without modification this Certification's language, entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions," with all subgrantees or other subrecipients; in all lower tier covered transactions and in all solicitations for lower tier covered transactions in accordance with 45 C.F.R. Part 76.

Should the Subrecipient not be able to provide this Certification, an explanation as to why shall be immediately provided to the Department, Attention: Ursula Strephans, 234 N. Central Ave., Third Floor, Phoenix, AZ 85004.

WW. <u>VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES § 23-214 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS</u>

By entering into this Agreement, the Subrecipient represents and warrants compliance with the Immigration and Nationality Act (8 U.S.C. §§ 1101, *et seq.*) (INA) and all other federal and State immigration laws and regulations related to the immigration status of its employees. The Subrecipient shall obtain statements from its Vendors certifying compliance and shall furnish the statements to the Department upon request. These representations and warranties shall remain in effect throughout the term of this Agreement. The Subrecipient and its Vendors shall also maintain Employment Eligibility Verification forms (I-9), as required by the U.S. Department of Labor's Immigration Reform and Control Act of 1986 (Pub. L. No. 99-603), for all employees performing work under the Contract. I-9 forms are available for download at USCIS.GOV.

The Subrecipient warrants that it is in compliance with A.R.S. § 41-4401 (e-verify requirements) and further acknowledges:

1. That Subrecipient and its Vendors, if any, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214;

2. That a breach of a warranty under subsection 1 above, shall be deemed a material breach of this Agreement and the County may immediately terminate this Agreement without liability;

3. That the County and any contracting government entity retains the legal right to inspect the papers and employment records of any Subrecipient or Vendors employee who works on this Agreement to ensure that the Subrecipient or Vendors is complying with the warranty provided under subsection 1 above and that the Subrecipient agrees to make all papers and employment records of said employee(s) available during normal working hours in order to facilitate such an inspection.

SECTION II

SPECIAL PROVISIONS

Maricopa County

Human Services

A. EFFECT

To the extent that the Special Provisions are in conflict with the General Provisions, the Special Provisions shall control. To the extent that the Work Statement is in conflict with the General Provisions or the Special Provisions, then the Work Statement shall control. To the extent that the Compensation Provisions are in conflict with the General Provisions, Special Provisions or Work Statement then the Compensation Provisions shall control.

B. DEFINITIONS

As used throughout this Section as a supplement to Definitions in Section I, the following terms shall have the following meanings:

1. **HUD** means U.S. Department of Housing and Urban Development
2. **CDBG** means Community Development Block Grant Program
3. **HOME** means HOME Investment Partnership Program
4. **COUNTY** means Maricopa County Human Services Department, Community Development Division
5. **CD** means Community Development
6. **Admin Manual on CD** means Administrative Manual on Compact Disk produced by the Human Services Department/Community Development Division
7. **CDAC** means Community Development Advisory Committee
8. **BOS** means Maricopa County Board of Supervisors

C. STANDARDS

The SUBRECIPIENT shall perform the work and provide the services as identified in the Work Statement and shall immediately notify the Contract Administrator whenever the SUBRECIPIENT is unable to, or anticipates an inability to, perform any of the work, or provide any of the services required by the terms of this Agreement. The SUBRECIPIENT acknowledges that any inability to perform the work and provide the services, or comply with the standards set forth in this Agreement may subject the SUBRECIPIENT to the remedies provided in the Default and Remedies for Noncompliance established by the General Provisions.

D. COMPLIANCE WITH LAWS, RULES & REGULATIONS

This Agreement and the Parties hereto, are subject to all applicable federal, state, or local laws, rules, and regulations. The SUBRECIPIENT shall comply with all applicable laws, rules and regulations, without limitation to those designated within this Agreement. Refer to the Default and Remedies for Noncompliance provided in the General Provisions.

E. GENERAL PROVISIONS, SECTION I, SUPERSEDED IN SPECIAL PROVISIONS, SECTION II

"LL Financial Management" is superseded in Special Provisions
"RR Governor's Executive Order No. 88-26" is deleted

F. AUDIT REQUIREMENTS

The SUBRECIPIENT shall, at its own expense, file with the Human Services Department/Community Development Division by March 30th, either:
Audited financial statements prepared in accordance with federal single audit requirements; or,
Financial statements prepared in accordance with generally accepted accounting principles audited by an independent certified public accountant.

G. SPECIAL FEDERAL AND PROJECT PROVISIONS

1. PROGRAMS: In accordance with HOME Program regulations, the SUBRECIPIENT agrees to implement the Program fully as described in each Work Statement in accordance with the terms of the Five-Year Consolidated Plan and the Annual Action Plan submitted by the COUNTY to HUD for funds to carry out the Program and the Certifications which were submitted concurrently with the Annual Action Plan to HUD, and with any Cooperation Agreements with the Municipality (as applicable). The Annual Action Plan is hereby incorporated by reference into this Agreement. In summary, the Program is described in Work Statement, Section III. The SUBRECIPIENT shall be responsible to provide various reports of all activities related to the Scope of Work. The SUBRECIPIENT agrees to submit to the COUNTY Performance Reports:
    a. Quarterly Program Income Report and Supporting Documentation due on the 25th of July, October, January and April.
    b. Quarterly Progress Reports due on the 25th of July, October, January and April of the preceding three months (i.e. July report cover the months of April, May and June)and address all programs described in the scope of work. Failure to submit timely Quarterly Progress Reports (which include beneficiary information) will result in suspension of payment reimbursement requests until all reports are brought current. Quarterly reports are continually due for rental projects to ensure that all beneficiary data is regularly updated with beneficiary information during lease-up along with vacant unit reports. Within six months from the date of project completion, if a rental unit remains unoccupied, the Subrecipient must provide the County information about current marketing efforts and, if appropriate, an enhanced plan for marketing the unit so that it is leased as quickly as possible. Within 18 months from the date of project completion, if efforts to market the unit are unsuccessful and the unit is not occupied by an eligible tenant, HUD will require repayment of all HOME funds invested in the unit. A unit that has not served a low- or very low-income household has not met the purposes of the HOME program. Therefore, the costs associated with the unit are ineligible. This tracking provides the County with early notice of any units at risk of going unrented as described in §92.252.
    c. Request for Payment Reimbursement on the County required form and must include all supporting documentation and have a Match Log and supporting documentation;
    d. HOME Setup and HOME Completion Report.;
    e. MBE/WBE information; and
    f. Other HUD-required reporting data as applicable shall be submitted.

2. PROGRAM INCOME: All income received from HOME Funds shall be considered program income and subject to the requirements set forth in HOME Program regulations. Program Income includes, but is not limited to: [1] payments of principal and interest on loans. Program Income may be retained and used by the SUBRECIPIENT subject to the following conditions: [1] program income shall be tracked by the SUBRECIPIENT and accounted for in a separate fund or account; [2] program income funds shall be expended for eligible program expenses before additional HOME Funds are requested; [3] documentation supporting the amount of program income received and expended shall be submitted the 25th of quarterly to the County; and [4] a yearly program income log that states program income received and expended shall be submitted at the end of each fiscal year, June 30th. Program income that is not expended at the end of this Agreement shall be sent to the COUNTY in accordance with 24 CFR § 92.503 within 30 days of receipt.

3. REAL PROPERTY ACQUIRED or IMPROVED WITH HOME FUNDS: Upon expiration of this Agreement, any real property under the Subrecipient control that was acquired or improved in whole or in part with HOME funds must be occupied by low and/or very low income households and in compliance

with HOME occupancy limits and must meet the requirements to qualify as affordable housing subject to encumbrances and obligations described in any applicable recorded covenants running with the land. The option to use deed restrictions or covenants running with the land must include period of affordability set forth in §92.252.

4. DEOBLIGATION: The County may reduce funds from the funding award evidenced by this Agreement without regard to the source of funding, under the following circumstances:
   a. The Subrecipient completes performance under the Scope of Work without using all funds provided by the County under this Agreement;
   b. This Agreement expires all funds are expended and ;
   c. The County original allocation was a loan and the Subrecipient paid the loan;
   d. Cancelled or changed an Program required under the Work Statement for reasons other than non-performance;
   e. This Agreement has otherwise been terminated. The County may deobligate funds under this Agreement under the foregoing circumstances upon written notice to the Subrecipient.

5. REDUCTION IN FUNDS: The County may reduce funds from the amount of the funding award evidenced by this Agreement, under the following circumstances: 1) The County determines that the Subrecipient failed to use the funds provided by the County under this Agreement in compliance with the terms and conditions outlined herein; or 2) the Subrecipient fails to perform in accordance with the performance obligations set forth in the Statement of Work and Project Schedule or the terms of this Agreement. The County may reduce funds under this Agreement under the foregoing circumstance upon written notice to the Subrecipient.

6. REPAYMENT OF FUNDS: Subrecipient agrees to repay funds provided under this Agreement in compliance with the terms of this Agreement or the requirement of applicable laws and regulations. The County may specify in writing, the terms of the repayment or alternative terms in lieu of repayment however in no case shall repayment or alternative terms be accomplished later than one hundred eight (180) days following the written determination of noncompliance by the County.

7. FUNDS REMAINING AT EXPIRATION: Upon expiration of the Agreement, the Subrecipient shall transfer to the County any unexpended funds advanced to the Subrecipient by the County under this Agreement.

8. ADMINISTRATIVE REQUIREMENTS: In accordance with federal regulations, including 24 CFR § 92 et seq., the COUNTY is responsible for ensuring the administration of HOME Program Funds in accordance with all program requirements.
   a. FINANCIAL RECORDS: SUBRECIPIENT accounting system and financial records shall comply with the applicable requirements and standards of OMB Circulars A-110, A-122, A-133 and 24 CFR Part 225. Such systems shall be subject to monitoring from time to time by the COUNTY or by HUD.
      i. The SUBRECIPIENT agrees to adhere to accounting principles and procedures, to utilize adequate internal controls and maintain necessary source documentation for all costs incurred. The SUBRECIPIENT further agrees to maintain an adequate accounting system that provides for appropriate grant accounting (including calculation of program income).

ii. SUBRECIPIENT is to adhere to applicable audit requirements as described and in accordance with OMB Circular A-133. In addition, all SUBRECIPIENTS must provide annual single-audit reports or annual audited financial statements to the COUNTY.

iii. SUBRECIPIENT is to adhere to the repayment of investment requirements set forth in 24 CFR § 92.503. Any HOME Funds invested in housing that does not meet the affordability requirements for the period specified in § 92.252 or § 92.254, as applicable, must be repaid in accordance with 24 CFR § 92.503(b)(3).

b. DOCUMENTATION AND RECORD KEEPING:

i. Records to be Maintained The SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR § 92.508 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

1. Records demonstrating that the SUBRECIPIENT is and remains a qualified SUBRECIPIENT;
2. Records providing a full description of each projects undertaken and its impact;
3. Records required determining the eligibility of activities;
4. Records which demonstrate compliance with environmental review requirements;
5. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance (Properties retained shall continue to meet eligibility criteria);
6. Records which demonstrate citizen participation;
7. Records which demonstrate compliance regarding acquisitions, displacement, relocation and replacement housing;
8. Records demonstrating continuing compliance for all activities and/or compliance with resale or recapture provisions of the affordability standards;
9. Records documenting compliance with the fair housing and equal opportunity components of the HOME program;
10. Financial records as required by OMB Circular A-110;
11. Other records necessary to document compliance with HOME requirements;
12. Records documenting compliance with Section 3 of the Housing Development Act of 1968;
13. Records which demonstrate compliance with deeds of trust, promissory notes, and forgivable loans associated with owner-occupied housing activities;
14. Records supporting that the SUBRECIPIENT has maintained client data demonstrating clients served meet the income and other criteria required by federal law and that no unlawful discrimination occurs in the solicitation or selection process of low income persons or groups and that no conflict of interest exists.
15. All Applicable Federal, State and local laws and regulations, including compliance with ARS § 1-501 and § 1-502 (Attachment A).

ii. Outcome Measures – The SUBRECIPIENT shall maintain data that supports the accomplishment of the desired outcomes as indicated in the Work Statement.

iii. Disclosure – The SUBRECIPIENT understands that client information collected under this agreement is private and the use or disclosure of such information, when not directly connected with the administration of the COUNTY's or SUBRECIPIENT's responsibilities with respect to services provided under this Agreement is prohibited unless written consent is obtained from such person receiving service.

iv. Activity Reports – Such reports as required by the COUNTY including, but not limited to HOME Setup/Completion Report, Quarterly Progress Reports, Quarterly Program Income Reports, Match Reports, MBE/WBE information, and other HUD-required reporting data as applicable shall be submitted in accordance with the Administrative Manual on CD at the completion of each Program which is described under the Scope of Work.

v. Audits and Inspections – All SUBRECIPIENT records with respect to any matters covered by this Agreement shall be made available to the COUNTY, their designees or the Federal Government, at any time during normal business hours, as often as the COUNTY deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. Any relevant deficiencies noted in audit reports must be addressed by the SUBRECIPIENT within 45 days after receipt by the SUBRECIPIENT. Failure of the SUBRECIPIENT to comply with the above audit requirements shall constitute a violation of this Agreement and may result in the withholding of future payments. The SUBRECIPIENT hereby agrees to have an Annual Audit conducted in accordance with Administrative Manual on CD concerning SUBRECIPIENT audits. The Annual Audit requirement is applicable to all levels of funding received by SUBRECIPIENTS via this Agreement, even if the level of funding is less than the current thresholds cited in OMB Circular A-133.

vi. Performance Monitoring – The COUNTY shall monitor the SUBRECIPIENT to determine if HOME-funded activities are implemented and administered in accordance with all applicable federal requirements and gauge performance of the SUBRECIPIENT against goals and performance standards required herein. SUBRECIPIENT will prepare for monitoring and assure all required files and documentation are available at scheduled monitoring as set forth in the HOME Consortium Monitoring Current Practices. Failure of SUBRECIPIENT to administer, implement and perform as determined by federal regulations and COUNTY shall constitute non-compliance with this Agreement. Non-compliance is a violation of this Agreement and may result in the withholding of future payments.

vii. Policy/Administrative Manuals Use - SUBRECIPIENT agrees to be familiar with and comply with the policies/procedures established in the most recent Administrative Manual on CD. Noncompliance with the Administrative Manual on CD shall constitute a breach of contract.

9. ENVIRONMENTAL REVIEW CONDITIONS: Completion of the Environmental Review Record (ERR) is mandatory before taking any physical action on a site or entering into contracts. Only exempt activities such as administration may be taken and reimbursed by the County prior to receiving a written release of HOME funds to the Subrecipient. Exempt activities described in § 24 CFR 58.34(a)(1)-(11) are activities that generally have no physical impact on the environment. If federal funds are involved in an activity, neither federal nor non-federal funds may be expended or committed by contract (conditional or not) for property acquisition, rehabilitation, conversion, lease, repair or construction activities, until HUD and/or the County provides written authorization based on approval of an ERR.

An option agreement (to purchase land or a single family residence) on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is contingent upon a HUD authorization to use fund based on a completion ERR. The cost of the option must be a nominal portion of the purchase price.

a. The SUBRECIPIENT agrees to comply with: the National Environmental Policy Act of 1969 (P.L. 91-190) pursuant thereto 40 CFR Parts 1500 – 1508; Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities pursuant thereto Title 24 CFR Part 58, Subpart A; CPD Notice 01-11 HOME Environmental Review Requirements and with all conditions required in the process of the environmental assessment.
b. Air and Water - The SUBRECIPIENT agrees to comply with the following requirements insofar as they apply to the performance of this Agreement.
   i. Clean Air Act, 42 USC § 7401, *et seq*., as amended.
   ii. Federal Water Pollution Control Act, as amended, 33 USC § 1251, *et seq*., as amended, 1318 relating to inspection, monitoring, entry, reports and information, as well as other requirements specified in said Section 114 and Section 308 and all regulations and guidelines issued thereunder.
   iii. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
   iv. SUBRECIPIENT agrees to comply with conditions set forth by the Air Quality Department or other COUNTY agency, as required.
c. Flood Disaster Protection - In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC § 4001), the SUBRECIPIENT shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes. The homeowner must obtain and maintain flood insurance as a condition of funding, or funds may not be utilized.
d. Historic Preservation - The SUBRECIPIENT agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC § 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Office for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that is listed or eligible for the National Register of Historic places, or included on any state or local historic property inventory or any archaeological findings.
e. Release Of Funds (ROF) - No funds may be encumbered prior to the completion of the Environmental Review. The Environmental Review Record (ERR) must be completed before any funds are obligated. Funding is also conditioned upon the completion of the ERR of every activity site by address. The responsibility for certifying the appropriate Environmental Review Record and ROF shall rest with the COUNTY. It is the responsibility of the SUBRECIPIENT to notify the COUNTY, and to refrain from making any commitments and expenditures on a site until a Release of Funds has been issued by the COUNTY. Failure to meet these conditions will mean that requested funds will not be disbursed.

10. THE SUBRECIPIENT CERTIFIES:
   a. That it is a municipality that meets the applicable requirements of the HOME Program.
   b. That it possesses legal authority to execute this Agreement.

c. That its governing body has duly adopted or passed as an official act, a resolution, motion, or similar action authorizing the person identified as the official representative of the SUBRECIPIENT to execute this Agreement and to comply with the terms of this Agreement.
d. That the activity described shall be carried out and services administered in compliance with all federal laws and regulations as follows:
   i. SUBRECIPIENTS that are governmental entities (including public agencies) shall comply with the requirements and standards of OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments ”OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations”: and with 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

11. ADDITIONAL CERTIFICATIONS, WARRANTIES, AND AGREEMENTS:
   a. The Parties to this Agreement agree that they will utilize and make available the HOME funds in conformity with the non-discrimination and equal opportunity requirements set out in the HUD regulations in the National Housing Affordability Act. These regulations listed in 24 CFR §§ 92.350-92.454 include:
      i. The requirements of the Fair Housing Act, 42 CFR §§ 3601-20, and implementing regulations at 24 CFR Part 100: Executive Order 11063 (Equal Opportunity in Housing) as amended by Executive Order 12259 (3 CFR, 1958-1963 Come, p. 652 and 3 CFR 1980 Come. p. 307) and implementing regulations at 24 CFR §107: and Title VI of the Civil Rights Act of 1694, 42 U. S. C. § 2000d, and implementing regulations at 24 CFR Part 1 (Nondiscrimination in Federally Assisted Programs);
      ii. Executive Order 13166 entitled “Improving Access to Services for Persons with Limited English Proficiency” pursuant to Title VI of the Civil Rights Act;
      iii. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and the regulations at 24 CFR § 146;
      iv. The prohibitions against discrimination on the basis of handicap under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations at 24 CFR Part 8; and, Americans with Disabilities Act 1990;
      v. The requirements of the Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60 (3 CFR §§ 1964-65, Come, p. 339);
      vi. The requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. § 1702u (Employment Opportunities for Business and Lower Income Persons in Connection with Assisted Activities); and
      vii. The requirements of Executive Orders 11625 and 12432 regarding Minority Business Enterprise, and 12138 regarding Women's Business Enterprise, and Regulations S. 85.36 (e) and of Section 281 of the National Housing Affordability Act.
   b. The Parties to this Agreement agree that they will prepare and adopt acceptable procedures and requirements for affirmatively marketing units in the HOME Activities, when HOME assisted housing contains 5 or more rental units, by providing information about the availability of HOME-assisted units that are vacant at the time of completion or that later become vacant. The parties agree that they will make good faith efforts to provide information and to otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market to the available housing during the period of

affordability. These procedures and requirements are not applicable when units are occupied by families referred from a Public Housing Authority's (PHA) waiting list, or to families receiving tenant-based rental assistance provided from HOME funds.

c. HOME funds may not be used for operations or modernization of public housing projects financed under the Housing Act of 1937.

d. COUNTY, as the participating jurisdiction, assumes all the responsibilities for environmental review, decision making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321) and the other provisions of the law that would apply to HUD were HUD to undertake such Activities as Federal Activities in accordance with 24 CFR Part 58. The COUNTY will assume the responsibilities for the Request for Release of Funds. The SUBRECIPIENT agrees not to commit or incur any expenditures for HOME activities until this environmental review process has been completed. Should it be determined that the SUBRECIPIENT has incurred expenses in violation of the NEPA requirements, the SUBRECIPIENT will be responsible for the full costs for such expenditures and repayment of any related reimbursements. The SUBRECIPIENT agrees to provide all necessary assistance to the COUNTY in completing this environmental review process.

e. The Parties to this Agreement agree to abide with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. §§ 4291-4655) and the governmental implementing regulations at 49 CFR Part 24 as they apply to this HOME Program.

f. The Parties to this Agreement agree to abide with the Davis-Bacon Act (40 U.S.C. § 276a-5) and the Agreement Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333).

g. The Parties to this Agreement agree to abide by the Flood Disaster Protection Act of 1973 (42 U.S.C. §§ 4001-4128) as they apply to this HOME Program.

h. The Parties to this Agreement agree to abide by the Drug-Free Workplace Act of 1988 as it applies to the HOME Program.

i. Housing assisted with HOME funds constitutes HUD-assisted housing for the purposes of the Lead-Based Paint Poisoning Prevention Act (42.U.S.C. § 4821. et seq.) and is therefore subject to 24 CFR Part 35.

j. No person who is an employee, agent, consultant, officer or elected official, or appointed official who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME assisted activity, either for themselves or those whom they have family or business ties, during their tenure or for one year thereafter.

k. The SUBRECIPIENT warrants that it is in compliance with A.R.S. § 41-4401 and further acknowledges

   i. That the SUBRECIPIENT and its subcontractors/vendors, if any, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214 (A);

   ii. That a breach of a warranty under subsection a above, shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contact;

   iii. That the COUNTY retains the legal right to inspect the employment papers of any subrecipient or vendors employee who works on the Agreement to ensure that the subrecipient or vendor is complying with the warranty provided under subsection a above and that the subrecipient agrees to make all papers and employment records of said employee(s) available during normal working hours in order to facilitate such an inspection; and

iv. That nothing herein shall make any subrecipient, or vendor an agent or employee of the COUNTY;

l. That the Administrative Manual on CD shall be made accessible to all applicable SUBRECIPIENT staff.

12. REGARDING SUBCONTRACTS AND VENDORS:

a. Approvals – The SUBRECIPIENT shall not commit to any pre-Agreement costs or enter into any subcontract(s) with any agency or individual in the performance of this Program without the Release of Funds (ROF) from the COUNTY prior to the execution of such Agreement.

b. Selection Process – The SUBRECIPIENT shall ensure that all subcontracts let in the performance of this Agreement are awarded on a fair and open competitive basis. Executed copies of all subcontracts shall be forwarded to the COUNTY along with documentation, if requested concerning the selection process.

c. Section 3 of the Housing and Urban Development Act of 1968 – The SUBRECIPIENT shall include the Section 3 clause in every subcontract and shall take appropriate action pursuant to the subcontract upon a finding that the vendor is in violation of regulations issued by the grantor agency. The SUBRECIPIENT shall not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR § 135. The Subrecipient has the responsibility of determining Section 3 eligibility.

d. Monitoring – The Subrecipient shall monitor/review all subcontracted services on an annual basis to assure contract compliance. Results of monitoring efforts shall be summarized in Quarterly Progress Reports and supported with documented evidence, if requested, of follow-up actions taken to correct areas of noncompliance.

13. THE COUNTY CERTIFIES:

a. That the public purpose is served by the financial participation of the COUNTY in the Statement of Work.

b. That the HOME Program funds designated for the Statement of Work constitutes reasonable and prudent assistance necessary for completion of the Program.

ACTIVITY COMPLETION Upon completion of the Work Statements, all unspent HOME resources shall be forfeited to the COUNTY for reallocation as defined by Maricopa HOME Consortium Policies and Procedures. The SUBRECIPIENT shall continue to be responsible for compliance activities until all HOME requirements and contractual obligations are met including affordability restrictions. The Subrecipient obligation shall not end until all close-out requirements are completed. The COUNTY will notify the Subrecipient in writing that a Completion Report is due to the COUNTY within sixty (60) days of one of the following occurrences:

a. Funds have been expended for the activity;
b. The Scope of Work has been completed;
c. The contract period set forth in this Agreement has expired; or
d. The Agreement has otherwise been terminated.

Following the receipt and approval of the Completion Report for each activity, the County will notify the Subrecipient in writing that each activity is closed.

14. FAILURE TO MAKE PROGRESS Failure of the Subrecipient to make progress according to the Schedule of Completion may result in contract termination, deobligation of funds or recapture of funds. Subrecipient agrees to meet with the County at the site in which the funded activity is taking place to discuss progress and allow the County to provide technical assistance if:
    a. The Subrecipient fails to begin work on its Environmental Review pursuant to section 5 within sixty (60) calendar days from the date the County executes this Agreement;
    b. The Subrecipient fails to expend any funds in performance of and in accordance with the terms of this Agreement within ninety (90) calendar days from the execution date of this Agreement.
    c. The County will terminate any Agreement and recapture funds from the same Agreement in which the Subrecipient does not commence any of the activities described in the Statement of Work or fails to expend any funds in accordance with the Compensation within one-hundred eighty (180) calendar days from the full execution dated of this Agreement. The County in its sole discretion may forgo providing technical assistance and recapture funds as outlined in this Agreement under Section I hereof and/or terminate Agreement for cause pursuant to Section I of this Agreement.

15. GENERAL CONDITIONS:
    a. It is expressly understood by the parties hereto that this Agreement has been negotiated and executed in anticipation of receipt of funds by the County from HUD pursuant to the HOME Program and that therefore, the terms, conditions and sums payable under this Agreement are subject to any changes or limitations which may be required by HUD and the HOME Program regulations. Notwithstanding any other provisions of this Agreement, any payment to SUBRECIPIENT by County under this Agreement is contingent upon the actual receipt of funds from HUD.
    b. Both parties acknowledge that no member of the governing body, nor any employee of the County who exercises any functions or responsibilities in connection with the carrying out of the activity to which this Agreement pertains, has any personal interest direct or indirect in this Agreement.
    c. The County may amend this Agreement at any time provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and in compliance with the procedures in the Administrative Manual on CD. Such amendments shall not invalidate this Agreement nor relieve or release the County or Subrecipient from its obligations under this Agreement. Amendments shall be filed with the original Agreement.
    d. Changes – The County may, at any time, by written order, make changes within the general scope of this Agreement in any one or more of the following areas:
        i. Scope of Work activities reflecting changes in Federal, State, County or local regulations, policies or requirements;
        ii. Administrative requirements such as changes in reporting periods, frequency of reports, or report formats required by HUD or local regulations, policies or requirements. It is the responsibility of the SUBRECIPIENT to ensure the latest documents are consulted and followed.
        iii. Increase/decrease Agreement funding per Consortium/CDAC/BOS policies.
    e. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
    f. SUBRECIPIENT agrees to be familiar with, update as necessary, and comply with the policies/procedures established in the most recent CDAC/BOS Manual and all provisions in

the most recent Administrative Manual on CD. Non-compliance with the Administrative Manual on CD shall constitute a breach of contract.

g. SUBRECIPIENT agrees to give all notices and comply with all laws, ordinances, and rules, building codes, regulations and lawful orders of any public authority bearing on the performance of activities pursuant to this Agreement. If the SUBRECIPIENT observes that any of the Agreement documents are in conflict with any laws, statutes, building codes and/or regulations, it shall promptly notify the County, in writing, and any necessary changes shall be accomplished by appropriate written modification.
h. Should the SUBRECIPIENT perform any work knowing it to be contrary to applicable laws, ordinances, rules, building codes and/or regulations, it shall assume full responsibility, therefore, and shall bear all cost incurred due to its negligence. Any dispute not disposed of by mutual agreement by the parties hereto shall be decided in accordance with the applicable Arizona laws, ordinances, and codes of the state and local governments.
i. Acknowledge the contribution of the Maricopa Urban County HOME Program in all published literature, brochures, programs, flyers, etc., during the term of the Agreement.
j. Execute and abide by Certifications mandated by HOME Program requirements as listed in HOME CERTIFICATIONS.

16. REVERSION OF ASSETS: Upon expiration of this Agreement, the SUBRECIPIENT shall transfer all remaining unspent funds or the value of other assets as defined by the terms of affordability (Attachment III) relating to the HOME Program to the County. A written letter of intent to terminate must be submitted to the County a minimum of 30 days prior to termination of Agreement.

SUBRECIPIENT HOME CERTIFICATION

In accordance with the provisions of the Home Investment Partnerships Act and with 24 CFR 92.150 of the Home Investment Partnership Program Rule, the SUBRECIPIENT certifies that:

(A) Before committing any funds to a activity, the SUBRECIPIENT will evaluate the activity in accordance with the guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

(B) The SUBRECIPIENT will only utilize HOME funds to pay for eligible activities and costs of those activities permitted in 24 CFR 92.205 through 92.209 and not specifically prohibited under 92.214.

(C) The SUBRECIPIENT understands tenant-based rental assistance is an element of the Consolidated Plan. However, tenant-based rental assistance must be approved as part of an original application for project funding.

(D) The submission of the program description is authorized under State and local law (as applicable), and that the SUBRECIPIENT possesses the legal authority to carry out the Home Investment Partnership (HOME) Program, in accordance with the HOME regulations;

(E) The SUBRECIPIENT will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations and the requirements of 24 CFR 92.353;

(F) The SUBRECIPIENT will use HOME funds pursuant to its Consolidated Plan(s) approved by the U.S. Department of Housing and Urban Development HUD and all requirements of 24 CFR Part 92;

(G) The SUBRECIPIENT will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about:
   (a) The dangers of drug abuse in the workplace;
   (b) The participating jurisdiction's policy of maintaining a drug-free workplace;
   (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
   (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);
4. Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will:
   (a) Abide by the terms of the statement; and
   (b) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the County in writing, within ten calendar days after receiving notice under paragraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal

agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted
   (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
   (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal State, or local health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

(H) To the best of its knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the County, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant, loan, or cooperative agreement, the SUBRECIPIENT will complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions; and
3. The SUBRECIPIENT will require that the language of paragraph (F) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and agreements under grants, loans, and cooperative agreements) and that all Vendors shall certify and disclose accordingly.

(I) The SUBRECIPIENT shall, upon proper notice or with knowledge obtained by itself or others, take any and all proactive actions necessary, and provide any and all applicable remedies to address and correct any act by itself, its employees, officials, successors, assigns, subrecipients, or vendors that resulted in any wrongdoing (intentional or unintentional); misuse or misappropriation of funds; the incorrect or improper disposition of funds; any violation of any federal, state, or local law, rule, or regulation; or the breach of any certification or warranty provided in this Agreement.

______________________________	______________________________
Signature (SUBRECIPIENT Representative)	Date
______________________________	______________________________
Printed/Typed Name	Title

JURISDICTION CERTIFICATION

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing -- The jurisdiction shall affirmatively further fair housing, which means it shall conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It shall comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It shall or shall continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that shall be taken against employees for violation of such prohibition;

2. Establishing an ongoing drug-free awareness program to inform employees about -
   (a) The dangers of drug abuse in the workplace;
   (b) The grantee's policy of maintaining a drug-free workplace;
   (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
   (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;

4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee shall -
   (a) Abide by the terms of the statement; and

   (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or shall be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It shall require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all sub awards at all tiers including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements and that all SUBRECIPIENTs shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It shall comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

______________________________	______________________________
Signature/Authorized City Official	Date
______________________________	______________________________
Printed/Typed Name	Title
______________________________	
City Name	

APPENDIX TO CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS:

A. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

B. Drug-Free Workplace Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.

2. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

4. Workplace identifications must include the actual address of buildings (or parts of buildings)~~,~~ or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).

5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).

6. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ___ if there are workplaces on file that are not identified here.

The certification with regard to the drug free-workplace is required by 24 CFR Part 24, subpart F.

7. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent subrecipients not on the grantee's payroll; or employees of SUBRECIPIENTs or vendors in covered workplaces).

ATTACHMENT A

Maricopa County Human Services Department
HB2008 Working Procedures
January 2010

The Arizona State Legislature passed HB2008 (ARS § 1-501 and § 1-502) which states that public benefits shall only be provided to eligible applicants who are citizens of the United States, or are Qualified Non-Citizens. Therefore:

- All applicants authorized to receive public benefits must provide documentation of their lawful presence in the United States through a verification process.

- All eligible applicants must also execute a sworn affidavit stating that the documentation provided during the verification process to prove citizenship or qualified non-citizen is true.

- Employees of Maricopa County and its subcontracted entities are required to report "discovered violations" of federal immigration law.

Maricopa County Human Services Department (MCHSD) is committed to administering the new law completely and fairly. This set of procedures and forms establishes policy for all employees and subcontracted Community Action Program (CAP) agencies to follow.

The public benefits that have been identified by the funding sources as services subject to this requirement include:

- Neighbors Helping Neighbors (NHN)
- Short Term Crisis Services/TANF (STCS/TANF)
- Low Income Home Energy Assistance Program (LIHEAP) (including weatherization)
- Department of Energy (DOE) Weatherization
- Arizona Department of Housing/Housing Trust Fund (ADOH/HTF)
- Housing and Urban Development (HUD) Emergency Shelter Grant Program (ESGP)
- Housing and Urban Development (HUD) Homeless Prevention & Rapid Re-Housing Program (HPRP)

The law requires that MCHSD employees and subcontracted agencies perform three distinct steps prior to providing services to authorized or eligible applicants for these specified funded services. Those key steps are:

1. Request evidence of U.S. citizenship and/or immigration status of the <u>authorized</u> or <u>eligible</u> applicant or child if STCS/TANF.
2. Require eligible applicants to execute a sworn affidavit stating the documentation provided is true.
3. Report violations of Federal Immigration law to the Federal Immigration Authorities

It is very important that all employees and vendors strictly follow this policy in all cases. HB2008 (ARS § 1-501 and § 1-502) contains serious penalties for non-compliance with the Law. Failure to report suspected violations of Federal Immigration Law by an employee is a Class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is also guilty of a Class 2 misdemeanor.

Each subcontracted agency is also responsible for developing their own procedures to ensure compliance with ARS § 1-501 and § 1-502 and A.R.S. § 46-140.01. The vendor agency may need to be advised by their legal counsel. If these differ from those established by MCHSD, MCHSD must be notified of and approve these procedures prior to their implementation.

The following procedure is a "work in progress." The procedure may change as interpretations of HB2008 (ARS § 1-501and § 1-502) are updated. The following procedure is required by MCHSD.

Procedures

These are the requirements that authorized or eligible applicants for MCHSD funded services must fulfill in order to qualify to receive a specifically funded service.

1. Evidence of U.S. citizenship and/or immigration status of the authorized or eligible applicant (or child if STCS/TANF) must be provided.
2. Eligible applicants must execute a sworn affidavit stating the documentation provided is true.

These procedures must be followed for MCHSD funded services that are governed by HB2008 (ARS § 1-501 and § 1-502) specifically, the following fund sources:

- Neighbors Helping Neighbors (NHN)
- Short Term Crisis Services/TANF (STCS/TANF)
- Low Income Home Energy Assistance Program (LIHEAP) (including weatherization)
- Department of Energy (DOE)
- Housing and Urban Development (HUD) Emergency Shelter Grant Program (ESGP)
- Housing and Urban Development (HUD) Homeless Prevention & Rapid Re-Housing Program (HPRP)
- Arizona Department of Housing/Housing Trust Fund (ADOH/HTF)

If the funding source is not listed, then the requirements in HB2008 do not apply to the funding source.

Evidence Of U.S. Citizenship Or Lawful Presence

The fund sources differ in the acceptable documents that can be used to demonstrate lawful presence. Therefore these are listed separately below.

For Arizona Department of Housing / Housing Trust Fund (ADOH/HTF):

An applicant for an ADOH funded service is required to submit at least one of the following **original** documents to verify the applicant's lawful presence in this country.

SECTION III

WORK STATEMENT

Contract # C-22-

Maricopa County

Human Services

MARICOPA COUNTY
HOME Investment Partnership Program
FY 2013-2014

Date 10/16/13 DUNS # 021648936

City of Surprise

2013-2014

Owner Occupied Housing Rehabilitation **(Complete a Section III Work Statement for each housing activity)**

Choose Single Family

Describe the Scope of Work: Owner-occupied single family housing rehabilitation of clients at or below 80% median income. Rehabilitation will include replacement of mechanical, electrical and plumbing systems in order to bring home up to current building codes.

Consolidated Plan – Describe goals to be addressed: Improvement and reinvestment in current housing stock within the city of Surprise.

Describe special program or development requirements, environmental, technical or legal obstacles that must be resolved to implement this activity? Increase collaboration between lead agency and grantor in order to assure timely project implementation.

Priority rated in the Consolidated Plan:

☑ **High** ☐ **Medium** ☐ **Low**

A. OBJECTIVES AND OUTCOMES (Check appropriate box below.)

OBJECTIVE	OUTCOMES		
	AVAILABILITY/ ACCESSIBILITY	AFFORDABILITY	SUSTAINABILITY
DECENT HOUSING	☑ Single Family Housing Rehab and Emerg. Rehab, Homebuyer Assistance	☐ Homebuyer Activities, Acq/Rehab if rental housing, Acq/New Construction of rental housing, Preservation of existing public housing units and TBRA, Expansion of assisted rental units in the private marketplace	☐ Housing Activities in a targeted revitalization area

B. LOGIC MODEL: PERFORMANCE INDICATORS

INPUTS/RESOURCES	OUTPUTS		OUTCOMES	OBJECTIVES
	ACTIVITIES	PARTICIPATION		
HOME grant funding	1-2 rehabilitations / replacements	Income qualified, owner-occupied homeowners	1-2 completed rehabilitation / replacement projects that bring homes up to city code	Reinvest in aging housing stock / replacement of substandard housing

C. SITE INFORMATION

The municipality will waive any permit or building fees to facilitate this construction?

☐ **Yes** ☑ **No** ☐ N/A This site is currently under control in the form of (check all that apply):

☐ **Purchase Option** ☐ **Lease** ☐ **Purchase Contract**

☐ **Agreement to Lease/Lease Option**

Will the project result in the demolition or change in use of any existing low-income housing units?

☐ **Yes** ☑ **No** ☐ N/A If yes explain:

Will this property contain temporary relocation? ☐ **Yes** ☑ **No** If yes explain:

Will the property require lead based paint abatement? ☑ **Yes** ☑ **No** If yes explain: If house built prior to 1978 testing will occur.

D. PROPOSED BENEFICIARIES

Targeted Population by Income Level	Number of Households	Total Number of Units	Number of County Assisted Units in program (if rental)
Households at or below **50%**	1	1	

Households at or below **60%**			
Households at or below **80%**	1	1	
TOTAL	**2**	**2**	

Complete the table below only if the Activity will specifically set-aside units for a priority population. Set-asides will be enforced through contract provisions.

Priority Populations	No. of Units
Elderly	
Physically Disabled	
Other Priority Populations:	

E. PERFORMANCE REPORTING - GOALS:

Completion date: June 30, 2015
Must be completed within 24 months of contract execution

TIMELINE OF ACTIVITIES

MILESTONES	START DATE	COMPLETION DATE
Client prequalification	6/30/13	10/30/13
Environmental Clearance	11/1/13	12/15/13
Preconstruction	1/15/14	2/15/14
Construction	2/17/14	2/17/15

Any change to the Timeline will need to be approved by the Maricopa County and be submitted to the County.

F. ACTIVITY FOLLOWUP AND LONG TERM COMMITMENT:

Provide method for assuring activity will be used for the original purpose for the required time period (inspections, maintenance, liens, years of affordability per HUD regulations etc.)
City will file a lien instrument outlining period of affordability in the forgivable loan agreement, promissory note and deed of trust documents.

G. ACTIVITY BUDGET SUMMARY:

ACQUISITION	**TOTAL COST**	**HOME FUNDS**	**Source #1 ___________**	**Source #2 ___________**	**MATCH**
Land					
Buildings					
Closing Costs					
Legal Fees					
TOTAL					
SITE & DEMOLITION					
Site Work					
Demolition					
TOTAL					
NEW CONSTRUCTION or REHAB					
Construction Costs		117,975			29494
Builder Overhead					
Builder Profit					
General Requirements					
Consultant/Specialist					
Permits & Fees					
Construction Contingency					
Sales Tax					
Other					
TOTAL					
ARCHITECTURAL FEES					
Design					
Supervision					
Other					
TOTAL		117,975			29494

CONSTRUCTION INTEREST & FEES & LEGAL FEES					
Construction Interest					
Bond Premium					
Title & recording					
Insurance					
Legal Fees					
Other					
TOTAL					
ADMINISTRATION COSTS					
Program Delivery					
TOTAL					
OTHER					
Other-Itemize					

H. SOURCE AND AMOUNT OF OTHER RESOURCES:
(Attach documentation)

FUNDING AGENCY	CASH AMOUNT	VOLUNTEER/ IN-KIND AMOUNT
TOTALS		

I. ACTIVITY MATCH BY SOURCE:

IDENTIFY MATCH SOURCES AND AMOUNTS THAT HAVE BEEN COMMITTED.
(Match commitment must equal 25% of the HOME funds requested. Documentation due at the time of request for payment(s). Submit Match Logs annually by June 30th of each year.)

FUNDING AGENCY	MATCH TYPE	*CASH MATCH	VOLUNTEER/ IN-KIND AMOUNT	TOTAL
City of Surprise	Cash	29494		29494
TOTALS		29494		29494

* Total Match reported here must equal Total Match on the Budget Summary.

J. PROGRAM INCOME:

PROGRAM INCOME: ☐ Will ☑ **Will not be generated with this activity**

Submit Program Income log monthly

Program Income will be used for: Program Income is not expected, but if received will be reinve

K. COST OVERRUNS

Cost overruns will be handled by: Scaling back onproject if stillviable or utilize CDBG funds.

SECTION IV

COMPENSATION

Contract # C-22-

Maricopa County

Human Services

SECTION IV COMPENSATION

A. COMPENSATION
Subject to the availability and authorization of funds for the explicit purposes set forth below, County will pay the SUBRECIPIENT compensation for services rendered as indicated in the following subsections.

B. METHOD OF PAYMENT
SUBRECIPIENT agrees to submit monthly reimbursement requests utilizing the approved Reimbursement Request Form (Attachment B) to County unless monthly expenditures for the activity do not exceed One Thousand Dollars ($1,000.00). County agrees to reimburse SUBRECIPIENT for actual allowable costs incurred, upon certification of Release of Funds and submittal by SUBRECIPIENT of an itemized statement of actual expenditures incurred, supported by appropriate documentation. Reimbursement by County is not to be construed as final in the event that HUD disallows reimbursement for the Program or any portion thereof.

C. REIMBURSEMENT
The County shall provide financial assistance in an amount up to One Hundred Seventeen Thousand Nine Hundred Seventy-Five dollars ($117,975.00) subject to the terms of this Agreement and availability of funds. This Agreement price constitutes the County entire participation and obligation in the performance and completion of all work to be performed under this Agreement.

D. RELEASE OF FUNDS (ROF)
No funds may be encumbered prior to the completion of the Environmental Review. The Environmental Review Record (ERR) must be completed before any funds are obligated. Funding is also conditioned upon the completion of the ERR of every activity site by address. The responsibility for certifying the appropriate Environmental Review Record and ROF shall rest with the County. It is the responsibility of the SUBRECIPIENT to notify the County, and to refrain from making any commitments and expenditures on a site until a Release of Funds has been issued by the County. Failure to meet these conditions will mean that requested funds will not be disbursed.

REIMBURSEMENT REQUEST FORM

MARICOPA COUNTY HUMAN SERVICES DEPARTMENT
HOME INVESTMENT PARTNERSHIPS PROGRAM

Invoice Date:
CONSORTIUM MEMBER: City of Surprise
CM Address: 16000 N. Civic Center Plaza
City/Zip: Surprise, AZ 85374

FOR MCHSD USE ONLY			
CM ALLOCATION	$ 117,975.00		
ENCUMBRANCE	$ -	EXPENDED	0
BALANCE	$ 117,975.00	BALANCE	$ 117,975.00

FISCAL YEAR GOAL: Single-Family Rehab (2) $117,975.00
ACCOMPLISMENTS:

FY 2013/2014

ENCUMBRANCE DEADLINE July 2014 EXPENDITURE DEADLINE June 2015

PROJECT		PROJECT BUDGET							
IDIS #	ACTIVITY	ACTIVITY BUDGET	SUM OF PRIOR INVOICES	THIS INVOICE TO MCHSD	BALANCE	MATCH APPLIED	OTHER HOME FY FUNDING	PROGRAM INCOME	OTHER FUNDING
Single-Family Rehab		$117,975							
					$ -	$ -			
					$ -				
					$ -				
					$ -				
			$ -		$ -				
	TOTALS	$ -	$ -	$ -	$ -	$ -	$ -		$ -

Council Meeting Date:	January 14, 2014	Contact Person:	Dick McKinley, Public Works Department
Submitting Department:	Public Works	District:	3
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Resolution No. 2014-02, declaring the City's intention to create the Zanjero Trails PH 2 #133 Street Lighting Improvement District pursuant to A.R.S. § 48-616.

Motion:

I move to approve Resolution No. 2014-02

Background:

The City has verified that the Petition for the proposed street light improvement district contains the signatures of all of the real property owners in the district, exclusive of mortgages and other lien holders.

The City and Arizona Public Service Company (“APS”) have approved the street layout and facilities design. The electric rates are established by APS tariff.

The lighting improvements are more than local or ordinary public benefit and the expenses of the district will be paid for by the levy and collection of an equal apportionment of taxes upon the assessed valuation within the district.

Financial Impact Statement:

The Developer will be bearing the costs for the creation of the District and the street light improvement facilities. The expenditures for the purchase of electricity and maintenance for lighting the public streets and/or parks within the District will be paid by the levy and collection of an equal apportionment of taxes based on the number and classification of the properties within the District.

ATTACHMENTS:

Click to download

- Resolution 2014-02
- Legal Description

- MAP
- Petition
- RFLS 3634

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

RESOLUTION # 2014-02

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, DECLARING ITS INTENTION TO ESTABLISH A STREET LIGHT IMPROVEMENT DISTRICT TO PURCHASE ENERGY FOR LIGHTING THE PUBLIC STREETS AND PARKS IN THE AREA WITHIN THE CORPORATE LIMITS OF THE CITY OF SURPRISE, ARIZONA DESCRIBED ON EXHIBIT A, ATTACHED HERETO; DECLARING SUCH IMPROVEMENTS TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT AND THAT THE EXPENSES THEREOF BE PAID FOR BY THE LEVY AND COLLECTION OF EQUAL APPORTIONMENT OF TAXES BASED ON THE NUMBER AND CLASSIFICATION OF PROPERTIES WITHIN THE DISTRICT TO BE KNOWN AS "CITY OF SURPRISE, ARIZONA, ZANJERO TRAILS PH 2 #133 LIGHTING IMPROVEMENT DISTRICT"; AND ORDERING THAT SUCH IMPROVEMENTS BE PROVIDED FOR UNDER THE PROVISIONS OF SECTION 48-572, ARIZONA REVISED STATUTES.

WHEREAS, the owners, exclusive of mortgagees and other lienholders, of all of the real property (hereinafter referred to as "Petitioner") in the hereinafter described District, acting pursuant to the provisions of Sections 48-615(A) and 48-617(A), Arizona Revised Statutes, have petitioned the Mayor and Council of the City of Surprise, Arizona (hereinafter referred to as "City"), to adopt a resolution of intention (hereinafter referred to as "Resolution") ordering the purchase of energy for the lighting of the public streets and parks (hereinafter referred to as "Improvements") for the real property legally described in Exhibit A (such area hereinafter referred to as the "District") with such boundaries as shown in the map in Exhibit B attached hereto pursuant to the provisions of Section 48-576, Arizona Revised Statutes, giving the City immediate jurisdiction to order the Improvements pursuant to the provisions of Section 48-581, Arizona Revised Statutes, without the necessity of the publications or posting of this Resolution provided for in Sections 48-578, Arizona Revised Statutes;

WHEREAS, the City has verified that Petitioner is the owner, exclusive of mortgagees and other lienholders, of all of the real property included within the boundaries of the District; and

WHEREAS, the Mayor and Council of the City hereby find and determine that they have jurisdiction to adopt this Resolution to order the Improvements pursuant to the provisions of Section 48-576, Arizona Revised Statutes, and have immediate jurisdiction to adopt this Resolution ordering the Improvements pursuant to the provisions of Section 48-581, Arizona Revised Statutes without the necessity of publications and posting of this Resolution as provided for in Section 48-578, Arizona Revised Statutes.

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

Section 1. The City, after verifying ownership of the real property included within the boundaries of the District, hereby finds the Petitioner is the owner, exclusive of mortgagees and other lienholders, of all of the real property included within the boundaries of the District.

<u>Section 2.</u> The name of the District shall be "CITY OF SURPRISE, ARIZONA, ZANJERO TRAILS PH 2 #133 LIGHTING IMPROVEMENT DISTRICT."

<u>Section 3.</u> The District is formed, and shall exist, pursuant to the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and Section 48-616, Arizona Revised Statutes.

<u>Section 4.</u> The public interest or convenience requires, and it is the intention of the Mayor and Council of the City to order the Improvements as so described above.

<u>Section 5.</u> The Improvements, in the opinion of the Mayor and Council of the City, are of more than local or ordinary public benefit and are of special benefit to the respective lots, pieces and parcels of real property in the District, and the Mayor and Council of the City hereby make and order the expense of the Improvements payable from the levying and collection of an equal apportionment of taxes based on the number and classification of properties within the District to be known and designated as "City of Surprise, Arizona Zanjero Trails Ph 2 #133 Lighting Improvement District" and hereby declare that the District is as legally described on Exhibit A attached hereto with the boundaries as shown in the map in Exhibit B attached hereto. Any public street or alley within the District shall be omitted from the assessment. Any lot belonging to the United States, the State, a county, city, school district or political subdivision or institution of the state or county within the District shall be omitted from the assessment.

<u>Section 6.</u> The Superintendent of Streets or equivalent of the City shall not be required to post or cause to be posted notices of the Resolution of Intention. The Clerk of the City shall certify to the passage of this Resolution of Intention but shall not be required to cause the same to be published in a newspaper published and of general circulation in the City.

<u>Section 7.</u> The Mayor and Council of the City shall make annual statements and estimates of the expenses of the district, which shall be provided for by the levy and collection of equal apportionment of taxes based on the number and classification of properties within the District; shall publish notice thereof; shall have hearings thereon; and shall adopt them at the times and in the manner provided for incorporated cities and towns by the applicable portions of Section 42-17101, et seq., 42-17152, Arizona Revised Statutes. The Mayor and Council of the City shall, on or before the third Monday in August of each year, fix, levy and assess the amount to be raised by an equal apportionment of taxes based on the number and classification of the properties within the District and collect, as Maricopa County, Arizona (the "County") taxes are collected, the amounts shown by the statements and estimates as adopted by the Mayor and Council of the City. All statutes providing for the levy and collection of State of Arizona and County taxes, shall be applicable to District taxes as provided to be levied under Section 48-616, Arizona Revised Statutes.

<u>Section 8.</u> The District shall not be authorized to issue bonds and no assessment for District purposes against the property within the District shall exceed One Dollar and Twenty Cents ($1.20) per each hundred dollars of taxable valuation thereof in any year.

Section 9. The District shall not engage in any activity other than as provided in Section 48-616, Arizona Revised Statutes, i.e., contracting for and purchasing of energy for street and public park lighting.

Section 10. The formation of the District shall not be considered as preventing the subsequent establishment of improvement districts for any other purpose authorized by law, including improvement districts for the purpose of construction street lighting facilities within any part or all of the same territory as the District.

Section 11. The type of lighting facilities to be installed in the District and the locations thereof shall consist of those lighting facilities and locations described in the petition submitted by Petitioner, or as may be approved by the City.

Section 12. The rate to be paid for purchasing the energy for the District shall be the rate described in the petition submitted by Petitioner, or as may be approved by the Arizona Public Service Company.

Section 13. Any resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

APPROVED AND ADOPTED this __day of _____________, 2014.

____
Sharon Wolcott, Mayor

Attest: Approved as to form:

_________________________ _________________________
Sherry Aguilar, City Clerk Misty Leslie, City Attorney

Yeas: ____

Nays: ____

FS13-351

ZANJERO TRAILS – PHASE 2 SLID
LEGAL DESCRIPTION

Those portions of the Southeast quarter of Section 21 and the Southwest quarter of Section 22, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

PARCEL NO. 1:

That portion of land as described as Parcel No. 8 in the Warranty Deed as recorded in Docket 3632, Page 373, County Recorder's Office, Maricopa County, Arizona, more particularly described as follows:

The Southeast quarter of Section Twenty-One (21), Township Three (3) North, Range Two (2) West of the Gila and Salt River Base and Meridian;

EXCEPT the west 139 feet;

AND ALSO EXCEPT,

That portion of the Southeast quarter of Section 21, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at an aluminum cap accepted as the southeast corner of said Section 21, from which a brass cap accepted as the south quarter corner thereof, bears North 89 degrees 42 minutes 03 seconds West, a distance of 2639.43 feet;

Thence along the south line of said Southeast quarter, North 89 degrees 42 minutes 03 seconds West, a distance of 1037.90 feet;

Thence leaving said south line, North 00 degrees 00 minutes 00 seconds East, a distance of 965.90 feet;

Thence, North 78 degrees 21 minutes 17 seconds East, a distance of 282.52 feet to the beginning of a curve concave to the south, having a radius of 460.00 feet;

Thence easterly along said curve, through a central angle of 27 degrees 57 minutes 09 seconds, an arc length of 224.42 feet to a point of tangency;

Thence, South 73 degrees 41 minutes 35 seconds East, a distance of 169.65 feet to the beginning of a curve concave to the north, having a radius of 600.00 feet;

Thence easterly along said curve, through a central angle of 15 degrees 58 minutes 29 seconds, an arc length of 167.29 feet to a point of tangency;

Thence, South 89 degrees 40 minutes 04 seconds East, a distance of 219.82 feet to a point on the east line of the Southeast quarter of said section;

Thence along said east line, South 00 degrees 19 minutes 56 seconds West, a distance of 1459.74 feet to the **POINT OF BEGINNING;**

PARCEL NO. 2:

That portion of land as described in the Quit-Claim Deed as recorded in Docket 8822, Page 150, County Recorder's Office, Maricopa County, Arizona, more particularly described as follows:

The West half of the Southwest Quarter; and the Southeast quarter of the Southwest quarter of Section 22, Township 3 North, Range 2 West, Gila and Salt River Base and Meridian;

EXCEPT that part of the land described in the Special Warranty Deed as recorded in Document No. 2007-0907702, County Recorder's Office, Maricopa County, Arizona, more particularly described as follows:

That portion of the Southwest quarter of Section 22, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at an aluminum cap accepted as the southwest corner of said Section 22, from which a brass cap accepted as the south quarter corner thereof, bears South 89 degrees 44 minutes 29 seconds East, a distance of 2641.31 feet;

Thence along the west line of said Southwest quarter, North 00 degrees 19 minutes 56 seconds East, a distance of 33.04 feet;

Thence leaving said west line, South 89 degrees 40 minutes 04 seconds East, a distance of 33.00 feet to the **POINT OF BEGINNING;**

Thence along a line that is 33 feet east of and parallel with the west line of said Southwest quarter, North 00 degrees 19 minutes 56 seconds East, a distance of 1443.70 feet to a point on the south right-of-way line per Document no. 2008-0395969;

THENCE leaving said parallel line and along said right-of way line the following five (5) courses:

(1) South 89 degrees 40 minutes 04 seconds East, a distance of 76.26 feet, to the beginning of a curve concave to the northwest, having a radius of 560.00 feet;

(2) Northeasterly along said curve, through a central angle of 45 degrees 42 minutes 38 seconds, an arc length of 446.77 feet to a point of tangency;

(3) North 44 degrees 37 minutes 18 seconds East, a distance of 154.16 feet to the beginning of a curve concave to the southeast, having a radius of 680.00 feet;

(4) Northeasterly along said curve, through a central angle of 45 degrees 43 minutes 19 seconds, an arc length of 494.76 feet to a point of tangency;

(5) South 89 degrees 39 minutes 23 seconds East, a distance of 259.34 feet to a point on the east line of the Northwest quarter of the Southwest quarter of said section;

Thence along said east line, South 00 degrees 20 minutes 37 seconds West, a distance of 622.53 feet to the north line of the Southeast quarter of the Southwest quarter of said section;

Thence along said north line, South 89 degrees 45 minutes 36 seconds East, a distance of 241.45 feet;

Thence leaving said north line, South 00 degrees 14 minutes 06 seconds West, a distance of 1285.92 feet to a line that is parallel with and 33 feet north of the south line of the Southwest quarter of said section;

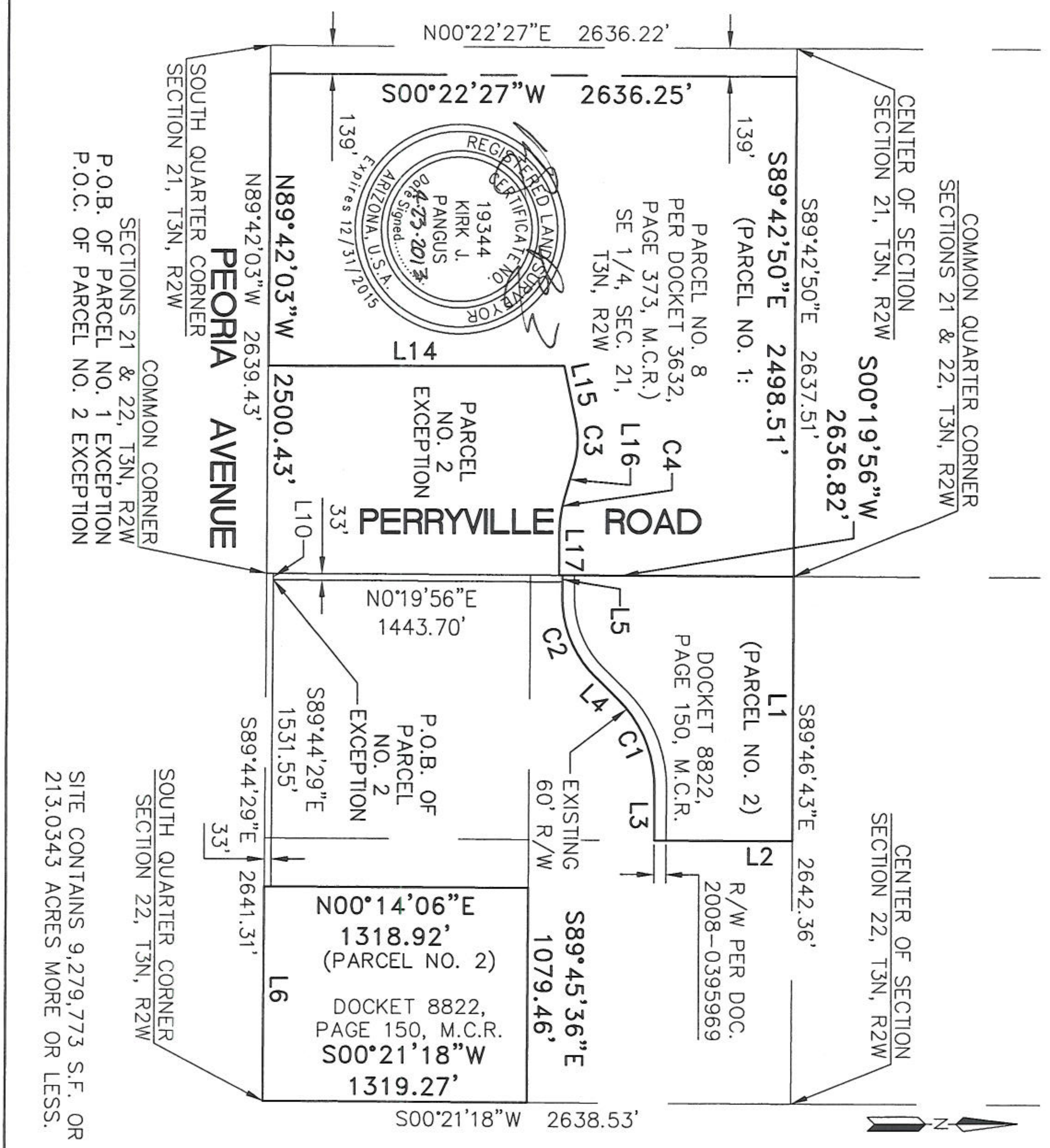
Thence along said parallel line, North 89 degrees 44 minutes 29 seconds West, a distance of 1531.55 feet to the **POINT OF BEGINNING.**

AND ALSO EXCEPT the west 33.00 feet and the south 33.00 feet lying adjacent to and west and south of the portion of land as described in the Special Warranty Deed as recorded in Document No. 2007-0907702, County Recorder's Office, Maricopa County, Arizona.

This description shown hereon is not to be used to violate subdivision regulation of the state, county and/or municipality or any other land division restrictions.
The above described parcel contains 7,636,766 Square Feet (175.3160 acres) more or less.

Prepared by: HilgartWilson
1661 East Camelback Road
Suite 275
Phoenix, AZ
Job No. 1078
April 18, 2013

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
19344
KIRK J.
PANGUS
Date Signed 4/23/2013
ARIZONA, U.S.A.
Expires 12/31/2015



PROJ.#:	1078	ZANJERO TRAILS PHASE 2	hilgartwilson ENGINEERS • PLANNERS • SURVEYORS
DATE:	04/18/13	PERRYVILLE ROAD & PEORIA AVENUE	1661 E. CAMELBACK RD., STE. 275
SCALE:	1"=700'	MARICOPA COUNTY, ARIZONA	PHOENIX, AZ 85016
DRAWN BY:	JDL/KD	SLID BOUNDARY	PH 602.490.0535 FAX 602.325.0161
CHECKED BY: KJP			

U:\1000\1078\SURVEY\DOCS\1078 PHASE 2 SLID BNDY EXHIBIT.dwg 4/18/2013 2:08 PM

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S89°46'43"E	1321.18'
L2	S00°20'37"W	696.31'
L3	S89°39'23"E	259.34'
L4	N44°37'18"E	154.16'
L5	N89°40'04"W	109.26'
L6	N89°44'29"W	1076.70'
L7	S00°20'37"W	622.53'
L8	S89°45'36"E	241.45'
L9	N00°19'56"E	33.04'
L10	S89°40'04"E	33.00'
L11	N89°40'04"W	76.26'
L12	N00°19'56"E	1160.08'
L13	N89°42'03"W	1037.90'
L14	N00°00'00"E	965.90'
L15	N78°21'17"E	282.52'
L16	S73°41'35"E	169.65'
L17	S89°40'04"E	219.82'
L18	S00°19'56"W	1459.74'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	620.00'	45°43'19"	494.76'
C2	560.00'	45°42'38"	446.77'
C3	460.00'	27°57'09"	224.42'
C4	600.00'	15°58'29"	167.29'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
19344
KIRK J.
PANGUS
4-23-2013
Date Signed
ARIZONA, U.S.A.
Expires 12/31/2015

SHEET 2 OF 2

PROJ.#: 1078	ZANJERO TRAILS PHASE 2	hilgartwilson ENGINEERS • PLANNERS • SURVEYORS	
DATE: 04/18/13	PERRYVILLE ROAD & PEORIA AVENUE	1661 E. CAMELBACK RD., STE. 275	
SCALE: N/A	MARICOPA COUNTY, ARIZONA	PHOENIX, AZ 85016	
DRAWN BY: JDL/KD	SLID BOUNDARY	PH 602.490.0535 FAX 602.325.0161	
CHECKED BY: KJP			

U:\1000\1078\SURVEY\DOCS\1078 PHASE 2 SLID BNDY EXHIBIT.dwg 4/18/2013 2:10 PM

RECEIVED
MAY 09 2013
BY:

STREET LIGHT IMPROVEMENT DISTRICT PETITION

TO THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE:

We, the undersigned, are all or a majority of the real property owners, exclusive of mortgagees and other lien holders, within the district named below. We petition the City Council of the City of Surprise, Arizona, to establish a street light improvement district under Arizona Revised Statutes (A.R.S.) §48-571 to 48-622, and any amendments, and specifically A.R.S. §48-615 to 48-617, to purchase electricity for lighting the public streets and/or parks within the district whose boundaries and area is described in Exhibits A and B attached hereto. This petition includes a charge for maintaining the lighting facilities.

It is hereby requested that, in compliance with the Arizona Revised Statutes, the City Council adopt a Resolution of Intention to order the proposed improvements, and that unless protests are received pursuant to AR,S, §48-579 sufficient to bar further proceedings, the City Council proceed with the improvements petitioned for herein.

Expenses of the District shall be paid by the levy and collection of an equal apportionment of taxes based on the number and classification of properties within the District.

Public convenience, necessity and welfare will be promoted by the establishment of the District and the real property within the District will be benefited by the District. Additional street lighting facilities may be installed and included in the District, at no investment cost to the District, as directed by the City and as approved by Arizona Public Service and the City Engineer.

WHEREFORE, we respectfully ask that this Petition be properly filed and that the Mayor and Council of the City adopt the Resolution and take such other action as is proper, necessary and appropriate to form the District and to fulfill the purposes for which the District is organized, as the Mayor and Council believe is proper and necessary.

The name of the proposed street light improvements district shall be:

Zanjero Trails Phase 2 #133

PETITIONERS: Please print and sign your name

PETITIONERS NAME	ADDRESS OR PARCEL NUMBER OF PROPERTY OWNED WITHIN DISTRICT	SIGNATURE
Mike Jesberger for JEN AZ 7, LLC	502-07-003K, 502-04-009R, and 502-04-009L	[signature]

SUBMIT DATE: 08/12/2013
RFLS No. 3634

SURPRISE CITY ATTORNEY
REQUEST FOR LEGAL SERVICES
Please retain form with document throughout the entire process.

Requestor:	DAN SHAFFER
Extension & Department:	Ext. 27039, PW – Engineering
Originating Department:	PW – Engineering
Contact Person:	JASON MAHKOVTZ
Extension:	Ext. 26147
Contract Title:	SLID #133 - ZANJERO TRAILS PHASE 2
Date of Contract, Event/Performance:	08/26/2013
Description of Legal Services Requested:	ACCEPTANCE OF SLID #133 ZANJERO TRAILS PHASE 2
Vendor Name, Address, & Phone: (if known)	
To Council?	Yes, with Resolution
If Yes, Council Meeting Date:	9/17/13

Summary

City Attorney's Office Use

Complete

MISTY.LESLIE — 08/19/2013

City Attorney's Office — **Date**

Comments:

Approved documents attached

CITY OF SURPRISE
Regular City Council Meeting

January 14, 2014 @ 6:00:00 PM

Back Print

Council Meeting Date:	January 14, 2014	Contact Person:	Sherry Ann Aguilar, City Clerk MMC
Submitting Department:		District:	3
Staff Recommendations:	None		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on a liquor license request by Winco Food, LLC, for a series 09 Person Transfer/Location Transfer to be located at 16951 W. Bell Road, Surprise, AZ 85388.

Motion:

I move to __________ a liquor license request by Winco Food, LLC, for a series 09 Person Transfer/Location Transfer to be located at 16951 W. Bell Road, Surprise, AZ 85388.

Background:

Please find attached, general reports from the Community Development Department, Police Department, Fire Department and Finance regarding this request. Constructions has not started for this business at this location.

Financial Impact Statement:

N/A

ATTACHMENTS:

Click to download

Winco Reports

External Attachment Links:

Meeting Requirements:

Powerpoint x	Video	White Board	Other x

Presentation Speaker Names (spelling and titles for TV captions):

SURPRISE
ARIZONA

City Clerk's Office

Date: December 17, 2013

To: Chris Boyd/Vamshee Kovuru – Community Development
Police Department, Chris Tovar/ Lt. John Bacon - PD
Doug Helbig/Michael White – Fire
Stacie McQuarrie, Business License Technician

From: Sherry Ann Aguilar - City Clerk, MMC

Re: **Liquor License Application:**

Winco Food, LLC
Series #09 – Person Transfer/Location Transfer/LLC- 09070343
16951 W. Bell Road,
Surprise, Arizona 85388

The above referenced application has been submitted for consideration by the Surprise City Council at their **Regular Council Meeting** scheduled for:

Tuesday, January 14, 2014 - 6:00 p.m.

REPORT DUE DATE TO CITY CLERK

A copy of the application is attached for your review and comments. Please provide a written statement regarding this application by no later than Monday, ***December 23, 2013 - Noon,*** as the questions apply to your respective departments to the City Clerk.

COMMUNITY DEVELOPMENT DIRECTOR (Please respond to the following questions):

1) The number and series of licenses in close proximity of establishment.

2) The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.

3) The residential and commercial population in close proximity.

4) The effect or impact of the proposed premises on businesses or residential neighborhood whose activities might be affected by granting the license.

5) Review to ensure that parking space requirements meet City Code.

6) If the applicant has not applied for rezoning or has applied for rezoning but the requested zoning is not appropriate for a business as detailed in the application, the **"Denial"** can be given by the Zoning Division, and the reasons such denial are detailed on the Review Form.

POLICE DEPARTMENT (Please respond to the following questions):

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

2) Effect of vehicular traffic in close proximity.

3) The history for the past five (5) years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the board.

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

5) Appropriateness of series license requested.

FIRE MARSHALL (Please respond to the following questions in written form):

1) Review property to ensure building or plot plan is in compliance with applicable fire codes.

TAX AND LICENSE DIVISION (Please respond to the following questions in written form):

1) Review to ensure that applicant has current business license, or has been contacted by Tax and Licensing regarding the need for a business license or is in the process of applying for a business license (whichever is applicable).

Please contact me if you have any questions – 222-1220.

Sherry Ann Aguilar

City Clerk, MMC

PUBLIC NOTICE

Notice is hereby given that the Surprise City Council will conduct a public hearing on **Tuesday, January 14, 2014 – 6:00 p.m.**, for a Series 09 New License for **Winco Foods, LLC** located at 16951 W. Bell Road, Surprise, Arizona 85379 (SW Corner of Bell Road and Loop 303). The public hearing will be held in the City Council Chambers – 16000 N. Civic Center Plaza, Surprise, Arizona. Members of the public are invited to attend.

SURPRISE
ARIZONA

City Clerk's Office
Sherry Ann Aguilar, City Clerk
16000 N. Civic Center Plaza
Surprise, AZ 85374
Ph: 623-222-1200
Fax: 623-222-1001

December 17, 2013

Jason Barclay Morris
WINCO Foods, LLC
16951 W. Bell Road
Surprise, AZ. 85388
Via E-Mail: Jason@witheymorris.com

Re: Liquor License Application – 09070343

Dear Jason:

Please be advised that we are in receipt of your request for a Series 09 liquor license for **Winco Foods, LLC** located at 16951 W. Bell Road, Surprise, Arizona 85388. The notice for this license has been posted on the property and will need to remain posted until the public hearing has taken place.

You are hereby notified that your presence is being requested by the City of Surprise Mayor and Common Council to attend a public hearing at our regular scheduled Council Meeting to be held on:

Tuesday, January 14, 2014 – 6:00 p.m.
Surprise City Hall - Council Chambers
16000 N. Civic Center Plaza

Upon receipt of this correspondence, please acknowledge receipt by email to clerk@surpriseaz.gov and advise who will be representing you at this meeting. Your cooperation is greatly appreciated.

If you have any questions, please call 623-222-1220.

Sincerely,

Sherry Ann Aguilar

City Clerk, MMC

SURPRISE
ARIZONA

FIRE PREVENTION DIVISION
14250 W. Statler Plaza Ste.101
Surprise, AZ. 85374
Phone: (623) 222-5000
Fax: (623) 222-5002

Date: December 18, 2013
TO: Sherry Ann Aguilar, City Clerk
CC: Firehouse IMS
FROM: Doug Helbig, FM

Subject: **Fire Safety Inspection**

WINCO FOOD, LLC
Series #09 – Person Transfer/Location Transfer/LLC - 09070343
16951 W. Bell Road
Surprise, Arizona 85388

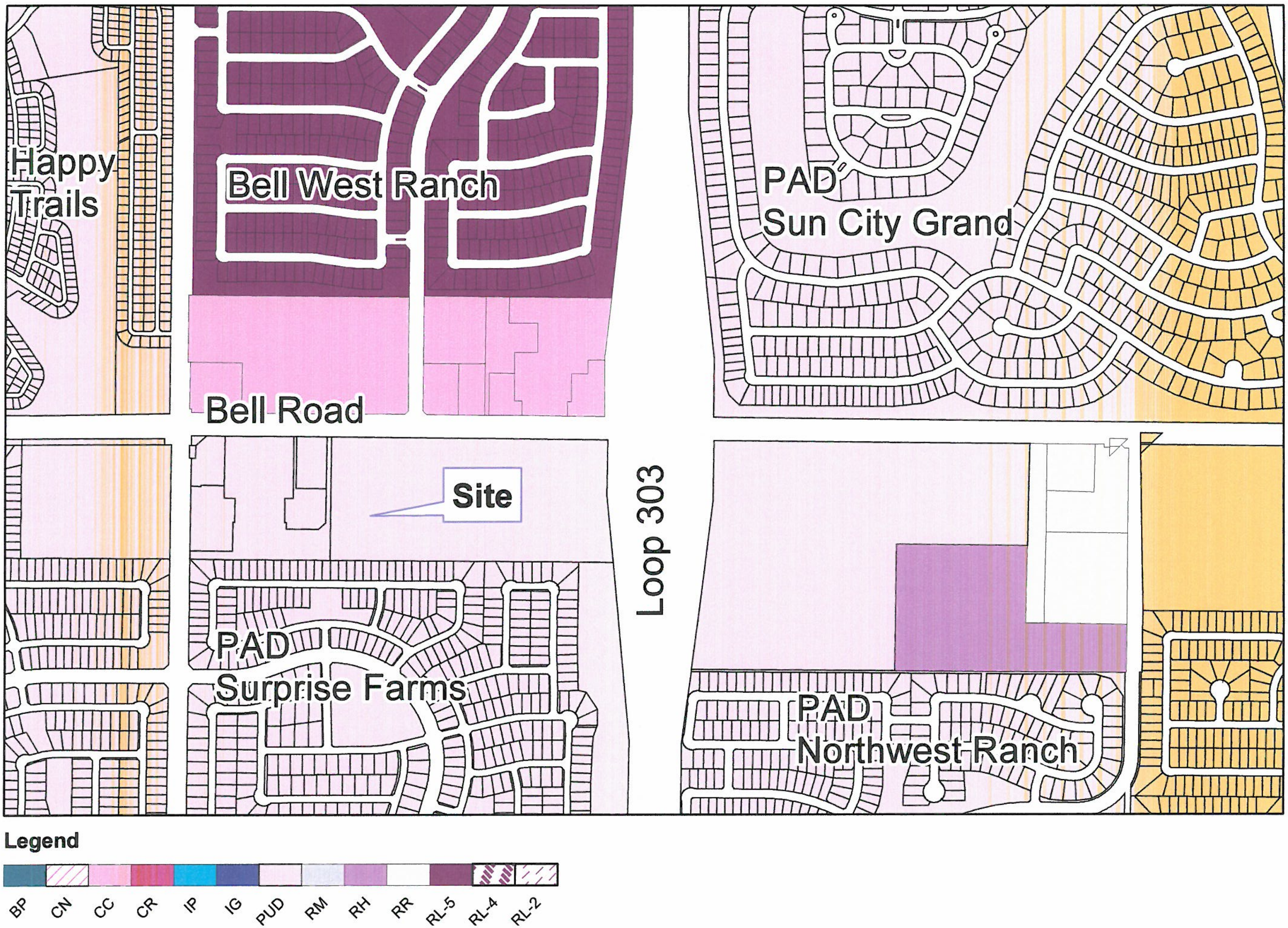
The subject property plot plan is currently under review. Once the review process is complete the construction process begins. During construction of this building various fire safety inspections will be conducted to ensure the building and/or tenant space is in compliance with applicable fire codes. I am confident that upon completion of construction this building will be compliant with the City fire code.

Sincerely,

Doug Helbig
Fire Marshal

NFPA MEMBER 2012-13

Surrounding Zoning - Winco Food, LLC



SURPRISE
ARIZONA

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

Date: December 19, 2013

To: Sherry Aguilar, City Clerk

From: Vamshee Kovuru, AICP, Planner II

Re: Liquor License Application for:

Winco Food, LLC
Series # 9 – Person Transfer/Location Transfer/LLC- 09070343
16951 W Bell Road
Surprise, Arizona 85388

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

1. Safeway Food & Drug #1997 (Series 9) – 17049 W Bell Rd
2. Valero Corner Store #1713 (Series 10) – 16794 W Bell Rd
3. Albertson's #1026 (Series 9) – 16750 W Bell Rd
4. Coyote Alley (Series 6) – 16846 W Bell Rd #100
5. White Eagle Deli (Series 7) – 16846 W Bell Rd #109
6. Golden Wei Chinese Cuisine (Series 12) – 17104 W Bell Rd #106, 107
7. Amuse Bouche (series 12) - 17058 W. Bell Rd. #104
8. Walgreen's #6806 (Series 10) – 17088 W Bell Rd
9. Sam's Club #4955 (Series 9) – 16573 W Bell Rd
10. Circle K (Series 10) – 16247 W. Bell Rd.

The immediate area is composed of commercial establishments. The property is zoned PAD Surprise Farms (Villages at Surprise South) which is consistent with the proposed use.

Commercial is expected to increase with the build out of commercial parcels at Surprise Farms and Surprise Village Marketplace along Bell Road.

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.

SURPRISE
ARIZONA

MEMO

Date: 12/31/2013

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

RE: Liquor License Application – WinCo Foods LLC

Business License Status:

Application packet mailed on 12/31/13.

Mailing to:

WinCo Foods L.L.C.
Attn: Mr. Jason B. Morris
P.O. Box 5756
Boise, ID 83705

SURPRISE POLICE DEPARTMENT
LIQUOR LICENSE APPLICATION REVIEW

REFERENCE: DATE: December 23, 2013

LICENSE NUMBER 09070343
SERIES #09 – PERSON TRANSFER / LOCATION TRANSFER LLC

APPLICANT:

Winco Food, LLC
16957W. Bell Road
Surprise, Arizona 85388

FINDINGS:

1) ***Evidence concerning the nature of the proposed business, its potential market and its likely customers.***
Winco is part of a national supermarket chain, specializing in bulk foods. Winco is a large store that does not require a membership. It's potential market and likely customers are citizens of Surprise and the Northwest Valley.

2) ***Effect of vehicular traffic in close proximity.***
There will be two scheduled ingress/egress from the east bound lanes of Bell Road in front of the store. One is at Eastham Parkway and the other further east toward the Loop 303 freeway. There is also ingress/egress from the west, via the adjacent Safeway shopping plaza, which has several ingress/egress locations off of Bell Road and off of Cotton Lane. This should supply adequate locations for ingress/egress to Winco.

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 lest 20 days before the hearing.***
N/A. New construction.

4) ***Comparison of hours of operation of the proposed premises to the existing businesses in close proximity.***
Winco is a 24 hour a day operation. It is closed only on Thanksgiving and Christmas. The adjacent Safeway shopping plaza has several stores including a pet washing store, a Dunkin' Donuts and various other stores. None of these close past approximately 11 PM.

5) ***Appropriateness of series license requested.***
A series 9 license is appropriate and applicable for this store, since all types of liquor will be sold, which is not unusual for this type of retail setting.

Submitted by Officer Chris Tovar #2059

Council Meeting Date:	January 14, 2014	Contact Person:	Michael Celaya, IGR
Submitting Department:	Intergov	District:	Internal
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Resolution #2014-06 approving an Intergovernmental Agreement with the City of Goodyear regarding educational campaign related to economic development.

Motion:

I move to approve Resolution 2014-06.

Background:

The City of Surprise wishes to enter into an intergovernmental agreement with the City of Goodyear for cost sharing, and the hiring of a consultant for development and implementation of an educational campaign necessary to educate and inform other cities, public associations, private groups, opinion leaders and elected officials on the need for a new economic development tool critical to rebuilding Arizona's economy.

Financial Impact Statement:

ATTACHMENTS:

Click to download

- Resolution #2014-06
- IGA

External Attachment Links:

Michael Celaya, Intergovernmental Relations Director

Meeting Requirements:

Powerpoint x	Video	White Board	Other x

Presentation Speaker Names (spelling and titles for TV captions):

RESOLUTION #2014-06

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SURPRISE AND THE CITY OF GOODYEAR FOR COST SHARING, AND THE HIRING OF A CONSULTANT FOR DEVELOPMENT AND IMPLEMENTATION OF AN EDUCATIONAL CAMPAIGN ON THE NEED FOR AND BENEFIT OF NEW ECONOMIC DEVELOPMENT TOOLS.

WHEREAS, pursuant to Arizona Revised Statutes § 11-951, *et seq.*, the City of Surprise has the authority to enter into intergovernmental agreements with other governmental entities; and

WHEREAS, the City wishes to enter into an intergovernmental agreement with the City of Goodyear for cost sharing, and the hiring of a consultant for development and implementation of an educational campaign necessary to educate and inform cities, public associations, private groups, opinion leaders and elected officials on the need for and benefit of new economic development tools critical to rebuilding Arizona's economy at the municipal level.

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

Section 1. The City of Surprise hereby approves the Intergovernmental Agreement between the City of Surprise and the City of Goodyear and the Mayor is hereby authorized and directed to sign the Intergovernmental Agreement, and hereby authorizes the City Manager or his designees, to conduct all negotiations and to execute and submit all documents and other necessary or desirable instruments in connection with said agreement.

APPROVED AND ADOPTED this __________day of _________________2014.

____
Sharon R. Wolcott, Mayor

Attest: Approved as to form:

____________________ _____________________
Sherry Aguilar, City Clerk Misty Leslie, City Attorney

When recorded, please return to:

City Clerk,
City of Surprise
16000 N. Civic Center Plaza
Surprise, Arizona 85374

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF SURPRISE AND
THE CITY OF GOODYEAR FOR DEVELOPMENT OF AN EDUCATIONAL CAMPAIGN
REGARDING MUNICIPAL ECONOMIC DEVELOPMENT TOOLS**

This Intergovernmental Agreement ("Agreement") is between the City of Surprise ("Surprise"), and the City of Goodyear ("Goodyear") both Arizona municipal corporations. Goodyear and Surprise are collectively referred to as the "Parties."

This Agreement shall become effective as of the date it is filed with the Maricopa County Recorder pursuant to Arizona Revised Statutes 11-952, as amended.

STATUTORY AUTHORIZATION

1. Goodyear and Surprise are empowered by their respective Charters and/or Arizona Revised Statutes 11-951, et. seq., to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the Parties hereto agree as follows:

PURPOSE OF THE AGREEMENT

2. The purpose of this Agreement is to identify and define the responsibilities of the Parties for cost sharing, and the hiring of a consultant for development and implementation of an educational campaign necessary to educate and inform cities, public associations, private groups, opinion leaders and elected officials on the need for and benefit of new economic development tools critical to rebuilding Arizona's economy at the municipal level, (the Project). The key deliverable of the campaign will be to develop a strong base of political support for successful passage of future legislation the Project.

LEAD AGENCY

3. Surprise is hereby designated as the Lead Agency for the Project. As Lead Agency, Surprise will be responsible for leading planning and programming efforts, facilitating coordination between Surprise and Goodyear, the procurement of a consultant to assist with the Project, and managing the Project.

PROJECT BUDGET

4. Surprise has contracted with Highground ("Highground") to coordinate and prepare an educational campaign for the Project for a fee of $10,000/per month with a maximum contract length of 6 months, unless otherwise agreed to by the Parties. *Exhibit A* hereto sets forth a Scope of Services for the Project which may be administratively updated in furtherance of this IGA by the Parties' City Managers after execution of this Agreement and at key milestone points.

5. Surprise and Goodyear will jointly (1) agree on the budget for the Project, (2) share agreed upon costs equally for the Project, (3) participate in progress meetings during the Project, and (4) coordinate efforts including recommendations by the Consultant for the Project, to include training, public meetings, and dissemination of news to the media and public.

CONTRACT AWARD

6. Surprise shall be responsible for complying with all procurement requirements to obtain a consultant to assist Surprise and Goodyear with the Project. Surprise will be responsible for supervising the Agreement. Funding responsibility shall be as prescribed in Paragraph 7 of this Agreement.

FUNDING AND DISPERSAL

7. Each Party shall be responsible for fifty percent (50%) of the costs incurred for the Consultant for the Project

8. The Parties acknowledge that the funds may not presently be available for performance under this Agreement beyond the current fiscal year. No legal liability on the either Party for any payment may arise under this Agreement beyond the current fiscal year.

9. As lead agency, Surprise shall submit to Goodyear a copy of all invoices and shall consult and receive approval from Goodyear prior to approving or issuing any expenditure which will increase the Project cost.

GENERAL TERMS AND CONDITIONS

10. The Parties hereby agree that, to the extent permitted by law, each Party will indemnify, save and hold the other Party harmless, including any of the Party's departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever, which is caused by any activity, condition or event arising out of the performance or nonperformance by the indemnifying

Party of any of the provisions of this Agreement. Each Party hereby indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except to the extent that any loss, damage, expense, and/or liability is attributable to the negligent or willful acts and misconduct of that other Party. The damages, which are the subject of this indemnity shall include, but not be limited to the damages incurred by any Party, their departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include court costs, expenses for litigation and reasonable attorney's fees.

11. The City Managers of Goodyear and Surprise, or their designees, shall serve as the administrators of this Agreement.

12. This Agreement shall be governed by the laws of the State of Arizona and any action brought arising out of dispute over this Agreement shall be brought in a competent court in Maricopa County, Arizona.

13. All notices, except notices of approval of escrow disbursements as set forth in Paragraph 14 below, shall be given to the other Party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or at such other addresses as the Parties may substitute by written notice given to the other Party:

To City of Goodyear:	To City of Surprise:
City Manager City of Goodyear P.O. Box 5100 Goodyear, AZ 85335	City Manager City of Surprise 16000 N. Civic Center Plaza Surprise, AZ 85374
With copies to	
City Attorney City of Goodyear P.O. Box 5100 Goodyear, AZ 85335	City Attorney City of Surprise 16000 N. Civic Center Plaza Surprise, AZ 85374

14. This Agreement shall be effective as of the date it is filed with the Maricopa County Recorder pursuant to A.R.S. Section 11-952 and remain in full force and effect until all conditions and provisions previously indicated have been satisfied except that it may be amended upon written agreement by the Parties.

15. Pursuant to Arizona Revised Statutes 11-952, as amended, attached to this Agreement are copies of appropriate action by ordinance, resolution or otherwise authorizing the respective Parties to enter into this Agreement.

16. This Agreement shall be subject to the provisions of A.R.S. Section 38-511.

17. It is agreed and understood that any failure to strictly enforce any provision hereof shall not constitute a waiver of the right to demand performance of that or any other provision hereof at any time thereafter.

18. The terms and conditions of this Agreement are severable. If any portion or portions of the Agreement are declared to be unlawful or void in a final court of competent jurisdiction, the remaining portion or portions of the Agreement which survive any such determination shall remain valid and enforceable according to their terms.

19. Except as detailed in Section 4 above, this Agreement shall not be modified or extended except by written instrument adopted in accordance with the requirements for adopting a new Agreement.

20. Any funding provided for herein, other than in the current fiscal year, is contingent upon being budgeted and appropriated by each Party's respective Council in such fiscal year.

21. This Agreement has been arrived at by negotiation of the Parties and shall not be construed against any Party or against the Party who prepared the last draft.

22. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

23. This Agreement may be cancelled by either Party by giving thirty (30) days notice of cancellation to the other Party. Upon cancellation, Surprise shall invoice Goodyear for any fees accrued through the date of cancellation which shall be payable as otherwise provided for in this Agreement.

. . .
. . .
. . .

[End of Agreement; next pages are the signature pages.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

CITY OF GOODYEAR, an Arizona Municipal Corporation

Approved and Accepted:

______________________________ ______________________
Mayor Date

Attest:

______________________________ ______________________
City Clerk Date

Recommended By:

______________________________ ______________________
City Manager Date

Approval of City Attorney

I hereby state that I have reviewed the proposed Intergovernmental Agreement between the City of Goodyear and the City of Surprise and declare the Agreement to be in proper form and within the powers and authority granted to the Council of the City of Goodyear under the laws of the State of Arizona.

______________________________ ______________________
Goodyear City Attorney Date

CITY OF SURPRISE, an Arizona Municipal Corporation

Approved and Accepted by:

______________________________ ______________________________
Mayor Date

Attest:

______________________________ ______________________________
City Clerk Date

Recommended By:

______________________________ ______________________________
City Manager Date

Approval of City Attorney

I hereby state that I have reviewed the proposed Intergovernmental Agreement between the City of Goodyear and the City of Surprise and declare the Agreement to be in proper form and within the powers and authority granted to the Council of the City of Surprise under the laws of the State of Arizona.

______________________________ ______________________________
Surprise City Attorney Date

EXHIBIT A

SCOPE OF WORK

Consultant shall assist with the development and implementation of an educational campaign necessary to educate and inform cities, public associations, private groups, opinion leaders and elected officials on the need for and benefit of new economic development tools critical to rebuilding Arizona's economy at the municipal level. The key deliverable of the campaign should be to develop a strong base of political support for successful passage of future legislation.

Components of the campaign should include the following:

- Development of the initial legislative reform concept, core messages and legislative reform concepts

- Training for key campaign messengers

- Strategy for testing reform concepts and messages with all participants

- Identification and prioritization of key audiences likely to support the proposed reform

- Development and implementation of a "road show" to discuss reforms with potential supporters and obtain endorsements, commitments of support

- Media strategy for educating reporters and other pundits, securing opinion page support and letters to the editor Strategies for identifying and dealing with potential opposition

- Timeline for all components of the campaign

- Proposed electronic and printed collateral materials to support the campaign

CITY OF SURPRISE
Regular City Council Meeting

January 14, 2014 @ 6:00:00 PM

Back Print

Council Meeting Date:	January 14, 2014	Contact Person:	Sherry Ann Aguilar, City Clerk
Submitting Department:		District:	Citywide
Staff Recommendations:	Approve		

Consent x	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on the minutes of December 3, 2013 Special Work Session; December 10, 2013 Regular Council Meeting; December 17, 2013 Special Council Meeting and December 17, Special Work Session.

Motion:

I move to approve the meeting minutes.

Background:

Financial Impact Statement:

ATTACHMENTS:

Click to download

- Minutes
- Minutes
- Minutes
- Minutes

External Attachment Links:

Meeting Requirements:

Powerpoint x	Video	White Board	Other x

Presentation Speaker Names (spelling and titles for TV captions):

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

Tuesday, December 3, 2013 @ 4:00 PM

A. Call To Order

B. Roll Call

Mayor Wolcott called the **Special City Council Work Session** to order at 4:00 PM at Surprise City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on **Tuesday, December 3, 2013.** Also in attendance with Mayor Wolcott were Vice Mayor Biundo, Council Member Alton (Telephonically), Council Member Williams, Council Member Villanueva, Council Member Hall and Council Member Mankiewicz.

Staff Present: City Manager, Chris Hillman; Deputy City Attorney, Julie Kriegh.

and City Clerk, Sherry Ann Aguilar.

C. Pledge of Allegiance

D. Special City Council Work Session Agenda:

Regular Agenda Item - Non-Public Hearing:

#1 Presentation and discussion regarding Step Higher Foundation request for Tourism/Marketing funding not to exceed $23,900 for a Surprise Crossfit Festival to be held February 7-9, 2014 (Skate Park Initiative - Fund Raising) - NO ACTION

Community and Recreation Services Director, Mark Coronado gave an overview regarding a request by Step Higher Foundation. This event will utilize the north parking lot at the Stadium. Attendance is expected to bring in 5,000 - 7,000 attendees.

Council Member Hall commented that the intent of this event is to help fund a skate park; that it seems that he is in the hole for this event and that he is concerned that this event is under funded.

Mr. Coronado stated that that is correct and that he is looking for either private or public sponsors for a skate park.

Member of the Tourism Commission both for and against the event answered Council questions.

Mr. Pasley commented on having reservations on the time frame of February.

Mr. Ab Jackson commented that he thought this project had some potential, but has changed his mind; also not clear on 200 room nights and if it is approved this month, that only leaves 57 days for advertising.

Council Member Williams spoke of concerns on the logistics; the date and it's on the heels of another international event in the month of March.

Anthony Chavez stated that we put this event in to staff last December and meetings were postponed and cancelled and many revisions were made to the requirements. Clarified the questions related to the budget.

Council Member Hall inquired about sponsorship.

Mr. Chavez commented that he was going to but the City had so many stipulations.

Mayor Wolcott stated that what she is hearing is a lot of dreams, great ideas but that he is missing focus on this type of a project; she spoke of Council's concerns and research.

Council Member Villanueva inquired about the number of people working on the project and looking at a future date.

Mr. Chavez commented that he brought this to the City last December, and many issues complicated and pushed us back. We have 300 plus volunteers for Step Higher Foundation and he have many volunteers working with this project.

Vice Mayor Biundo expressed concern relating to the event, funding, etc., He spoke of the Parks Master plan process. He also expressed concerns about the foundation.

Mr. Coronado commented that during the month of January, Will be bringing forward proposal for a skate park is in the process for one of our local parks at a lower cost.

Mr. Coronado commented that we have consistently asked for a business plan from Mr. Chavez and to date we have not received this.

Mayor Wolcott commented that this is a huge undertaking to fund raise; that the Tourism Commission has a very specific mission and that she is not hearing that there is a good fit here.

Council Member Alton inquired about the type of liability insurance are we requesting.

Mr. Coronado stated that we will work with Risk Management, 1 to 2 million dollar policy and that the grant would not be paid until the event was completed.

Council Member Alton asked Mr. Chavez if he is a member of Desert Springs Church.

#2 Presentation and discussion on Resolution #2013-137 a resolution by Mayor and Council for acceptance of FY2014 Arizona Lottery Fund (ALF) grant funds - NO ACTION

Public Works Director, Dick McKinley gave an overview regarding Resolution #2013-137 a resolution by Mayor and Council for acceptance of FY2014 Arizona Lottery Fund (ALF) grant funds. No matching funds are required and we are required to use this for transit.

Council Member Hall asked if this meets our budget for FY2014.

Council Member Villanueva asked for funding clarification.

#3 Presentation and discussion on COS 13-005 a contract with Hilts Consulting Group. Inc. for the design of South Plant Reclaimed Basin Covers in the amount of $123,000 plus an owners contingency of $12,300 - NO ACTION

Lee Lambert of Public Works gave an overview on COS 13-005 a contract with Hilts Consulting Group. Inc. for the design of South Plant Reclaimed Basin Covers in the amount of $123,000 plus an owners contingency of $12,300.

Mayor Wolcott questioned funding and CM Hall questioned capacity.

Vice Mayor Biundo commented that there should be cost savings.

#4 Presentation and discussion regarding the progress of the Form Based Code Working Group - NO ACTION

Mayor Wolcott opened discussion regarding the form based code process and asked staff to present.

Council Member Mankiewicz led the working group process and opened the discussion explaining what form base code is. He introduced staff Nicole Arbeiter and ACM Mihelich who assisted with the project, and acknowledged that CM Hall and CM Williams and Mayor participated with discussions and meeting attendance.

Mayor Wolcott thanked staff and Council for their hard work on this project. She stated that this is an opportunity for our City's vision and that this is how we put the plan into place and make our City something to be proud of.

Council Member Villanueva commented that this sounds very exciting, would like to see what we can do with the original townsite, would like to see a plan. No big buildings but a lot of empty streets that need to be addressed.

#5 Presentation and discussion of the development impact fee study process and update - NO ACTION

ACM Wingenroth and Public Works Director McKinley gave an overview of the development impact fee study process and update. A powerpoint presentation and report was passed out to the Mayor and City Council for further review. Copies were made available to the public.

Council Member Villanueva asked if impact fees were a one time payment for homeowners.

It is paid and a function of new development. The Developer pays the fee at the time of pulling the permit.

Council Member Mankiewicz asked if the definition of impact fees are clear enough.

Council Member Hall asked if there will be an audit with this process.

Mr. Wingenroth commented that yes an audit by outside firm will be done every 2 years. Also reviewed a statutory requirement timeline.

Mayor Wolcott commented that we have to review these every 2 years in order to keep up, this will be another tool so that we do this right.

City Manager Hillman stated that this is a very comprehensive set of reports being presented tonight. What does the new law mean and how will this impact us. He complimented staff for their hard work on this project.

#6 Presentation and discussion regarding the Employee Classification and Compensation Study - NO ACTION

City Manager Hillman gave an overview of the presentation and introduced HR staff that is handling the classification review.

HR Director April Reynolds introduced HR Senior Class Comp Specialist Lori Smith, who is handling the class and comp study.

Council Member Hall inquired about how will the report be broken down, will it be by classifications, etc.

Mr. Hillman stated by market study and classification bands.

Council Member Mankiewicz asked if employees are being kept in the loop of what is going on and that they are made to feel comfortable that this is not another layer that the employees will have to deal with.

Public Comments:

Ken Wright - This point system sounds very similar to the Barrington System. This system was biased for outdoor work, exposure to weather conditions, etc., In summary, to me the point system and comparative rate system are inclusive and this needs to be looked at closely.

#7 Presentation and discussion regarding a potential partnership with the West Valley Arts Council - NO ACTION

Vice Mayor Biundo introduced the item for discussion regarding a potential partnership with the West Valley Arts Council.

Council Member Hall commented that we have an opportunity to use a facility that we built and focus on art at the City Hall Complex.

A representative from the West Valley Arts Council gave a powerpoint presentation highlighting Programs and Services.

Mayor Wolcott commented that this is very exciting and an opportunity to not pass up. Grateful to Vice Mayor Biundo and Council Member Hall for reaching out to you on this. Council needs to give staff some direction on what steps to take to make this happen.

City Manager Hillman explained the process of what will need to be done before bringing to Council for a budget transfer.

Council Member Hall commented that we need to keep the Chamber in mind while we are going through this.

Margaret Lieu - commented that the Arts Commission met last night and the Commission supports this project.

#8 Discussion and possible direction to City Staff regarding any item included in the executive session notice - NO ACTION

E. Call To The Public:

Council Member Hall made the motion to adjourn the Special City Council Work Session and enter into executive session at 6:40 p.m. Vice Mayor Biundo seconded the motion. Seven yes votes. Motion carried.

F. Executive Session:

#9 Discussion/consultation with the City Attorney to receive legal advice; and to consider its position, and to provide instruction/direction to the City Attorney regarding Surprise's position (A.R.S. Â§38-431.03 (A)(3) & (4)) on the following: 1 - Council authority, review, and avoiding possible litigation involving development at the southwest corner of Bell Road and the Loop 303; 2 - Home Builders Association of Central Arizona v. City Surprise; 3 - Contract negotiations regarding limitations on development and land use on property bounded by Bell, Litchfield, Greenway and Bullard Roads.

G. Adjournment:

Vice Mayor Biundo made the motion to adjourn the Special City Council Work Session of December 3, 2013 at 8:25 p.m. Council Member Williams seconded the motion. Seven yes votes. Motion carried.

____
Sharon R. Wolcott, Mayor

ATTEST:

____
Sherry Ann Aguilar, City Clerk

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 Special City Council Work Session of **Tuesday, December 3, 2013.**

____
Sherry Ann Aguilar, City Clerk

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

Tuesday, December 10, 2013 @ 6:00 PM

A. <u>Call To Order</u>

B. Roll Call

Mayor Wolcott called the **Regular City Council Meeting** to order at 6:00 PM at Surprise City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on **Tuesday, December 10, 2013.** Also in attendance with Mayor Wolcott were Vice Mayor Biundo, Council Member Alton, Council Member Williams, Council Member Villanueva, Council Member Mankiewicz and Council Member Hall.

Staff Present: City Manager, Chris Hillman; City Attorney, Misty Leslie and City Clerk, Sherry Ann Aguilar.

C. Pledge of Allegiance

D. Invocation

E. <u>City Manager Report:</u>

F. <u>City Attorney Report:</u>

City Attorney Leslie reported on: Jury duty and new Attorney, Robert Wingo.

G. Regular City Council Meeting Agenda:

Consent Agenda:

***#1. Consideration and action on Resolution #2013-137 a resolution by Mayor and Council for acceptance of FY2014 Arizona Lottery Fund (ALF) grant funds - APPROVED**

***#2. Consideration and action on Resolution No 2013-133 a resolution accepting maintenance of the streets and public water and sewer utilities constructed in conjunction with "Gestamp Solar Steel" located generally on the northwest corner of Peoria Ave and Solar Canyon Way - APPROVED**

***#3. Consideration and action on Resolution No. 2013-141 a Resolution of the Mayor and Council of the City of Surprise, Arizona To accept Warranty Deeds from Nine Bell Road parcel owners associated with the Bell Road Sidewalk Project located on Bell Road between U.S. 60 and 115th Avenue - APPROVED**

***#4. Consideration and action on Resolution No. 2013-118, a resolution accepting maintenance of the streets and public utility improvements at Marley Park Parcel 12, generally located near the intersection of Bullard and Waddell Roads - APPROVED**

***#5. Consideration and action on a Sampling Privileges License requested by Robert Joseph Nelson (Applicant) for Fry's Marketplace #680 located at 15215 N. Cotton Lane, Surprise Arizona - APPROVED**

***#6. Consideration and action on the minutes of November 5, 2013 Special City Council Work Session; November 12, 2013 Regular City Council Meeting and November 19, 2013 Special City Council Meeting - APPROVED**

***#7. Consideration and action on the renewal of Off-Track Betting through Phoenix Greyhound Park at Runner's Sport Bar located at 12751 W. Bell Road, Suites 8 & 9, Surprise, AZ. 85374 - APPROVED**

***#8. Consideration and action on Resolution 2013-17, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat amendment, entitled "Map of Dedication for Zanjero Trails Phase 2 South," located generally on the northwest corner of Perryville Road and Peoria Avenue - APPROVED**

***#9. Consideration and action on Resolution 2013-18, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat amendment, entitled "Zanjero Trails Phase 2 - Parcel 12A," located generally on the northwest corner of Perryville Road and Peoria Avenue - APPROVED**

***#10. Consideration and action on Resolution 2013-19, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat amendment, entitled "Zanjero Trails Phase 2 - Parcel 12B," located generally on the northwest corner of Perryville Road and Peoria Avenue - APPROVED**

***#11. Consideration and action on Resolution 2013-20, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat amendment, entitled "Zanjero Trails Phase 2 - Parcel 12C," located generally on the northwest corner of Perryville Road and Peoria Avenue - APPROVED**

***#12. Consideration and action on Resolution 2013-21, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat amendment, entitled "Zanjero Trails Phase 2 - Parcel 13A," located generally on the northwest corner of Perryville Road and Peoria Avenue - APPROVED**

***#13. Consideration and action on Resolution 2013-22, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat amendment, entitled "Zanjero Trails Phase 2 - Parcel 13C," located generally on the northwest corner of Perryville Road and Peoria Avenue - APPROVED**

Council Member Williams made the motion to approve consent agenda. Council Member Alton seconded the motion. Seven yes votes. Motion carried.

Regular Agenda Item - Non-Public Hearing:

#14. Recognition of the General Plan Advisory Committee Members for exemplary service - NO ACTION

General Plan Advisory Committee - Daisy Anderson; Claro Salvo; Anthony Gunderson; Melissa Holdaway; Mitch Rosenbaum; Jack McSweeney; Frank Dias and Council Member Mankiewicz.

#15. Consideration and action to appoint Megan Ruff, Elizabeth Poe, Josephina Adams and Madeline Wright and to re-appoint Jake Bastien and Madissun Hodes to the Teen Advisory Commission with term expirations of December 10, 2015 - APPROVED

Council Member Williams made the motion to approve appointing Megan Ruff, Elizabeth Poe, Josephina Adams and Madeline Wright and to re-appointing Jake Bastien and Madissun Hodes to the Teen Advisory. Council Member Alton seconded the motion. Seven yes votes. Motion carried.

City Clerk Aguilar administered the Oath of Office to the newly appointed members.

#16. Consideration and action on the donation of the City of Surprise 1993 International Fire Pumper and associated fire equipment to the Dysart Unified School District (DUSD) to be used in conjunction with the Valley Vista Fire Science Program - APPROVED

Chief White gave an overview on the donation of the City of Surprise 1993 International Fire Pumper and associated fire equipment to the Dysart Unified School District (DUSD) to be used in conjunction with the Valley Vista Fire Science Program.

Council Member Villanueva inquired about possible school participation.

Chief White stated that students are bused by Valley Vista for this program.

Council Member Williams stated that the CTE Program is crucial and that this is work force development for students to become firefighters someday.

Council Member Mankiewicz inquired about what is taught to the kindergarteners.

Council Member Hall made the motion to approve the donation of the City of Surprise 1993 International Fire Pumper and associated fire equipment to the Dysart Unified School District (DUSD) to be used in conjunction with the Valley Vista Fire Science Program. Vice Mayor Biundo seconded the motion. Seven yes votes. Motion carried.

#17. Consideration and action on COS 14-004A a contract with Modular Solutions, LTD for the construction of Fire Station 304 in the amount of $139,263.70 plus an owners contingency of $30,000 - APPROVED

Michael Boule of Public Works gave an overview regarding COS 14-004A a contract with Modular Solutions, LTD for the construction of Fire Station 304 in the amount of $139,263.70 plus an owners contingency of $30,000.

Vice Mayor Biundo thanked staff for bringing this forward.

Council Member Hall made the motion to approve COS 14-004A a contract with Modular Solutions, LTD for the construction of Fire Station 304 in the amount of $139,263.70 plus an owners contingency of $30,000. Council Member Alton seconded the motion. Seven yes votes. Motion carried.

#18. Consideration and action on COS 13-005 a contract with Hilts Consulting Group. Inc. for the design of SPA 1 Floating Reservoir Covers in the amount of $ 123,000.00 plus an owners contingency of $12,300.00 - APPROVED

Lee Lambert of Public Works gave an overview regarding COS 13-005 a contract with Hilts Consulting Group. Inc. for the design of SPA 1 Floating Reservoir Covers in the amount of $ 123,000.00 plus an owners contingency of $12,300.00.

Council Member Williams made the motion to approve COS 13-005 a contract with Hilts Consulting Group. Inc. for the design of SPA 1 Floating Reservoir Covers in the amount of $ 123,000.00 plus an owners contingency of $12,300.00. Council Member Villanueva seconded the motion. Seven yes votes. Motion carried.

#19. Consideration and action on Resolution 2013-142; a Resolution of the Mayor and Council of the City of Surprise, Arizona, amending the Fiscal Year 2014 budget by reallocating $74,000 from Contingency to Services and Supplies for tenant improvements, utilities and furniture for the West Valley Arts Council - APPROVED

Vice Mayor Biundo spoke of WHAM Incubator.

Council Member Alton spoke of equitableness of the Chamber rental vs. Art Council; the rent and making it so it is equitable for both parties.

Council Member Hall stated that he understands concerns; that we are not going to contribute to this agency; it will be equitable for both and would like to have Bernadette Mills to make a presentation to the Chamber so they will understand what is going on.

Council Member Mankiewicz supports this and commented on keeping an eye on the money coming forward and getting together with the Chamber.

Council Member Villanueva spoke of support of the Arts Museum; concern about the amount of finances we are putting out and paying for the light for half a year.

Mayor Wolcott stated that she is excited to see all of the potential possibilities for this space and thanked staff for their efforts.

Council Member Alton made the motion to table this item for additional research. Council Member Villanueva seconded the motion. Two yes votes, five no votes (Wolcott, Biundo, Williams, Hall and Mankiewicz). Motion failed.

Vice Mayor Biundo made the motion to approve Resolution 2013-142; a Resolution of the Mayor and Council of the City of Surprise, Arizona, amending the Fiscal Year 2014 budget by reallocating $74,000 from Contingency to Services and Supplies for tenant improvements, utilities and furniture for the West Valley Arts Council. Council Member Hall seconded the motion. Five yes votes, two no votes (Villanueva and Alton). Motion carried.

H. Call To The Public:

Ken Wright - Thanked Council Member Alton for his service on Council and stated that he made a diligent effort to serve his constituents.

I. Other Business and Future Agenda Items:

J. Mayor/Council Reports:

Council Member Alton - Thanked Mayor and Council for their support. I appreciate the camaraderie and challenges at times. I have been participating by phone but I haven't missed a beat. I have enjoyed every moment of the last 6 years and wouldn't have done anything differently. Thanked constituents of our community and City. God Bless and Merry Christmas to all!

Council Member Williams - Thanked staff, specifically communications department, Youth Master Plan.

Council Member Villanueva - Month of November OTS meeting, good attendance, thank Mihelich and PW Director, McKinley for their efforts and presentations. Thanked Mark Coronado for the Surprise Party, wonderful event.

Council Member Mankiewicz - Last actual Council Meeting, but will be here for the December 17th Work Session. The City is in good hands, poised to take on the growth and challenges facing our City.

Vice Mayor Biundo - Hall and I had breakfast meeting with charter school leaders, good meeting; Senior Center Holiday luncheon, had a great time. Mark Coronado did program at chamber Breakfast this morning, spring training. Board and Commission surveys turned in and available in the Mayor/Council Office. My last Council meeting as well, will be here on December 17th Work Session.

Mayor Wolcott - Surprise party great event once again, special to see all of the residents coming out and celebrating, especially out in the cold. Held legislative Breakfast yesterday, very good meeting, great reception from the attendees at the state level; meeting with leadership on new legislation for this year; started this morning at Buckeye City Hall, Mayor/Managers monthly meeting, very good day for the west Valley and voted to move forward on a west valley vision.

Council Member Hall made the motion to adjourn the Regular City Council Meeting and enter into executive session at 7:00 p.m. Vice Mayor Biundo seconded the motion. Seven yes votes. Motion carried.

K. Executive Session:

#20. Discussion and consideration of employment matters, conducting performance, self evaluations and goals of appointed officials, pursuant to Ariz. Rev. Stat. §38-431.03(A)(1)

L. Adjournment:

Council Member Hall made the motion to adjourn the Regular City Council Meeting of December 10, 2013 at 10:30 p.m. Council Member Williams seconded the motion. Six yes votes. Motion carried.

____
Sharon R. Wolcott, Mayor

ATTEST:

____
Sherry Ann Aguilar, City Clerk,

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 10, 2013.**

____
Sherry Ann Aguilar, City Clerk

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

Tuesday, December 17, 2013 @ 4:30 PM

A. Call To Order

B. Roll Call

Mayor Wolcott called the **Special City Council Work Session** to order at 4:30 PM at Surprise City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on **Tuesday, December 17, 2013.** Also in attendance with Mayor Wolcott were Vice Mayor Biundo, Council Member Williams, Council Member Villanueva, Council Member Mankiewicz, and Council Member Hall.

Staff Present:	City Manager, Chris Hillman; City Attorney, Misty Leslie and City Clerk, Sherry Ann Aguilar.

C. Pledge of Allegiance

D. Special City Council Work Session Agenda:

Regular Agenda Item - Non-Public Hearing:

#1 Presentation and discussion regarding a possible future initiative called For Our City Arizona being administered within the State of Arizona - NO ACTION

Intergovernmental Relations Director, Michael Celaya introduced speaker Council Member Kevin Hartke, and Director of For Our City Arizona from City of Chandler gave an overview of the City of Chandler "For Our City Initiative".

Council Member Hall gave an overview of why this is coming before the Council this evening. He further commented that he serves on the Board.

Several other cities have joined efforts in bringing forward this program (CARE, INC. Arizona).

Council Member Hall inquired about involvement of service groups.

#2 Presentation and Discussion regarding SCI Sports and Entertainment request for Tourism funding from the special events reserve not to exceed $20,000 for the 2014 Surprise Fest to be held on Sunday, March 23, 2014 - NO ACTION

CRS Director, Mark Coronado introduced applicant, Mr. Scrutchfield to the table for the presentation. Mr. Coronado advised Council that this item was unanimously approved by the Tourism Commission. This event will have a beer and wine festival. 35-50 room nights form this event. Reviewed estimated budget.

Council Member Hall inquired about the offsets some of the costs for the tennis complex seating.

Council Member Mankiewicz inquired about the $20,000 request is for talent fees and these numbers compare.

Sawyer Brown and entertainment for the beer and hospitality garden.

Council Member Villanueva inquired about the location of the event.

Mr. Coronado explained that it would be held on the tennis courts and pavilion that is already there and that he is hoping to coordinate several events around spring training and tennis to keep people in the area.

Council Member Mankiewicz inquired about the layout.

#3 Presentation and discussion regarding options for amending Surprise City Code Chapter 18, Article II, an article regulating alarm systems within the City of Surprise, using a verified response approach when responding to alarm calls - NO ACTION

Police Chief Frazier and Attorney, Harold Brady gave an overview regarding options for amending Surprise City Code Chapter 18, Article II, an article regulating alarm systems within the City of Surprise, using a verified response approach when responding to alarm calls.

Council Member Mankiewicz inquired about the fine amount for option #2 and asked for clarification on option #1.

Mr. Brady replied that it is not set yet, but roughly $150.00 and is at Council's discretion.

Council Member Villanueva inquired about educating the community.

Council Member Hall inquired about the percentage for calls of service for false alarms.

Mr. Brady stated that approx. 8% are false alarms, estimated 4,500 alarms in the City.

Council Member Williams inquired about the timeframe for verified responses and communication with the household. He further stated that he prefers option #1.

Vice Mayor Biundo asked for clarification regarding the zone.

Public Comments:

Steve Keefer, Security Industry Alarm Coalition (SIAC). Former police officer and Chief. Sparks, Nevada went with the verified response, and it did not work in Sparks. Later, we went with the other option and had a reduction in calls by 50%. Handout given to the City Clerk.

Jim Dragoo - License and compliance for west region alarm company ADT. Handout given to the City Clerk. Read handout for the public record.

Julia Bogen - Cox Communications for Cox Home Security. Commended Council for putting together an ordinance and we are in support of a strong alarm ordinance. A model ordinance would be our preference. We support requiring permits. This will help the City keep track of how many systems are out there, and will allow you to identify who is wasting your resources.

Kevin Campbell - Multiple zones, practicality of alarms, if someone steps through, the alarm will never go off, versus a motion detector. Gave example of Tucson, alarm permitting. Escalating scale, higher fines for homes that do not have alarms. Alarm school was offered as well.

Susan Brenton - Executive Director for the Arizona Alarm Association. You should look at some midway instead of the no response ordinance. We hope you go with an alarm program that has been proven to work. Registration of all alarm users would be helpful.

Mayor Wolcott asked that Chief Frazier and Lt. Brady come back to the table to discuss further.

Council Member Hall prefers option #1 and commented that option #2 has bureaucracy for the police department.

Council Member Mankiewicz stated that he is leaning towards option #1 and stated that if it doesn't work, we can always revisit this issue.

Vice Mayor Biundo concurred with option 1 as well.

Council Member Williams prefers option #1 and stated that we have a professional Police department that did research on this issue.

Council Member Villanueva prefers option #1, but is concerned about the fine .

#4 Presentation and discussion regarding the FY2014 Budget Status Report through October 2013 - NO ACTION

Chief Financial Officer, Bob Wingenroth gave a brief overview on the FY2014 budget status report.

#5 Presentation and discussion regarding Case FS09-246, a zoning text amendment of the Surprise Unified Development Code - NO ACTION

Assistant City Manager, Jeff Mihelich gave an overview on Case FS09-246, a zoning text amendment of the Surprise Unified Development Code. Draft review starting this month.

#6 Presentation and discussion on City of Surprise current conservation and recycling efforts including water conservation and energy usage - NO ACTION

Terry Lowe of Public Works, gave an overview on City of Surprise current conservation and recycling efforts including water conservation and energy usage.

Council Member Mankiewicz asked for clarification regarding hazardous waste and diversion rate.

E. Call To The Public:

F. Executive Session:

G. Adjournment:

Mayor Wolcott adjourned the Special City Council Work Session of December 17, 2013 at 6:18 p.m.

____
Sharon R. Wolcott, Mayor

ATTEST:

____
Sherry Ann Aguilar, City Clerk

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 Special City Council Work Session of **Tuesday, December 17, 2013.**

____
Sherry Ann Aguilar, City Clerk

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

Tuesday, December 17, 2013 @ 6:37 PM

A. Call To Order

B. Roll Call

Mayor Wolcott called the **Special City Council Meeting** to order at 6:37 PM at Surprise City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on **Tuesday, December 17, 2013.** Also in attendance with Mayor Wolcott were Vice Mayor Biundo, Council Member Williams, Council Member Villanueva, Council Member Mankiewicz, and Council Member Hall.

Staff Present: City Manager, Chris Hillman; City Attorney, Misty Leslie and City Clerk, Sherry Ann Aguilar.

C. Pledge of Allegiance

Special City Council Meeting Agenda:

Regular Agenda Item - Non-Public Hearing:

#1 Consideration and action on Resolution 2013-140; a resolution approving an Intergovernmental Agreement between the City of Phoenix and the City of Surprise for assignment and assumption of deed restrictions - APPROVED

Mayor Wolcott introduced the item.

City Attorney Leslie gave a brief presentation regarding Resolution 2013-140.

Mayor Wolcott made the motion to approve Resolution 2013-140; a resolution approving an Intergovernmental Agreement between the City of Phoenix and the City of Surprise for assignment and assumption of deed restrictions. Council Member Williams seconded the motion. Six yes votes. Motion carried.

Award presented to ACM Mihelich and Community and Economic Development for all of their work on the General Plan.

Awards were presented to Vice Mayor Biundo and Council Member Alton and Mankiewicz for their service.

E. Call to the Public: None

F. Executive Session:

#2 Discussion/consultation with the City Attorney to receive legal advice; and to consider its position, and to provide instruction/direction to the City Attorney regarding Surprise's position (A.R.S. Â§38-431.03 (A)(3) & (4)) on Contract negotiations regarding limitations on development and land use on property bounded by Bell, Litchfield, Greenway and Bullard Roads.

G. Adjournment:

Council Member Hall the motion to adjourn the Special City Council Meeting of December 17, 2013 at 7:13 p.m. Council Member Mankiewicz seconded the motion. Six yes votes. Motion carried.

____

Sharon R. Wolcott, Mayor

ATTEST:

____
Sherry Ann Aguilar, City Clerk

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 Special City Council Meeting of **Tuesday, December 17, 2013.**

____
Sherry Ann Aguilar, City Clerk

Council Meeting Date:	January 14, 2014	Contact Person:	Sherry Ann Aguilar, City Clerk MMC
Submitting Department:		District:	Internal
Staff Recommendations:	None		

Consent	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on the selection of a Vice-Mayor.

Motion:

I move to select ____________________ to serve as Vice-Mayor for calendar year 2014.

Background:

Sec. 2-41. Vice Mayor; Selection and Role. (a) Eligibility. Any council member, other than the mayor, may serve as vice-mayor, whether or not the member has served as vice-mayor previously. (b) Selection. (1) Not later than January 30th of each year, the city council shall select one of its members, other than the mayor, to serve as vice-mayor. The member selected as vice-mayor will serve as such until the member resigns the office, vacates council, or is replaced by another member as vice-mayor. (2) Any council member may nominate any council member, including him/herself, to serve as the vice-mayor. All nominations must occur prior to voting. The council must vote by written ballot. The candidate receiving a majority of the votes cast will serve as vice-mayor. In the event that no candidate receives a majority of votes cast, the two candidates receiving the highest number of votes will be considered in a run-off vote. Voting must be repeated until a vice- mayor is selected. The meeting may not adjourn or recess until a vice-mayor is selected. (c) The vice-mayor will perform the duties of the mayor in the absence or inability of the mayor to perform his or her duties. In the absence or inability of the vice-mayor to perform the duties of the mayor, the most senior council member will perform the duties of mayor/vice-mayor. Seniority is determined by the then current number of consecutive years the member has served on the council.

Financial Impact Statement:

N/A

ATTACHMENTS:

Click to download

No Attachments Available

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

CITY OF SURPRISE
Regular City Council Meeting

January 14, 2014 @ 6:00:00 PM

Back Print

Council Meeting Date:	January 14, 2014	Contact Person:	Mark A. Coronado, Director - Community & Recreation Services
Submitting Department:	CRS	District:	Citywide
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Resolution #2014 - 08 authorizing the use of Tourism funds to SCI Sports and Entertainment in an amount not to exceed $20,000.

Motion:

I move to approve Resolution No. 2014 - 08.

Background:

On November 12, 2013 the Tourism Advisory Commission motioned to endorse the allocation of Tourism funds from the special event reserve in an amount not to exceed $20,000 to SCI Sports and Entertainment specifically for talent fees for the music group, Sawyer Brown. The Second Annual Country Music Festival and Classic Car Show, Surprise Fest, will be a one day event taking place on Sunday, March 23, 2014 which will be comprised of a Sawyer Brown concert, a classic car show and a beer and hospitality garden. Additionally promoter will be reimbursed after the event when city staff receive paid invoices from approved talent/music group.

Financial Impact Statement:

Funding for this budget amendment utilizes the Tourism fund contingency in the amount of $20,000. The contingency is part of the FY2014 Tourism fund budget of $475,400. This amendment does not change the total budget amount of the Tourism fund.

ATTACHMENTS:

Click to download

- SCI Sports & Entertainment Project Proposal
- Resolution 2014-08

External Attachment Links:

SCI Sports and Entertainment Project Proposal

Resolution

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Mark A. Coronado, Director - Community & Recreation Services

SURPRISE FEST 2014

PROJECT BACKGROUND INFORMATION

The origin of Surprise Fest was to develop a marquee entertainment event that would be marketed to the local (valley wide), regional and national market. The initial goal and objective was to establish an event that that had meaningful benefits to wide range of demographics, not lose any money and after the third year become self-sustaining and expand to a 2 day Festival.

We proposed for year one that Country Music and Classic Cars were a perfect blend of entertainment that would attract enough participation to pay the bills, create excitement locally that would provide enough emotional energy to keep on the three year objective.

This was established on September 29th 2012 at the Baseball Stadium where we attracted 1800 participants, more than a dozen marketing partners like, Carrabba's, Nationwide Insurance, DosEquis Beer, Wells Fargo Bank,, Arrowhead Honda, Cox Business to name a few, and most importantly Real Country Radio 96.3 as our featured promotional partner. Real Country 96.3 has vowed to make Surprise Fest their featured station event and have committed to make Surprise Fest 2014 the Marquee event that the City of Surprise desires.

Our headliner was National Country Recording Artist Tracy Lawrence and we had 100 Classic Cars provided by Nancy Perry Productions. All of the bills were paid except the Administration fees for founder/producers Fred Scrutchfield and Tim Jehn.

In cooperation with the Parks and Recreation we're partnering with them by moving the event to the Tennis Complex and plan to hold Surprise Fest 2014 (Sunday March 23rd.) the day after the National Tennis Tournament. This will enhance the visibility of the event among valley wide residents as well as Baseball visitors and be a valued lifestyle activity that will grow substantially in year two.

One of our goals this year is to include recognition of the Surprise Hotel Group by offering special Surprise Fest Room packages that include a special room rate that includes tickets to the event. We will promote this on air, in any print materials as well as on the Real Country Surprise Fest web page, Facebook and to their email club.

Our best estimates in terms of participation this year would be to more than double last year's total of 1800 to 3600 to 4000. By moving Surprise Fest to the Tennis Complex helps create a more intimate event while helping reduce as much as $16,000 in cost to the Tennis event by paying directly to them a user's fee of $16,000 that will help reduce the set up cost of the Tennis/Concert venue.

The Surprise Fest concept is good for the image and growth of the City of Surprise, the local economy and ultimately will impact the Hotel Business. These goals and objectives are dependent on Grant approval until Surprise Fest can become self-sufficient by 2016.

SURPRISE FEST 2014

PROJECT OBJECTIVE

Our goal is to develop a marquee entertainment event that would be marketed to the local (valley wide), regional and national market. Establish an event that had meaningful benefits to a wide range of demographics and after the third year become self sustaining and expand to a 2 day Festival.

SURPRISE FEST 2014

JOINT OBJECTIVE/PROJECT MANAGEMENT PLAN

In cooperation with the Parks and Recreation we are partnering with them by moving the event to the Tennis Complex and plan to hold Surprise Fest 2014 on (Sunday, March, 23rd) the day following the Tennis Championship. This will enhance the visibility of the event among valley wide residents, spring baseball visitors, tennis followers and be a valued evening lifestyle activity that will grow substantially in year two. By moving Surprise Fest to the Tennis Complex it helps create a more intimate event. Surprise Fest will pay the Parks and Recreation a $16,000 users fee which will help reduce the set up cost for the Tennis/Concert venue.

SAWYER BROWN, an acclaimed country music group, known for its lively raucous concerts and celebrating over 20 years of country music success, will be the headline act for Surprise Fest 2014. A favorite local act will open for SAWYER BROWN.

Nancy Perry Productions is confirmed to bring in over 100 Classic Cars to be displayed in the Parking Lot and specific areas leading to the (CONCERT SETTING).

A "Beer and Hospitality Garden" will be staged on the center court in front of the tennis clubhouse. Well known Scottsdale Country Music Band, THE HERNDON BROTHERS, will provide music and entertainment at the "Beer and Hospitality Garden".

Gates to Surprise Fest will open at 2pm with a separate $5 ticket available for those interested in attending only the Classic Car Display and the "Beer and Hospitality Garden".

Reserved Seats for the SAWYER BROWN concert will be priced at $25 and a limited number of COURT SEATS will be available for $40. The Surprise Fest "Dance Floor" will edge up to the front of the stage, located at the far end of the tennis court. VIP seating will be elevated on the right side of the stage and food a beverage for the VIP's will be provided by Carrabba's.

SURPRISE FEST : 2014
OPERATING BUDGET
9/25/2013

Users fee (S TENNIS COMPLEX)	16,000
Insurance	2,000
Talent	37,000
Printing & Design	5,000
Stage, sound, Header, Background	19,000
Advertising	12,000
Gifts to Talent	500
Production Fees (Scrutchfield/Jehn)	20,000
Nancy Perry Productions	1,500
Contingency	5,000
Total	**$118,000**

SURPRISE FEST : 2014
PROJECTED REVENUE

Key Sponsoı orships($10,000, 5,000, 1500)	50,000
General Adı mission tickets (2000 x $25)	50,000
VIP Seating (500 x $30)	15,000
Food & Beverage Percentage	3,000
Total	**$118,000**

SURPRISE FEST 2014

TECHINICAL APPROACH/MARKETING

(KSWG) Real Country 96.3 is the fastest growing country music radio station in the greater Phoenix market. Surprise Fest is proud and fortunate to have Real Country 96.3 as a (partner) in the production of Surprise Fest. In the first year Real Country 96.3 spent over $60,000 toward the promotion and marketing of Surprise Fest. To quote owner and General Manager Mike Barna, "Surprise Fest started a fantastic tradition, and moving the venue from the baseball stadium to the tennis complex is a brilliant idea. We look forward to being a big part of Surprise Fest 2014 and you will have our complete radio station, online and mobile support. I am looking forward to a long term tradition in Surprise." We plan on developing a comprehensive marketing plan with Real Country 96.3 to reach a Target Audience in the state of Arizona. A principle concept in Target Marketing is that those who are targeted show a strong affinity or brand loyalty to that particular brand.

We will focus on social media using facebook, twitter and other popular methods being used successfully today. We will use the Real Country 96.3 facebook page, the Herndon Brother facebook and SAWYER BROWN facebook pages as well as an email blitz to the SAWYER BROWN LOYAL FAN list within a 200 mile radius of the greater Phoenix market.

Conversations are being held with Aimee Jolly, Marketing Development Director, Arizona Republic, regarding a (partnership) which would include all media outlets of the Republic. Lorraine Pino, Glendale Conventions and Visitors is a marketing partner and will do Surprise Fest promotions on the Glendale web site, direct mail, email blast and press releases.

Additional marketing partners and programs will be added as time progresses.

SLURPRISE FEST 2014

Overnight Rooms and Economic Impact

For the City of Surprise

Our best estimate in terms of participation in 2014 would be more than double of the last event total of 1800. The goal is to draw 2500/3000 to the Sawyer Brown Concert. We anticipate 1000/1500 to attend the afternoon activities at the "Beer and Hospitality Garden" and the Classic Car Display.

We intend to market Surprise Fest to the Tennis Championship attendees and fans attending Spring Baseball games. Depending on who is playing Saturday and Sunday at Surprise stadium, we will design an "extra night" hotel stay package to attract them to Surprise Fest.

We intend to recognize the Surprise Hotel Association and make 100 tickets available at a discounted price or complimentary for them to add to a Saturday and Sunday night or Sunday night hotel package.

Real Country 96.3 Radio will promote hotel packages on their web site and offer special promotions. We anticipate a good number of Baseball visitors and Tennis fans to have interest. Projected room nights are 35/50 this year.

SURPRISE FESST 2014

FUNDING REQUEST

The Surprise Fest concept is good for the image and growth of the City of Surprise, the local economy and ultimately will impact the Hotel Business. These goals and objectives are dependent on Grant approval until Surprise Fest can become self sufficient by 2016.

Surprise Fest is requesting third party event partnership and Grant funding for the amount of $30,000. The $30,000 will be used for:

- Talent Deposits and Fees
- Users Fee for Tennis Complex
- Stage, Sound, Lights

Thank you for your consideration and interest in Surprise Fest.

REAL COUNTRY 96.3

SURPRISE FEST 2014

FRED SCRUTCHFIELD

BIO

Fred Scrutchfield is considered by many as one of the most innovative and creative sports and music 'Special Event' producers in the country today. Fred has had a love affair with 'Special Events' for over 30 years. Since his collegiate days at the University of Oklahoma, his concept of mixing business with pleasure is a recipe that has developed thousands of relationships and added millions of dollars to the bottom line of deserving charities.

Fred, a Corte Bella resident, is a high energy, self motivated business leader that has developed and produced over thirty (30) major sports and music events across the country. He has worked closely with Nashville stars **Vince Gill, Toby Keith, Mark Wills, John Michael Montgomery, Trick Pony**, **Diamond Rio**, **Clint Black** and Rock & Roll Hall of Famer, **Steve Cropper** in the development and production of their fund raising events. Fred developed and produced "The Celebrity" in Scottsdale, AZ, hosted by John Michael Montgomery and Phil Michelson for Grayhawk Golf Club and Michal & Buddy Owens at KNIX Radio, "The DeTour", a golf and music event, hosted by Toby Keith at Grayhawk Golf Club with KMLE Radio in Scottsdale and "The First Pitch", a Celebrity Softball Game, hosted by Trick Pony, a fund raiser for the Scottsdale Charrors.

REAL COUNTRY 96.3

SURPRISE FEST 2014

Tim Jehn

BIO

Tim Jehn is originally from Detroit, Michigan with an A. A., B. A. degree from Michigan Lutheran College. Tim has vast experience in Fund Raising, Event Media Planning and Production. While in Detroit, over a 15 year period, Tim served as Event Producer for the March of Dimes, MS Society, American Lung Association and MDA. He was also an Independent Event Coordinator for Chrysler Plymouth, Pontiac, 7 Eleven Stores and Ford Motor Company. Tim was a consultant for leading Advertising Agencies, BBD&O, Campbell Ewald, Ross Roy, J Walter Thompson, Maritz Communications and WB Doner.

Since coming to Arizona, Tim has made his home at Coyote Lakes, in Surprise, AZ. He has been a very successful Production and Media Planner for multiple casinos including Ft. McDowell, Gila River, Golden Eagle, Sac & Fox in Kansas and Cimarron in Oklahoma.
Since 1994 Tim has been a partner with James Holm at Primary Music Video. They have produced more than 100 original jingles, videos and television commercials in the greater Phoenix market.

RESOLUTION # 2014-08

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AUTHORIZING THE USE OF TOURISM FUNDS FOR TALENT EXPENDITURES IN SCI SPORTS AND ENTERTAINMENT'S SURPRISE FEST 2014 AND AMENDING THE FISCAL YEAR 2014 BUDGET BY REALLOCATING APPROPRIATIONS OF $20,000 FROM CONTINGENCY TO SERVICES IN THE TOURISM FUND.

WHEREAS, on January 28, 2010, Ordinance 2010-04 was adopted increasing the tax on any hotel engaging in or continuing within the city in the business of charging for lodging and/or lodging space furnished to any transient to 2.52% of gross income;

WHEREAS, the Mayor and Council restricted the use of 1.52% of the tax to the promotion of tourism in the City of Surprise;

WHEREAS, on November 12, 2013, the Tourism Advisory Board unanimously voted to recommend to Council the approval of the allocation of tourism funds in an amount not to exceed $20,000 for talent expenses to SCI Sports and Entertainment for Surprise Fest 2014;

WHEREAS, the City of Surprise wishes to authorize the use of $20,000 of the tourism funds for the booking of talent for Surprise Fest 2014;

WHEREAS, the FY2014 budget was adopted by Council Resolution #2013-13 on June 18, 2013;

WHEREAS, this action will necessitate a budget amendment; and

WHEREAS, City of Surprise Administrative Policies require the approval of the Mayor and Council for budget amendments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the City 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, 2013 through June 30, 2014.

[SIGNATURES ON FOLLOWING PAGE]

APPROVED AND ADOPTED this _____day of ___________, 2013.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

RESOLUTION # 2014-08
Exhibit A

The FY2014 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 spending authority. Additionally, these reallocations do not increase or decrease the total budget.

Tourism Fund	Current Appropriation	Increase (Decrease)	Amended Appropriation
Services	$31,000	$20,000	$51,0000
Contingency	475,400	(20,000)	455,4000
	$506,400	$0	$506,4000

The fund changes are as follows:

- Tourism Fund - the amendment utilizes tourism contingency in the amount of $20,000 to be used for a talent expenditure funding request from SCI Sports and Entertainment for Surprise Fest 2014. Contingency is programed for unplanned expenses without exceeding the approved total annual budget for FY2014.

Council Meeting Date:	January 14, 2014	Contact Person:	Michael T. Frazier, Chief of Police
Submitting Department:	Police	District:	Citywide
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Ordinance #2014-02, amending Surprise City Code Chapter 18, Article II, an article regulating alarm systems within the City of Surprise.

Motion:

I hereby move to approve Ordinance Number 14-02.

Background:

The Surprise Police Department has responded to an average of 4,000 false alarm calls for each of the last 7 years. During that time period, about 1 out of 1,000 calls results in the officer finding evidence of criminal activity. At the direction of this Council, the Police Department researched the various options available and obtained public input about the various approaches for dealing with false alarms. At the Oct. 15, 2013 and Dec. 17, 2013 Work Sessions, Council directed the Police Department to pursue a verified response approach to dealing with false alarms. Verified response is an approach whereby the police department only responds to alarms upon receiving alarm company verification of criminal activity through either audio or video surveillance, a person on-scene, or an alarm system having two zones activated. The accompanying Ordinance is a result of this process and reflects the Council's direction.

Financial Impact Statement:

The impact upon the budget should be revenue neutral. Refusing to respond to the premises generating 2 or more unverified alarms is the enforcement mechanism chosen in this ordinance and the approach should be revenue neutral utilizing current City resources for implementation and administration.

ATTACHMENTS:

Click to download

Ordinance 2014-02 False Alarms

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Michael T. Frazier, Police Chief
Lt. Harold Brady, Asst. City Attorney

ORDINANCE #14-02

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING CHAPTER 18, ARTICLE II OF THE SURPRISE CITY CODE, FALSE ALARMS FROM ALARM SYSTEMS.

WHEREAS, the Police Department receives approximately 4,000 false alarm calls a year;

WHEREAS, a disproportionately large number of those alarm calls are the result of human error, inadvertence or mistake and not the result of criminal activity or emergency ("false alarms");

WHEREAS, alarms constitute approximately 8% of the total calls for service received by the Police Department;

WHEREAS, the response to false alarms results in a significant allocation of police department resources diverting them from other crime-fighting efforts such as patrolling neighborhoods, responding to calls for service; or investigating and solving crimes;

WHEREAS the response to false alarms results in safety risks to responding officers and the public;

WHEREAS, verification of burglary alarms by the Alarm Company Operators and non-monitored Alarm Owners provides additional indicia that the alarm indicates an actual or attempted burglary or other emergency is occurring at the alarmed premises; and

WHEREAS, requiring verification of possible criminal activity prior to calling for a police department response will greatly reduce the number of false alarms and free up police department resources to deployed to other law enforcement activities,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Surprise, as follows:

Section 1. Chapter 18, Article II, False Alarms from Alarm Systems, of the Surprise Municipal Code is hereby amended as set forth in Attachment A, incorporated herein by reference.

Section 2. This ordinance shall be effective from and after April 30, 2014.

PASSED AND ADOPTED this _____ day of _____________, 2014.

Sharon R. Wolcott, Mayor

ATTEST:

APPROVED AS TO FORM:

Sherry A. Aguilar, City Clerk

Misty Leslie, City Attorney

ORDINANCE #14-02
Attachment A

Article II False Alarms from Alarm Systems

Sec. 18-19. **Definitions.** 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:

Alarm means a Burglary Alarm, an Intrusion Alarm or a Property Alarm.

Alarm System or Alarm Device means any system, device or mechanism which when activated transmits a telephonic wireless electronic video or other form of message to an Alarm Company Operator or some other number or emits an audible or visible signal that can be heard or seen by persons outside the Protected Premises or transmits a signal beyond the Premises in some other fashion except any system device or mechanism primarily protecting a motor vehicle or a medical alert alarm. An Alarm System or Alarm Device may consist of one or more components (e.g., motion detector, window breach detector, or similar components all reporting to a central unit/system panel which, in turn, is connected to or reports to an Alarm Company Operator via telephonic wireless electronic video or other form of message. Non-monitored Alarm Systems are also included in this definition.

Alarm System Monitoring Company or Alarm Company Operator means any person, individual, partnership, corporation, or other form of association that engages in business of monitoring intrusion, property, burglary, robbery, panic alarms, or other "alarm systems" located in the City of Surprise. This includes alarm system monitoring companies and alarm system operators that are located outside the city limits of Surprise and which monitor alarm installed within the city limits of Surprise.

Alarm User means the person occupying and/or using premises on which there is a alarm system.

Burglary Alarm has the same meaning as "Property Alarm" below.

Chief or Chief of Police means the Chief of the Surprise Police Department or his or her Designee.

False alarm means the reporting of the activation of any monitored or non-monitored alarm system to the Surprise Police Department which results in an officer response when the responding police personnel find no evidence of a criminal offense or other emergency after having completed a timely investigation of the alarm site. When responding police personnel find unsecured doors or windows where there is no evidence of forced entry or other evidence of criminal intent, the alarm is presumed to be false.

Intrusion Alarm has the same meaning as "Property Alarm"

Monitored Alarm System means any system device or mechanism which when activated transmits a telephonic, wireless, electronic, video, or other form of message or communication to a private monitoring company, other number, or person who can then notify police that an alarm has been activated. This includes all systems, which transmit telephonic, wireless, electronic, video, or other form of message from an alarm installed within the city limits of Surprise to any location outside of Surprise (e.g., an alarm monitoring center located in a state other than Arizona). All alarms that are monitored except are included within the definition of "Monitored Alarm System"; e.g., any monitored Burglary, Intrusion, Panic, Premises, Property, Robbery, or other type of Alarm Device.

Non-monitored alarm owner means the person who owns or occupies premises protected partially or fully by a non-monitored alarm system.

Non-monitored Alarm System means any Alarm System which is not monitored by an Alarm Company Operator.

Panic Alarm has the same meaning as "Robbery Alarm".

Person means any individual, partnership, corporation, trust, incorporated or unincorporated entity, or other entity or group of persons but excludes the United States, the state of Arizona and any political subdivision or municipal corporation thereof.

Police Department, Department, or Police means the Surprise Police Department and includes other law enforcement agencies assisting the Surprise Police Department.

Premises or Protected Premises means any area and any portion of any area protected by an Alarm System.

Prohibited Call means a call to Police dispatch by an Alarm Company Operator employee or agent requesting Police response to a Property Alarm Intrusion Alarm or Burglary Alarm activation that is not verified whether canceled after the initial call or not.

Property Alarm, Intrusion Alarm, and Burglary Alarm mean any system, device or mechanism for detection and reporting of any unauthorized entry or attempted entry or property damage upon real property protected by the system which may be activated by sensors and when activated transmits a telephonic, wireless, electronic, video, or other form of message or emits an audible or visible signal that can be heard or seen by persons outside the Protected Premises or transmits a signal beyond the Protected Premises. For purposes of this ordinance, alarms on Automatic Teller Machines (ATMs) are included in this definition.

Responder means a private guard, alarm company guard, private entity or person contacted by an Alarm Company Operator or any other person who verifies that there is evidence of intrusion, commission of an unlawful act, or emergency on the premises that would warrant a call for Police assistance or investigation for a Property, Intrusion, or Burglary Alarm. Responders for Alarm Company Operators and/or their subscribers requesting Police response will notify the Police dispatcher what Alarm Company Operator requested them to respond. Responders will meet Police at the Premises, unless the Responder verified the burglary alarm by other than at-the-site verification.

Robbery Alarm and Panic Alarm mean any system, device, or mechanism manually activated by an individual on or near the Premises, to alert others that a robbery or any other crime is in progress, or that the user is in need of immediate assistance or aid in order to avoid injury or serious bodily harm, which meets the following criteria:

1) The system is installed on real property (the "Protected Premises")
2) It is designed to be manually activated by an individual for the purpose of summoning assistance to the Premises,
3) It transmits a telephonic, wireless, electronic, video, or other form of message or emits an audible, visible, or electronic signal that can be heard, seen, or received by persons outside the Protected Premises.

Verified Alarm means an alarm which a Responder has verified that a crime, attempted crime, or other emergency occurring at the Premises protected by the alarm is occurring or about to occur. Verification may be by;

1) At-the-site verification which is on-site human verification of a crime or problem by a Responder;
2) through the use of a remote audio or video system monitored by an Alarm Company Operator;
3) Multi- zone activation when there has been alarm activation in two or more separate monitoring zones within five (5) minutes of each other and the alarm system operator has been unsuccessful in at least one telephone call attempt to contact the premises, the owner, or the owner's representative;
4) Multi- zone activation when there has been alarm activation in two or more separate monitoring zones within five (5) minutes of each other and the alarm system operator has contacted the owner or the owner's representative who confirms that no one should be at or inside of the premises; and
5) any other form of verification as may from time to time be adopted as Policy by the Police Department and published on its website

Unverified alarm has the same meaning as "false alarm".

Sec. 18-20. Applicability.

This article is intended to reduce false alarms calls and place responsibilities upon alarm users It is further intended to encourage the improvement in reliability of alarm systems and provider services to insure that Police Department personnel will not be unduly diverted from responding to other activities in order to respond to false alarm calls. This article specifically encompasses burglary, robbery and commercial panic alarms. The provisions of this article do not apply to audible alarms affixed to motor vehicles, audible fire alarms, medical alert devices, robbery alarms, residential panic alarms, or alarm systems that are operated by the City, County, State or Federal Government where those systems are installed on premises which such government entity occupies and uses for governmental purposes.

Sec. 18-21. Certain Devices, Systems, Uses Prohibited

(a) No person shall operate or use an Alarm System that emits an audible sound where such emission does not automatically cease within ten minutes.
(b) No person shall operate or use an Alarm System which automatically dials the Surprise Police Department directly and delivers a prerecorded message.

Sec. 18-22. Verified Response Required

(a) The Police Department will not respond to Property Alarms, Intrusion Alarms, or Burglary Alarms unless they are Verified Alarms as defined by this Article. In reporting such an alarm to the Police Department, an Alarm Company Operator or non-monitored Alarm Owner must confirm that the alarm is a Verified Alarm. In the first instance it shall be presumed that an Alarm Company Operator or non-monitored Alarm Owner who reports an alarm as a Verified Alarm has actually verified that alarm. Even if an alarm is verified, exigent circumstances may arise that prevent the Police Department from responding to verified alarm activations due to the availability of resources. The Police Department is under no legal duty or obligation whatsoever to respond to any Property Alarm, Intrusion Alarm, or Burglary Alarm activation and may respond in its discretion as police resources allow and as Police Department supervision and management deem appropriate.

(b) An Alarm Company Operator or non-monitored Alarm Owner who reports a Verified Burglary Alarm to the Police Department is required to maintain the evidence it used to verify that the Burglary Alarm activation, or a written report thereof, for not less than 12 months from the date of the alarm activation; except, as to recordings of remote audio or video surveillance, which must be maintained for not less than sixty days. Because the Police Department will accept the Alarm Company Operator or non-monitored Alarm Owner representation in the first instance that it verified the alarm before reporting it to the Police Department as a Verified Alarm, the Police Department shall have the right to audit the Alarm Company Operator or non-monitored Alarm Owner to ensure that the Alarm Company Operator or non-monitored Alarm Owner is not misrepresenting that fact to the Police Department. If the Police Department has reasonable cause to believe that an Alarm Company Operator or non-monitored Alarm Owner has misrepresented an alarm to be a

Verified Burglary Alarm, it may send the Alarm Company Operator or non-monitored Alarm Owner written notice of the date and time of the reported Verified Burglary Alarm and request the Alarm Company Operator or non-monitored Alarm Owner produce to the Police Department the evidence and/or report substantiating the verification of that burglary alarm activation. The Alarm Company Operator or non-monitored Alarm Owner shall produce the requested items to the Police Department within 14 days of the mailing of notice. Should the Alarm Company Operator or non-monitored Alarm Owner fail to maintain the evidence and/or report for the specified period of time or fail to produce the requested items to the Police Department, the Alarm Company Operator or non-monitored Alarm Owner will not be entitled to the presumption set forth in Section 18-22(A) and the alarm shall be presumed to be an unverified alarm. Should the Alarm Company Operator or non-monitored Alarm Owner intentionally destroy, fail to maintain for the time period specified above, or discard the evidence and/or report or intentionally fail to produce the requested items to the Police Department that have been maintained and do exist, then and in that event the Alarm Company Operator or non-monitored Alarm Owner shall be presumed to have made a call that was not verified and the alarm shall be presumed to be an unverified alarm. Such presumption may be overcome by the Alarm Company Operator or non-monitored Alarm Owner producing evidence that in requesting a police response to the burglary alarm in issue it did not know that the alarm was not verified.

(c) When notifying the Police Department of an alarm, the Alarm Company Operator or non-monitored Alarm Owner shall state:

(1) Caller's name;
(2) the name of his Alarm System Monitoring Company and the State of Arizona alarm license number, if applicable;
(3) the name of his non-monitored Alarm Owner, if applicable;
(4) the exact address from which the alarm originated;
(5) the name and type of establishment;
(6) the precise location of the alarm activations or where criminal activity has been heard or observed; and,
(7) the type of alarm, such as silent burglary or audible burglary alarm.

Sec. 18-23. Violations

(a) It shall be unlawful for a person shall make a request for service with the Department for response to a burglary alarm prior to verification.
(b) It shall be unlawful for an Alarm Company Operator to cause a request for service with the Department for response to a burglary alarm based upon two zone

activation until such time as the Operator has made at least one telephone call in an attempt to verify the need for service.

(c) It shall be unlawful for a non-monitored Alarm Owner to cause a request for service with the Department for response to a burglary alarm based upon two zone activation until such time as the Owner or the Owner's agent has made a telephone call to the premises in an attempt to verify the need for police response.

(d) It shall be unlawful for a person to provide false information which causes the Department to dispatch officers to the location of an alarm system.

(e) It shall be unlawful for an Alarm Company Operator or a non-monitored Alarm Owner requesting a Police Response to a burglary alarm to fail to give all of the following information:

(1) Caller's name;
(2) name of Alarm Company Operator and State of Arizona alarm license number, if applicable;
(3) name of the non-monitored Alarm Owner, if applicable;
(4) exact address from which the alarm originated;
(5) the name and type of establishment;
(6) the precise location of the alarm activations or where criminal activity has been heard or observed; and,
(7) the type of alarm, such as silent robbery, silent burglary, or ringer-type alarm.

18-24. Non-response to Locations With Two or More Unverified Alarms

(a) After the Department has received an unverified alarm from premises, the Department shall notify the Alarm User and the Alarm Monitoring Company, for monitored alarm systems, that the alarm occurred and the Department believes it is unverified. The notice shall inform the recipients of the sanctions provided in this section and that a recipient may, but are not required to, provide proof to the Department the alarm was verified.

(b) After the Department has received two unverified alarms for the same premises within any 365 day period, the Department shall notify the Alarm User and Alarm Monitoring Company, for monitored alarm systems, that the police department will cease responding to alarm calls 20 business days after the postmarked date on the notice. The notice shall also state that such action will not occur if the Department receives proof as specified in Section 18-24(D).

(c) If no proof specified in Section 18-24(D) is received back within 20 days from the postmarked date on the notice, the Department will no longer respond to burglary alarms at the premises.

(d) The Department will continue to respond, or will resume responding, to burglary alarms at the premises upon receiving the proof specified in this subsection D. Appropriate proof shall be either:

 (1) one or more of the alarms was a verified alarm. Upon receipt of such proof, police response will continue (or resume, if the information was received more than 20 business days after the postmarked date on the notice) if the premises then has no more than one unverified alarm within a 365 day period; or,

 (2) the Alarm Company Operator, the alarm user, or the Non-monitored alarm owner have made repairs or changes to operation which ensure that only verified alarms will be reported in the future. Upon receipt of such proof, police response will then continue (or resume, if the information was received more than 20 business days after the postmarked date on the notice). If the premises has an unverified alarm within the next 365 days, the Department shall notify the Alarm User and Alarm Monitoring Company, for monitored alarm systems, that the police department will cease responding to alarm calls for a period of 180 days from 20 business days after the postmarked date on the notice. The notice shall also state that such action will not occur if the Department receives proof that the alarm was verified. The Department will cease responding to the premises for one year (365 days) if such proof is not received within 20 business days of the postmarked date on the notice. Such year (365 days) of non-response will begin on the 21st business day from the date postmarked on the notice.

(e) Any notice required by this Article to be mailed shall be sent by ordinary mail addressed to the address as reflected in the records of the Police Department. Failure to receive such notice shall not stop, terminate or reverse the Department's non-response to the premises. It is the responsibility of the Alarm Company Operator, alarm user and/or Non-monitored alarm owner to inform the Police Department in writing about:

 (1) a correct address,

 (2) a change in address, and

 (3) an address where notice to the premises should be sent if the address is other than the address of the premises.

(f) If the title to premises is transferred, the new owner may provide the Department with evidence of the completed property transfer. Upon receipt of that evidence, for purposes of this section 18-25, the previous owner's alarm history shall not carryover or be imputed to the new owner. Specifically, if the Department has not been responding to the premises pursuant to sub-section C of this section, it will resume responding.

Sec. 18-25. Police Department delegation of duties.

Except as otherwise provided in this section, the chief of police is authorized to delegate to the alarm administrator, or to any other authorized designee, all duties of the police department as set forth in this article. Except as specifically set forth herein, the chief of police may not delegate any duty specifically reserved to law enforcement.

Sec. 18-26. Scope of Surprise police department Duty; Immunities Preserved.

Any and all liability and consequential damage resulting from the failure of the Surprise police department to respond to an alarm dispatch request is hereby disclaimed and full governmental immunity as provided by law is retained.

Sec. 18-27. Confidentiality.

The information furnished by an alarm user to the alarm administrator pursuant to this Article shall be confidential and shall not be open to public inspection.

Council Meeting Date:	January 14, 2014	Contact Person:	Dick McKinley, Public Works
Submitting Department:	Public Works	District:	Citywide
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	Report/Discussion

Agenda Wording:

Consideration and action on Resolution #2014-03 amending the FY14 budget in the amount of $39,700 to establish same day trash and recycle collection.

Motion:

I move to approve Resolution #2014-03.

Background:

City Council first discussed same day collection during a February 2013 work session. A follow up work session was held October 1, 2013. Council and Senior Management have indicated a desire to explore same day collection with the goal of improving customer service by simplifying collection schedules.

Attached is a memo outlining the action plan to implement same day service by May 5, 2014, in order to properly promote and accomplish this shift in service Solid Waste is requesting a transfer from Contingency funds to accomplish all of the public outreach associated with the change in service.

Financial Impact Statement:

This item was not programmed in the FY2014 operating budget for Solid Waste. Resolution #2014-03 will be authorizing the Chief Financial Officer to execute a budget amendment and move the requested $39,700 from Solid Waste contingency to the Solid Waste operations budget in order to conduct the necessary public outreach associated with this item.

ATTACHMENTS:

Click to download

- Solid Waste Rerouting Memo
- 2014-03 Resolution

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Dick McKinley
Mike Gent

Public Works Department

Memorandum

To: Dick McKinley, Public Works Director

From: Mike Gent, Assistant Director - Operations
Charles Ramer, Interim Manager

Date: January 8, 2014

RE: **Rerouting, Same Day Collection, and Collection Schedule Adjustments**

Background

The last residential trash/recycle collection reroute of the city occurred in February 2008. Entitled "*Smart Routes for Smart Growth,*" the new routes allowed for future development and improved collection efficiencies enabling this schedule to be maintained for the past six years.

Rerouting is now necessary to balance the collection days and routes. This will account for the 2,755 households added to the service area over the past five years as well as for the projected growth patterns over the next five years. The new routing combined with other service changes being considered are designed to provide customers an even higher level of service and consistency over the next five or more years.

Rerouting provides an appropriate time to consider and/or incorporate various collection schedule changes including "same day" collection of trash and recycling, regular collection day changes, and holiday collection adjustments. The original Smart Route program paired trash and recycling routes on different days, either a Monday/Thursday schedule or a Tuesday/Friday (M, T, Th, F) schedule. This pairing kept the City in compliance with the Maricopa County Health Code which required twice-per-week trash collection. This compliance requirement no longer exists.

Same Day Collection

City Council first discussed same day collection during a February 2013 work session. A follow up work session was held October 1, 2013. Council and Senior Management have indicated a desire to explore same day collection with the goal of improving customer service by simplifying collection schedules.

Note: The following cities in the region provide same day collection: Prescott, Tucson, Glendale, El Mirage, Florence, Fountain Hills, Goodyear, Queen Creek, and Phoenix.

Collection Day Alternatives

Two primary alternatives to the existing M, T, Th, F schedule are: Monday – Thursday (M-Th), or Tuesday – Friday (T-F) collection.

Holiday Collection

An important consideration when establishing a collection schedule is the effect of holidays. When a customer's regular collection day falls on a holiday or any day after the holiday during that week, collection occurs one day late, which currently includes Saturday collection when necessary. For example, Thanksgiving is on Thursday, so Thursday customers have collection on Friday, and Friday customers have collection on Saturday. All other collection days remain on their regular schedule.

Phoenix, Scottsdale, Mesa, Tempe, Chandler, and Buckeye all have collection on at least some holidays, with two of these never bumping collections for any holiday. The other four cities bump collection for "major" holidays only (i.e. New Years, Thanksgiving, and Christmas), to minimize schedule changes and provide consistency to customers.

Under our current collection schedule and treatment of holidays, a customer's collection may be bumped as many as 9 times in a year. This would remain unchanged in a M-Th collection schedule, however a T-F schedule would minimize these bump days to no more than 4 times in a year for any customer since many holidays are celebrated on Mondays. Scheduling staff to work on all holidays except New Years Day, Thanksgiving, and Christmas would minimize the number of bumped collection days, but would increase overtime costs by about $16,000 per year. However, some of those costs may be recovered through reduced communication costs and fewer late set outs/missed pick-ups.

Advantages/Disadvantages

Customers are accustomed to the current M, T, Th, F collections days, and having a mid-week break has been described by some collection drivers as providing a safety benefit or respite from fatigue.

The M-Th schedule is consistent with other City services simplifying City communications and is preferred by a majority of solid waste drivers. This schedule does not require residential collection on Saturdays, removing what is described by many drivers as a rushed collection day due to limited service hours at the landfill. Saturday collection is also problematic for many customers with a high incidence of late set outs and missed pick-ups.

The T-F schedule continues to require staff to work Saturdays on holiday weeks and continues the scheduling inconsistency with other City services (i.e. HR, training opportunities, etc.).

Working on holidays may cause confusion over the schedule for customers, and be unpopular with citizens who believe certain holidays should always be observed such as Memorial Day, Independence Day, and Veterans Day. Standardizing holiday delays – for all holidays – has been a relatively easy and consistent program to manage and communicate. Solid waste collection drivers are split on their desire to work on holidays with many wanting the additional compensation and keeping their regularly scheduled day off, while others wish to continue to spend holidays with their families as they now do.

Staffing

Rerouting creates the need for an additional driver position in FY2015, to minimize the need for additional routing changes while still accommodating future growth primarily in the southeast, southwest, and northwest portions of the city. Existing staff can be temporarily reassigned to meet operational needs until the new position is filled.

Staff Recommendation

The combination of rerouting options that meets the Council/City Manager goal of improving level of service while also providing as much consistency as possible and incorporating the feedback from collection drivers is to adopt same day collection, utilize a Monday through Thursday collection schedule, and observe the same holidays that City Hall is closed.

Potential Education and Outreach

- City Website – continuous updates and reminders
- Newspaper advertisements – continuous updates and reminders
- Channel 11/Facebook/Twitter/Group IMs- continuous updates and reminders
- Surprise Progress Magazine advertisement and insert
- HOA outreach, HOA events, and HOA email blasts
- Collection truck placards – starting two months before change
- Additional Customer Service Phone Reps
- Door to door delivery of educational information one month before the change
- Hanger tags placed on all cans two weeks before the schedule change
- After the start of the program – hanger tags placed on all improperly placed cans.
- Implement ReCollect, a web and mobile application that serves three main purposes:
    - § Search & Remind: Residents use a simple, friendly web or mobile interface to search for their garbage collection schedule. They can also sign up for weekly reminders via text message, email, Twitter, or phone call.
    - § Engage: Local governments can customize residents' reminders by embedding additional information about service changes or other public announcements.
    - § Support: ReCollect reduces costs by triaging support requests, dealing with those related to searches, and passing along only those that require the city's attention.

A program budget of $39,700 would be anticipated for these strategies:

$5,000	Educational information and placard printing
$7,300	Door to door delivery of education materials
$7,300	Hanger Tags – pre startup
$2,100	Hanger Tags – post startup
$18,000	Driver overtime for callbacks and additional Call Center coverage

The division did not budget for this program expense in FY 14 and does not have discretionary FY14 budget. Funds will need to be transferred through Council action from Solid Waste contingency funds.

Potential Timeline

December 2013	Rerouting Analysis and Route Design • New house counts • Analysis of existing route times • Route design
January 2014	Presentation to City Council
February 2014	Outreach to HOA's with potential operational issues: • Marley Park • Coyote Lakes • OTS - Johnson Townhomes • Sierra Montana • Surprise Farms • Sierra Verde • Canyon Ridge
April 2014	Intense Promotion begins
April 21st	Additional Customer Service Call Reps for 6 week period
Monday, May 5th	**Go Live**
Ongoing	Compliance inspection and house to house follow up
September 2014	Progress Report to Council and Senior Management

RESOLUTION # 2014-03

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2014 BUDGET BY REALLOCATING APPROPRIATIONS OF $39,700 FROM CONTINGENCY TO SALARIES AND SERVICES IN THE SANITATION OPERATIONS FUND TO ESTABLISH SAME DAY TRASH/RECYCLE COLLECTION

WHEREAS, the City of Surprise wishes to establish same day collection service for trash and recyclables;

WHEREAS, the Public Works Department has presented alternatives to Council for Same Day Trash/Recycle Collection;

WHEREAS, the Public Works Department has estimated the cost to transition to Same Day Trash/Recycle Collection at $39,700, and;

WHEREAS, the FY2014 budget was adopted by Council Resolution #2013-13 on June 18, 2013;

WHEREAS, this action will necessitate a budget adjustment; and

WHEREAS, City of Surprise Administrative Policy requires the approval of the Mayor and Council for budget adjustments of this nature.

NOW, THEREFORE, BE IT RESOLVED by the City 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, 2013 through June 30, 2014.

[SIGNATURES ON FOLLOWING PAGE]

APPROVED AND ADOPTED this _____day of ____________, 2014.

____
Sharon R, Wolcott, Mayor

Attest: Approved as to form:

_________________ _______________________
Sherry Aguilar, City Clerk Misty Leslie, City Attorney

RESOLUTION # 2014-03
Exhibit A

The FY2014 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 spending authority. Additionally, these reallocations do not increase or decrease the total budget.

Sanitation Operations Fund	Current Appropriation	Increase (Decrease)	Amended Appropriation
Transfers Out	$1,919,000	$0	$1,919,000
Salaries	2,099,800	18,000	2,117,800
Supplies	893,900	0	893,900
Services	1,524,000	21,700	1,545,700
Capital	1,640,000	0	1,640,000
Contingency	753,000	(39,700)	713,300
	$8,829,700	$0	$8,829,700

The fund changes are as follows:

- Sanitation Operations Fund - the amendment utilizes sanitation operations fund contingency in the amount of $39,700 for transitioning to same day trash/recycle collection. Contingency is programed for unplanned expenses without exceeding the approved total annual budget for FY2014.

Council Meeting Date:	January 14, 2014	Contact Person:	Jeff Mihelich, Community & Economic Development
Submitting Department:	CD	District:	1
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	x	Report/Discussion

Agenda Wording:

Consideration and action on Resolution #2014-09, approving a minor General Plan Map Amendment to change the General Plan Land Use designation for FS13-416, entitled "Grand Vista", an approximately 5,500 gross acres property generally bounded by Dove Valley, 211th Avenue, Black Mountain Road, and 183rd Avenue.

Motion:

I move to approve Resolution 2014-09.

Background:

The proposed land use change affects 375 acres of the project site, and the overall result is a decrease in land use intensity for the development.

Financial Impact Statement:

All activity related to ongoing development of the City of Surprise has an economic and fiscal impact on the city and the region.

ATTACHMENTS:

Click to download

- Staff Report
- Vicinity Map
- Existing Land Use Map
- Proposed Land Use Map
- Proposed Changes - Table
- Citizen Participation Report
- Resolution 2014-09 w Exhibit A

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

Presentation Speaker Names (spelling and titles for TV captions):

Nikki Arbeiter, Planner, Community & Economic Development

SURPRISE
ARIZONA

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

Date: January 14, 2014

To: Mayor and City Council

From: Jeffrey J. Mihelich, Assistant City Manager
Nichole Arbeiter
nichole.arbeiter@surpriseaz.gov, 623-222-3137

Re: **FS13-416, Minor Amendment to the General Plan Land Use Map**

Application Summary

The owners of the Grand Vista development project are seeking a Minor General Plan amendment to alter the land uses for the development.

Location

The project site is located at 211th Avenue and Dove Valley Road in SPA 4, on the 5,485 acres of land otherwise known as the Daimler Chrysler Proving Grounds.

History

- On December 1, 2005 a Major General Plan Amendment was approved which changed the land use designations on this site from airport preservation, rural residential and proving grounds to a mixture of employment, commercial, and residential uses ranging from suburban residential up to high density.
- On September 13, 2007 the City Council approved a Minor General Plan Map Amendment to refine the land use location and quantities as well as changing the proposed site access.
- On May 8, 2008 the City Council approved the annexation of the Grand Vista Development with its associated PAD zoning document and Development Agreement.
- On December 5, 2013 the Planning and Zoning Commission recommended approval of this request for a Minor Amendment to the General Plan Land Use Map.

Project Summary

The proposed land use change affects 375 acres of the project site, and the overall result is a decrease in land use intensity for the development. A detailed breakdown of the changes in land uses by acreage is attached. For non-residential land uses the primary changes include converting a private golf course into 169 acres of public open space, eliminating 163 acres of mixed-use to help create an open space central core, and reducing the amount of Employment by 23 acres.

The applicant is proposing to reconfigure some of the residential land uses based on market conditions including reducing the number of single family dwelling units by 350, and decreasing the number of multi-family dwelling units by 175. The total number of residential acres affected is 18 acres, with the overall residential density decreasing. The proposed overall difference in acres combined with residential and non-residential uses is 0.4 acres.

As a part of this request the applicant is also proposing a realignment of 203rd Avenue. The applicant has been working with the Maricopa County Department of Transportation (MCDOT) to ensure their proposed alignment is acceptable to them. Once completed, the realignment of 203rd will create a better sense of arrival into the community.

There are no municipal services currently on the property and the owner will still need to make these improvements as they go forward with development. The phasing of the project will also be determined in the future with market conditions driving the phasing plan.

Neighborhood Outreach Meeting

The applicant hosted a neighborhood meeting on Tuesday, November 5, 2013 from 5:30 to 6:30pm at the Nadaburg Elementary school. Approximately 30 people were in attendance including two City Staff persons. A detailed summary of the meeting is attached.

Findings

- The proposed amendments will not increase the overall intensity of the project, but instead decrease the intensity.
- The additional 169.1 acres of proposed open space will help with the conservation of the existing major wash corridor and allow for more recreational opportunities for the community.
- The realignment of 203rd Avenue is consistent with MCDOT's long range transportation plans and will provide a better arrival for the community.
- The proposed changes to the non-residential land uses will not eliminate any existing category completely; therefore a well balanced mix of land uses will still remain including commercial, employment and mixed-use to serve the community.

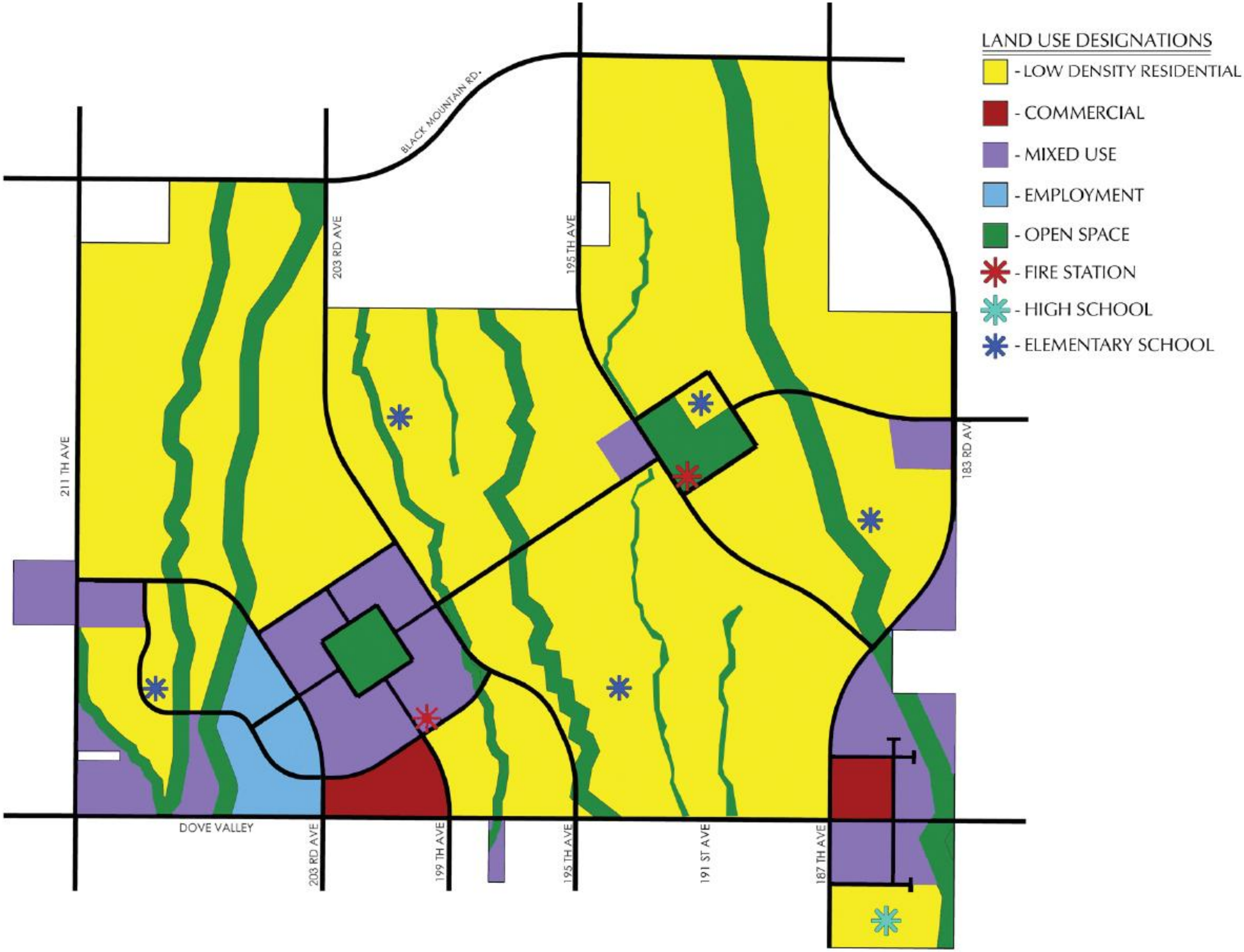
Recommendation

Staff recommends that the City Council approve the request for a minor amendment to the General Plan to update the Land Use map.

Attachments

Vicinity Map, Neighborhood Meeting Summary, Existing Land Use Map, Proposed Land Use Map, Table of proposed land use changes.


LAKE PLEASANT
500
STATE LAND
MORRISTOWN
CAREFREE HIGHWAY
Morristown Hwy.
QUINTERO
211TH AVE.
GRAND VISTA
Black Mountain Rd.
COPPER MOUNTAIN RANCH (STATE LAND)
Dove Valley Rd.
DOVE VALLEY ROAD
203RD AVE.
Lone Mountain Rd.
MARISOL RANCH
White Wing Rd.
Bradley Rd.
CAP Canal
Patton Rd.
ROUTE 60
NI FAMILY
DESERT OASIS
ASANTE
VOLVO PROVING GROUNDS
FOX TRAIL
STATE LAND
Deer Valley Rd.
Sun Valley Pkwy.
SUN CITY GRAN
Union Hills Dr.
ARIZONA TRADITIONS
Bell Rd.


LAND USE DESIGNATIONS
- LOW DENSITY RESIDENTIAL
- COMMERCIAL
- MIXED USE
- EMPLOYMENT
- OPEN SPACE
- FIRE STATION
- HIGH SCHOOL
- ELEMENTARY SCHOOL
BLACK MOUNTAIN RD.
203 RD AVE
195 TH AVE
211 TH AVE
183 RD AVE
DOVE VALLEY
203 RD AVE
199 TH AVE
195 TH AVE
191 ST AVE
187 TH AVE

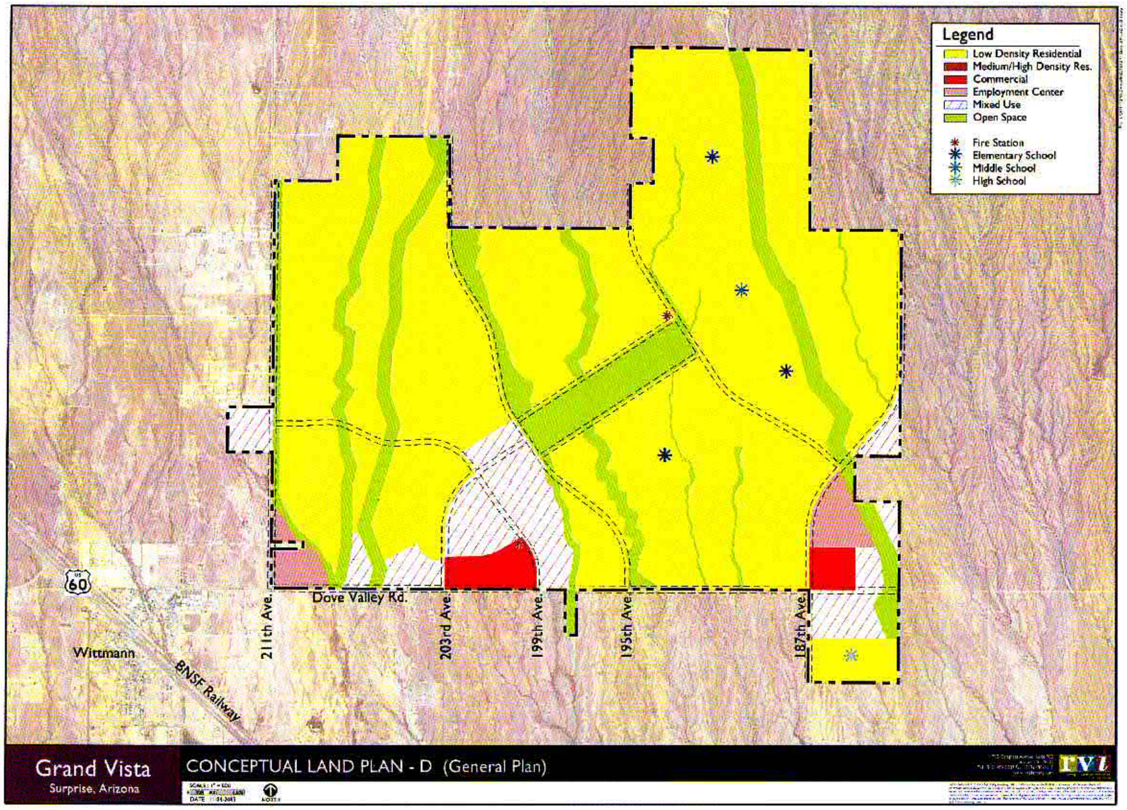

Legend
Low Density Residential
Medium/High Density Res.
Commercial
Employment Center
Mixed Use
Open Space
Fire Station
Elementary School
Middle School
High School
SCALE : 1" = 800'
0 400 800 1,600
NORTH

General Plan Land Use Schedule			
	Original Plan	***Proposed***	***Difference***
	Acreage ***(Acres)***	***Acreage*** ***(Acres)***	***Acreage (Acres)***
Residential Development			
Total	***3,845.4***	***3,864.2***	***18.8***
Non-Residential Development			
Commercial	108.7	107.7	-1.0
Mixed-Use	638.7	475.7	-163.0
Employment Center	136.5	113.0	-23.5
Total	***883.9***	***696.4***	***-187.5***
Open Space			
Total	***755.5***	***924.6***	***169.1***
GRAND VISTA TOTAL	***5,484.8***	***5,485.2***	***.4***

Grand Vista

Citizen Participation Report

Site Location: 211th Avenue and Dove Valley Road
FS13-416



Prepared for:
SFI Grand Vista LLC

Prepared by:
Berry Riddell & Rosensteel LLC
Wendy Riddell, Esq./Johnna Engquist
6750 E. Camelback Road, Suite 100
Scottsdale, AZ 85251
480-385-2727

Overview
This Citizen Participation Report is being performed in association with a Minor General Plan Amendment request for Grand Vista, an approximate 5,500 gross acre site generally bounded by Dove Valley Road to the south, 211th Avenue to the west, Black Mountain Road to the north, and 183rd Avenue to the east, aka: the Daimler Chrysler Proving Grounds site, (the "Property" or "Grand Vista"). The entire project team is sensitive to the importance of neighborhood involvement and creating a relationship with property owners, residents, business owners, neighborhood associations, and other interested parties.

Parties Affected by Application
Property owners, consisting of approximately 27 adjacent landowners, were notified per the City of Surprise's requirements.

Notification and Information Procedures
Surrounding property owners within 750' were notified via first class mail regarding the project on October 21, 2013. This notification included information about the project, vicinity map, contact information to receive additional information, and the opportunity to give feedback. A copy of the letter is provided with this Report.

A public hearing sign was posted onsite on October 22, 2013. The sign reflects the upcoming meetings dates of the Planning & Zoning Commission and City Council. A copy of the Affidavit of Posting and pictures of the signs posted are attached hereto.

An Open House was conducted on Tuesday, November 5, 2013 at the Nadaburg Elementary School Multipurpose Room located at 21419 West Dove Valley Road, in Wittman, Arizona from 5:30 p.m. to 6:30 p.m. A copy of the Sign-In Sheet is provided with this Report.

Response Procedures
A vital part of the outreach process is to allow people to express their concerns and understand issues and attempt to address them in a professional and timely manner. The notification was given to the surrounding property owners (via mail and onsite sign) allowing them the opportunity to give feedback. As stated above, the entire development team realizes the importance of the neighborhood involvement process and is committed to communication and outreach for the project contact information will be provided with the notification letter.

No response or inquiries were received as a result of the mailing sent on October 21, 2013 and the sign posted on October 22, 2013.

In total, 14 people attended the Open House. No significant concerns were expressed regarding the proposal. Some of the questions asked included the likely timing of the project, questions regarding the status the Maricopa Association of Government's Parkway project, are there any changes to the schools proposed, and how water and sewer would be handled for the Property.

Subsequently an email was received from one of the neighbors advising the developer of a proposed rerouting of overhead power lines across the property. The developer's representative is currently researching this issue.

Attachments included with this Report

- Copy of letter notification letter
- Notification List
- Sign-In Sheet for November 5, 2013 Open House
- Affidavit of Sign Posting
- Photographic evidence of posting

BERRY RIDDELL & ROSENSTEEL LLC

Wendy R. Riddell, Esq.
(480) 682-3902
wr@brrlawaz.com

Our File No. 00663.0003

October 21, 2013

Re: Grand Vista Community Open House

Dear Property Owner, Homeowner Association or Interested Party:

The purpose of this letter is to invite you to an Open House meeting being held on Tuesday, November 5, 2013 from 5:30 p.m. to 6:30 p.m. at the Nadaburg Elementary School Multipurpose Room located at 21419 West Dove Valley Road, in Wittmann, Arizona to discuss a Minor General Plan Amendment to revise the land use of an approximately 5,500-acre site generally bounded by Dove Valley Road to the south, 211th Avenue to the west, Black Mountain Road to the north, and 183rd Avenue to the east, aka: Daimler Chrysler Proving Grounds site.

Our firm submitted an application with the City of Surprise Planning and Zoning Department on September 25, 2013, on behalf of our client, iStar Financial, Inc., to amend the existing (2007 approved) General Plan Map to modify the existing land use configuration for Grand Vista, which includes removing the eastern golf course and introducing a central community park area along with numerous pocket parks, relocating the commercial parcels along Dove Valley Road, and reconfiguring the residential densities, types and locations throughout the Grand Vista master plan.

An extremely important part of our Minor General Plan Amendment is the citizen participation process. The purpose of this Open House meeting is to describe the proposal in detail and afford us the opportunity to address any concerns you may have. We would like to receive input from area property owners and stakeholders relative to the Minor General Plan Amendment. Your input is important to us and we will try to incorporate any suggestions you might have into our Plan.

Hopefully, you can attend our Open House meeting to discuss this project. Again, neighborhood feedback is highly desired and if you are unable to attend the open house meeting, please feel free to contact me at (480) 682-3902, or my assistant, Johnna Engquist, at (480) 385-2729 so that we can receive any questions or comments that you may have and, if you are planning to attend, we look forward to seeing you there.

Very truly yours,

Wendy R. Riddell


Legend
Low Density Residential
Medium/High Density Res.
Commercial
Employment Center
Mixed Use
Open Space
Fire Station
Elementary School
Middle School
High School
SCALE : 1" = 800'
0 400 800 1,600
NORTH

AMANTE MARC
PO BOX 784
WITTMANN AZ 85361

BT SUNHAVEN LLC
200 WITMER RD STE 200
HORSHAM PA 19044

BURLINGTON NORTHERN AND SANTA FE RAILWAY CO
2500 LOU MENK DR NO AOB-3
FORT WORTH TX 76131-2830

COLEMAN EARL JR
32706 N 211TH AVE
WITTMANN AZ 85361

DODD CHARLES V/MARLENA L
21133 W DOVE VALLEY RD
WITTMANN AZ 85361

DV40 LLC
7890 E MCCLAIN DR NO 5
SCOTTSDALE AZ 85260

GINDT KATHY
PO BOX 5231
GLENDALE AZ 85312

HANSEN III MORTEN A/MARY G
21202 W FLORENTINE RD
WITTMANN AZ 85361

HELTON JASON
PO BOX 128
WITTMANN AZ 85361

HELTON JASON/SELENA
PO BOX 128
WITTMANN AZ 85361

KELLOUGH JAMES W/CROMACK DARLENE R
32720 N 211TH AVE
WITTMAN AZ 85361

MINOR BRENT/MARY
8001 NANEUM RD
ELLENSBURG WA 98926-5518

MURRAY ROBERT K/BETTY JOANNE
21137 W DOVE VALLEY
WITTMANN AZ 85361

NOTHACKER KARL R/ANTOINETTE TR
10231 COLLETT AVE
SEPULVEDA CA 91343-1430

NOTHING LEFT TO PROVE LLC/FRS-LB#1 LLC/ETAL
10777 W TWAIN AVE STE 225
LAS VEGAS NV 89135

P&R SIMPSON REVOCABLE TRUST
PO BOX 89
WITTMANN AZ 85361

PATTY DONALD M
4328 E DYNAMITE RD
CAVE CREEK AZ 85331

PREWITT CHANTZ/MELANIE
35026 HIGHWAY 201
FAIRVIEW MT 59221

RUSH CHARLES RAY/BRENDA JEAN
20636 W BRADLEY RD
WITTMANN AZ 85361-9503

SANTUCCI BRAD/SHELLEY
960 NE DRY CREEK RD
PRINEVILLE OR 97754

SLOW COWS LLC
7890 E MCCLAIN DR STE 5
SCOTTSDALE AZ 85260

TUHCIC ESAD
3921 W MARLETTE AVE
PHOENIX AZ 85019

WATSON THOMAS E/SHERRI L
21125 W DOVE VALLEY RD
WITTMAN AZ 85361

WILLIAMS-KIRK CHARLES/AUDREY
21129 W DOVE VALLEY RD
WITTMANN AZ 85361

Grand Vista Neighborhood Meeting Sign-In Sheet
Tuesday, November 5, 2013

Print Name	Address	Phone	Email
* 1. Pat Stewart	21339 W. Old Paint Tr	623.764.4001	pat.stew6@gmail.com
2. RON GREER	34022 N. 214TH DR.	623-388-0538	GG7316@hotmail.com
* 3. GEORGE LOCKE	21316 W. GALVIN ST	623-628-7467	GEORGEL100@LIVE.COM
4. Peter Mateo		(949) 517-0822	peter.mateo@sabalfin.com
5. DAN FLYNN	22535 W. GAMBLE LN WTHL	623-261-6262	dflynn@[illegible].org.
6. HOBART WINGARD	CITY OF SURPRISE	623.222.3156	HOBART.WINGARD@SURPRISEAZ.GOV
7. Kodi & Shelly Schaffer	21140 W Caravaggio	480-268-6484	4shellyrenee@gmail.com
8. LARRY COPPI	35916 N. 213TH DR	623 570 0394	LARRYCOPPI@AOL.COM
9. Justin Smith	21224 W. Caravaggio Lane	623.451.4344	duneecologist@yahoo.com *
10. Phillip & Renée Simpson	21223 W. Florentine Rd	623 388-9909	nwysimp@yahoo.com *
11. SANTO SCIANNA	18232 W. DESERT LN.	623.347.2528	
12. Sam Odegui	21746 W. Lone Mtn Rd	6023502000	weld2012@gmail.com
(APS) 13. TERRI GOLD	20837 W IRVINE Rd	970-390-3112	TGOLD1226@AOL.com *
14. BEN GOODMAN	17919 CENTER ST	6233882121	bgoodman@nadaborgsd.org
15.			
16.			
17.			
18.			

please email

* EMAIL MAP

37169v1

Application No: FS13-416

Applicant Name: Berry Riddell & Rosensteel

Location: NEC of 211th Ave. & Dove Valley Rd.

Date Site Posted: October 22, 2013

In order to assist in providing adequate notice to interested parties, the applicant for any *type of public hearing* in the City of Surprise shall erect two (2) signs giving notice of the *date, time and place* of the scheduled hearings. These signs must be erected not less than **fifteen (15) days prior to** the date of the first hearing. The signs shall also include the nature of the request as contained on the formal zoning application. The size and format of this sign shall meet requirements established by the Planning and Zoning Department (see page 2).

Such notice shall be clearly legible and placed at a prominent location on the site – Generally adjacent and perpendicular to the public right-of-way. It shall be the *responsibility of the applicant* to erect and to maintain the sign on the subject property and to maintain the hearing information on the sign until final disposition of the case.

It shall also be the *responsibility of the applicant* to remove the signs within one week after the final disposition of the case.

I confirm that the site has been posted as required above, for the case noted above. A picture of the site posting, and photos of any subsequent changes/updates made to the sign, have also been submitted.

Pamela Swayze 10.22.13

Applicant/Representative Signature Date

This instruction was acknowledged before me on this 22 day of Oct,

2013, and by Pamela Swayze. I witness whereof I hereunto

set my hand and official seal.

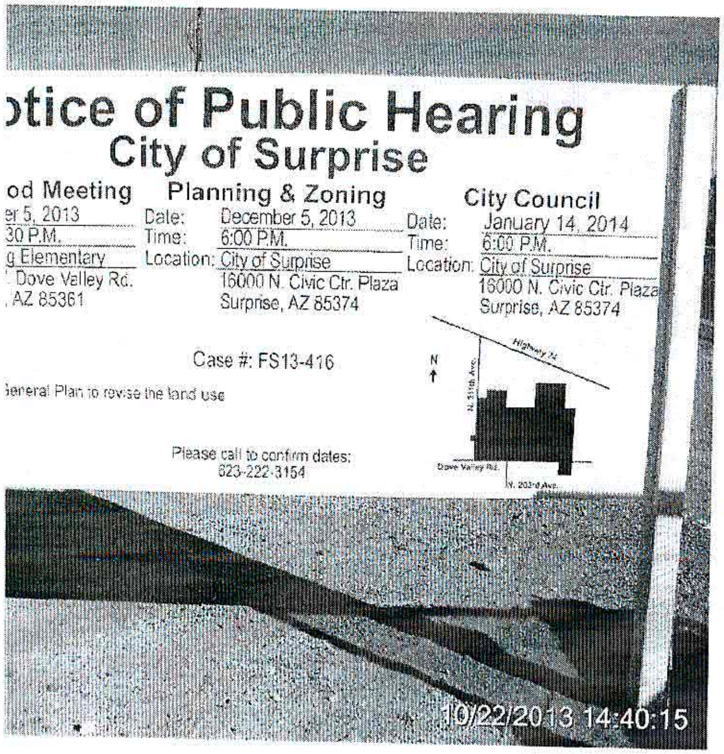
MATTHEW RUVOLO
Notary Public - Arizona
Maricopa County
My Comm. Expires Jul 14, 2017

Notary Public

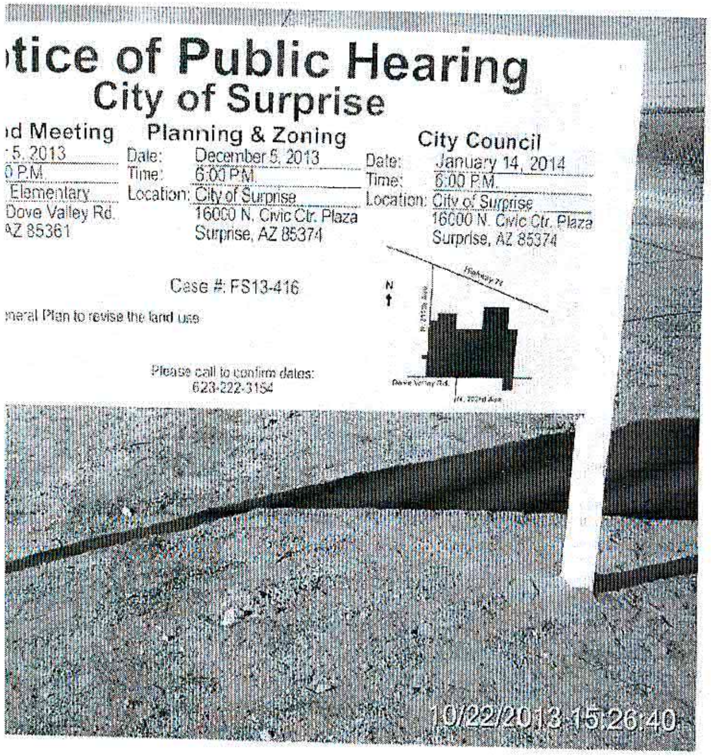
7/14/17

My commission expires

Return completed and notarized ***affidavit*** *and all relevant* ***photos*** *to the Planning and Zoning Department at least fifteen (15) days* ***prior to*** *the scheduled meeting(s).*


otice of Public Hearing
City of Surprise
od Meeting
er 5, 2013
30 P.M.
g Elementary
Dove Valley Rd.
AZ 85361
Planning & Zoning
Date: December 5, 2013
Time: 6:00 P.M.
Location: City of Surprise
16000 N. Civic Ctr. Plaza
Surprise, AZ 85374
City Council
Date: January 14, 2014
Time: 6:00 P.M.
Location: City of Surprise
16000 N. Civic Ctr. Plaza
Surprise, AZ 85374
Case #: FS13-416
General Plan to revise the land use
Please call to confirm dates:
623-222-3154
10/22/2013 14:40:15


Notice of Public Hearing
City of Surprise
Neighborhood Meeting
Date: November 5, 2013
Time: 5:30 - 6:30 P.M.
Location: Nadaburg Elementary
21419 W. Dove Valley Rd.
Wittman, AZ 85361
Planning & Zoning
Date: December 5, 2013
Time: 6:00 P.M.
Location: City of Surprise
16000 N. Civic Ctr. Plaza
Surprise, AZ 85374
City Council
Date: January 14, 2014
Time: 6:00 P.M.
Location: City of Surprise
16000 N. Civic Ctr. Plaza
Surprise, AZ 85374
Case #: FS13-416
REQUEST: Minor General Plan to revise the land use
Please call to confirm dates:
623-222-3154
10/22/2013 14:40:52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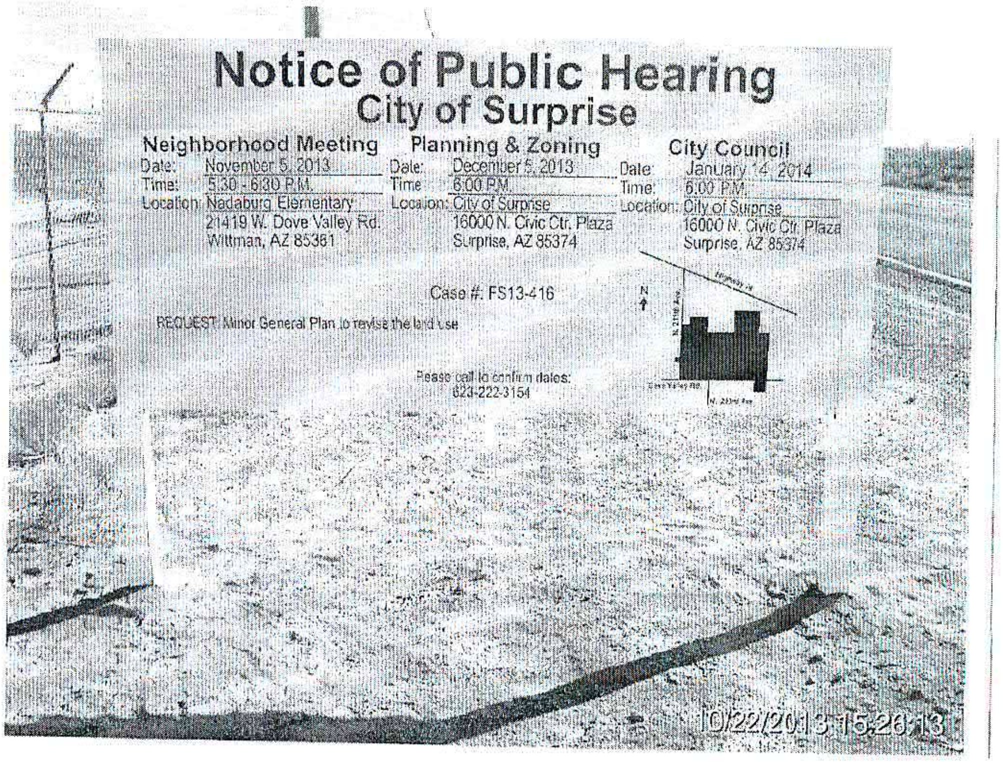
Surprise, AZ 85374
Case #: FS13-416
neral Plan to revise the land use
Please call to confirm dates:
623-222-3154
10/22/2013 15:26:40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Surprise, AZ 85374
Case #: FS13-416
REQUEST: Minor General Plan to revise the land use
Please call to confirm dates:
623-222-3154
10/22/2013 15:26:13

RESOLUTION # 2014-09

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A MINOR GENERAL PLAN MAP AMENDMENT TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FOR FS13-416, ENTITLED "GRAND VISTA", an APPROXIMATELY 5,500 GROSS ACRES PROPERTY GENERALLY BOUNDED BY DOVE VALLEY, 211TH AVENUE, BLACK MOUNTAIN ROAD AND 183RD AVENUE.

WHEREAS, on May 8, 2008 the City Council approved the annexation of Grand Vista, a Planned Area Development and Development Agreement;

WHEREAS, the proposed amendment will refine the land use classification for the property to locate mixed-use, employment, and commercial land use classifications in areas of the community that are appropriate given the planned circulation system and its roads of regional significance, and;

WHEREAS, the proposed amendment increases open space to depict more accurately the conservation of major wash corridors and the provision of active and passive recreation areas necessary to serve the community;

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

Section 1. That the minor general plan land use map amendment, FS13-416, entitled "Grand Vista" attached as Exhibit A is approved.

Section 2: That except as amended herein or through previous resolutions, the GENERAL PLAN 2035, approved by the voters on November 5, 2013 shall remain in full force and effect.

APPROVED AND ADOPTED this_______day of ____________2014.

____
Sharon R. Wolcott, Mayor

Attest: Approved as to form:

______________________________ ______________________________
Sherry Aguilar, City Clerk Misty Leslie, City Attorney

RESOLUTION 2014-09
EXHIBIT A