



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

Tuesday, April 7, 2015 @ 6:00 PM
COUNCIL CHAMBERS

* Back Print

A. Call To Order

B. Roll Call

C. Pledge of Allegiance

D. PROCLAMATION AND COMMUNITY ACKNOWLEDGEMENTS

- | | | | |
|----|-------------------|---|--|
| 1. | District Internal | <u>Mayor/Council Recognition of Literacy Challenge Winners - 4th & 5th Grade Classrooms</u> | No Action
VM
Williams/CM
Hall |
| 2. | District Citywide | <u>Mayor Wolcott issues Arizona FairShare Proclamation to recognize and acknowledge the hunger issues that exist in the state of Arizona.</u> | No Action
Michael
Celaya |

E. City Manager Report:

F. City Attorney Report:

G. City Clerk Report:

H. 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:

- | | | | |
|----|-------------------|---|--|
| 3. | District Citywide | <u>Consideration and action on the minutes of March 17, 2015 Regular City Council Work Session and Regular City Council Meeting</u> | Approve
Sherry Ann
Aguilar,
City Clerk |
| 4. | District 3 | <u>Consideration and action accepting maintenance of the Shadow Ridge High School Fine Arts Building offsite improvements at Desert Cove Road, north of Shadow Ridge High School and east of Perryville Road; Resolution 2015-25.</u> | Approve
Karl Zook,
Public
Works
Department |
| 5. | District 5 | <u>Consideration and action to amend the FY2015 budget in the amount of \$170,000 from the general fund, general operations'</u> | Approve
Mike Gent |

contingency to establish the Surprise Campus/Fields Electrical Panel Split capital improvement project; Resolution 2015-31.

- | | | | |
|----|-------------------|--|---|
| 6. | District 2 | <u>Consideration and action to approve sampling privileges requested by Nicholas Guttilla (applicant) for Albertsons #977 located at 14551 W. Grand Avenue, Surprise, AZ. 85374 (Current License 09070567).</u> | Approve
Sherry Ann
Aguilar, City
Clerk MMC |
| 7. | District Citywide | <u>Consideration and action accepting grant funding from the Federal Emergency Management Association (FEMA) and amending the fiscal year 2015 budget in the amount of \$312,500 to support projects associated with the flood event that took place in the City of Surprise on September 8, 2014; Resolution 2015-37.</u> | Approve
Fire Chief
Tom Abbott |
| 8. | District 1 | <u>Consideration and action approving the Development Agreement Regarding Martin Acres Flood Control and Norwich Drive Improvements, and authorizing execution of necessary documents; Resolution 2015-32.</u> | Approve
Michael
Boule,
Public
Works
Department |

Regular Agenda Item - Non-Public Hearing:

- | | | | |
|-----|-------------------|---|--|
| 9. | District Internal | <u>Discussion and presentatation by Greg Pereira regarding the Communiversity.</u> | No Action
Council
Member
Biundo |
| 10. | District Citywide | <u>Consideration and action amending the fiscal year 2015 budget in the amount of \$500,000 and establishing an AZ TechCelerator renovation capital improvement project using identified monies from the City Manager's Economic Development division operational contingency fund; Resolution 2015-27.</u> | Approve
Jeanine
Jerkovic,
Economic
Development
Director |
| 11. | District Citywide | <u>Consideration and action approving an agreement with the U.S. Census Bureau for the mid-decade census, and amending the FY2015 budget in the amount of \$850,000; Resolution 2015-36.</u> | Approve
Lindsey
Duncan,
Finance
Director |

Regular Agenda Item - Public Hearing:

- | | | | |
|-----|-------------------|---|---|
| 12. | District Citywide | <u>Consideration and action approving proposed Zoning Text Amendment pertaining to Assisted Living Facilities; Ordinance 2015-07.</u> | Approve
Robert
Kuhfuss,
Community
Development |
|-----|-------------------|---|---|

I. 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.

J. Other Business and Future Agenda Items:

K. Mayor/Council Reports:

L. Executive Session:

- | | | |
|-----------------------|--|--|
| 13. District Citywide | <u>Discussion and consultation with the City Attorney for legal advice; and to consider its position and instruct its attorneys regarding its position pertaining to contracts that are the subject of negotiations related to the Surprise baseball complex use and expansion; Ariz. Rev. Stat. Section 38-431.03(A)(1)(3) & (4).</u> | No Action
Misty
Leslie, City
Attorney |
| 14. District Citywide | <u>Discussion and consultation with the City Attorney for legal advice; to consider its position and instruct its attorneys regarding its position in possible litigation and pending litigation involving the City; Ariz. Rev. Stat. Section 38-431.03(A)(1)(3) & (4).</u> | Approve
Misty
Leslie, City
Attorney |

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

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

Confidentiality Requirements Pursuant to A.R.S. §38-431.03(C)(D): Any person receiving executive

session information pursuant to A.R.S. §38-431.02 shall not disclose that information except to the Attorney General or County Attorney by agreement of the City Council, or as otherwise ordered by a court of competent jurisdiction.

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

M. Adjournment:

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: Posted on Thursday, April 2, 2015 @ 3:25 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

April 7, 2015 @ 6:00:00 PM

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Council Meeting Date: April 7, 2015

Contact Person: Sherry Ann Aguilar, City Clerk

Submitting Department:

District: Citywide

Staff Recommendations: Approve

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action on the minutes of March 17, 2015 Regular City Council Work Session and Regular City Council Meeting

Motion:

I move to approve the meeting minutes.

Background:

Financial Impact Statement:

ATTACHMENTS:

Click to download

- ☐ [Minutes](#)
 - ☐ [Minutes](#)
-

External Attachment Links:

Meeting Requirements:

Powerpoint	x	Video	White Board	Other	x
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Presentation Speaker Names (spelling and titles for TV captions):

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

Tuesday, March 17, 2015 @ 04:00 PM

Call to Order

Roll Call

Mayor Wolcott called the **Regular City Council Work Session** to order at 04:00 PM at Surprise City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on **Tuesday, March 17, 2015**. Also in attendance with Mayor Wolcott were Vice Mayor Williams, Council Member Winters, Council Member Biundo, Council Member Villanueva, Council Member Hall, and Council Member Tande.

Staff City Manager, Bob Wingenroth, City Attorney, Misty Leslie, and City Clerk,
Present: Sherry Ann Aguilar.

Pledge of Allegiance

Invocation

Regular Agenda Item - Non-Public Hearing

1 - Presentation and discussion regarding City Transportation projects and Bell Road and Grand Ave Traffic Interchange update - NO ACTION

Karl Zook, City Engineer gave an overview of Transportation projects and Bell Road and Grand Avenue Traffic Interchange update.

Topic included:

El Mirage Road Update

Winco Right-of-way improvements - complete by end of this week.

City Speed Limit Plan

Regular City Council Work Session Minutes – March 17, 2015 – Page 2

Lane Restriping for Mountain View and Reems Road.

175th And Waddell Median design - working with school

Waddell Median improvements at Litchfield Road - Working on finalizing design.

Bell Road Sidewalk Project - Advertising in April, bids in May, Constructions in July.

Council Member Hall inquired about future light at 140th and Sierra Verde.

Council Member Tande inquired about the landscape and commented on having a safe left turn in both directions.

Bell/Grand - General Project Update - Project Schedule review.

Mayor Wolcott inquired about plans for moving overhead lines and what this will look like.

Mr. Zook explained that they have some preliminary designs from APS.

Topic: Bridge Aesthetic Concept Establishment - 2 public meetings to discuss art structure ideas. Artist will come back with 3 alternative drawings from the notes taken at the 2 public meetings.

Council Member Hall inquired about the cost.

Staff explained that the City has \$500,000. budgeted as our portion for this project and that ADOT will be the actual approving body.

City Manager Wingenroth stated that we are working closely with MAG and that we are continuing to pursue grant opportunities if we are over this amount.

Council Member Tande inquired about publicizing the upcoming public meetings.

Mr. Zook commented that the Sun City Grand turnout was the strongest of the 3 meetings. He also commented that they will work with communications department to promote.

Mayor Wolcott commented on doing an email for upcoming meetings. The groups with light turnout had some great feedback.

Council Member Hall commented on the 8-acre park on Saturday's and that it is heavily populated with families.

2 - Presentation and discussion regarding a proposed Zoning Text Amendment pertaining to Assisted Living Facilities affecting Surprise Municipal Code Sections 122-43, 122-99, 122-178 - NO ACTION

Robert Kuhfuss, Community Development Department gave an overview regarding a proposed Zoning Text Amendment pertaining to Assisted Living Facilities affecting Surprise Municipal Code Sections 122-43, 122-99, 122-178.

The following topics were reviewed:

Removing ambiguity of existing language
Different levels of care
Assisted living is not a group home
Graphs showed comparisons to other cities regarding senior population and assisted living facilities.
Citizens Review/Concerns - 2 emails opposing
Role of the HOA and process

Assistant City Manager, Eric Fitzer asked for clarification on timing of moving forward with ordinance.

Vice Mayor Williams spoke of his concern with the language regarding bedroom size. He further commented about retrofitting and that some don't currently meet this criteria.

Mayor Wolcott inquired about enforcement.

Council Member Tande inquired about the possibility of being more restrictive than the State.

Mr. Kuhfuss commented that we can be more restrictive in certain circumstance.

Council Member Tande asked how many assisted living homes will be affected by the changes.

Mr. Kuhfuss commented that there are 111 according to DHS records.

Council Member Tande inquired about monitoring the facilities.

Mr. Kuhfuss stated that the state does do inspections as well as the City through permitting process.

Council Member Hall commented that if it were up to him, he would put a moratorium on these. He further commented that we can't rely on the State to inspect and monitor these facilities.

Council Member Winters stated that he receives calls that there are a lot of assisted living facilities in neighborhoods.

Council Member Biundo asked for clarification regarding when it moves from a residence to a business.

Mayor Wolcott commented on HOA's; enforcement and partnering with HOA's.

Council Member Villanueva commented that she has 3 family members living in Assisted Living Facilities and have had very good service in these homes and that the homes are very clean and take good care of them.

Council Member Tande inquired about the number of home that will be impacted by the changes.

Mr. Kuhfuss stated that all of them will be impacted.

City Attorney Leslie stated that she is hearing that Council would like more discussion and that by asking that the Ordinance to come forward Council could ask for additional information.

3 - Discussion and presentation regarding Operating Budget Expenditures – NO ACTION

Jared Askelson gave an overview of Operating Budget Expenditures, following a powerpoint presentation.

Council Member Hall asked where we stand on our mid-decade census.

An application in with a request for an estimate last week and expect response within a month.

Council Member Tande inquired about the \$1,000,000. vehicle replacement.

Sometimes it is more cost effective to replace older vehicles that fix them.

Council Member Tande commented on merit increases and long term maintenance costs.

Council Member Biundo inquired about grant match contingency.

Council Member Biundo inquired the budget schedule and a proposal for a bond election.

Mr. Wingenroth stated that it would be discussed with Council in detail.

Council Member Villanueva inquired about the Jerry Street project.

Mr. Wingenroth thanked Ms. Duncan and Mr. Askelson for their presentations.

The City Manager's Recommended Budget - FY2016 Change Requests. \$800,000.
Revenue Over expense.

Discussed requested positions for:

Fire Department
Information Technology
Police Department
Public Works
Human Services and Community Vitality
City Manager's Office

Ongoing total cost: 1.0 million

Alternatives for each department were presented.

Property Tax Levy amount discussion.

Mayor Wolcott made the following comments: she's specifically interested in asset replacement which is zero budget at this time; the library is one of our most used facilities in the city, we could probably use another one double this size; we need to look at departmental budgets and would like to see if there is a way to have adequate funding for grants programming.

Council Member Hall commented about needing help on working with the directors and asking them for a 10% cut in their budgets then going back to Council with top priority of funding.

Council Member Tande commented that this is an excellent opportunity to set priorities, that we are one of the leanest cities in the valley and that we strive for the highest rating possible for bond rating.

Mr. Wingenroth stated that if we had to cut 10% from our organization, we would bring back recommendations for Council's review.

Vice Mayor Williams spoke of pavement preservation; vehicle and asset replacement and the need for formulating a plan moving forward.

Council Member Villanueva how long have we been doing employee merits.

Finance Director, Lindsey Duncan gave a history on pay increases.

Executive Session

Adjournment

Council Member Villanueva made the motion to adjourn the Regular City Council Work Session of March 17, 2015 at 5:59 PM. Council Member Biundo 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 Regular City Council Work Session of **Tuesday, March 17, 2015.**

Sherry Ann Aguilar, City Clerk

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

Tuesday, March 17, 2015 @ 06:15 PM

Call To Order

Roll Call

Mayor Wolcott called the **Regular City Council Meeting** to order at 06:15 PM at Surprise City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on **Tuesday, March 17, 2015**. Also in attendance with Mayor Wolcott were Vice Mayor Williams, Council Member Winters, Council Member Biundo, Council Member Villanueva, Council Member Hall, and Council Member Tande.

Staff City Manager, Bob Wingenroth, City Attorney, Misty Leslie, and City Clerk,
Present: Sherry Ann Aguilar.

Pledge of Allegiance

PROCLAMATION AND COMMUNITY ACKNOWLEDGEMENTS

1. **Athletic Training Month - Mayor Wolcott will present the proclamation to: Scott Ellis and Justin Segotta of Swing Orthopedic and Sports Physical Therapy in Surprise**

Mayor Wolcott read aloud a proclamation to recognize Scott Ellis and Justin Segotta of Swing Orthopedic and Sports Physical Therapy in Surprise.

Invocation

City Manager Report

City Attorney Report

City Clerk Report

Regular City Council Meeting Minutes – March 17, 2015 – Page 2

City Clerk Aguilar reported on Voter Outreach, League of Women Voters event on March 26, 2015 at 9:30 AM.

Consent Agenda

2. **Consideration and action on the meeting minutes of March 3, 2015 Regular City Council Work Session and Regular City Council Meeting - APPROVED**
3. **Consideration and action accepting grant funding from the State of Arizona Pre Disaster Mitigation Program in the amount of \$18,675 and amending the fiscal year 2015 budget in the amount of \$24,900; Resolution 2015-23 - APPROVED**

Vice Mayor Williams made the motion to approve the consent agenda excluding item 4. Council Member Tande seconded the motion. Seven yes votes. Motion carried.

4. **Consideration and action declaring the City's intention to create the City of Surprise, Arizona, Desert Oasis Parcel 11 Street Light Improvement District pursuant to A.R.S. Section 48-616; Resolution 2015-16 - APPROVED**

Council Member Winters asked that this item be removed from consent for discussion and clarification.

City Engineer, Karl Zook explained the process.

Council Member Winters made the motion to approve Resolution 2015-16. Council Member Tande seconded the motion. Seven yes votes. Motion carried.

Regular Agenda Item - Non-Public Hearing

5. **Discussion regarding a utility billing update by American Water Enterprises - NO ACTION**

Finance Director, Lindsey Duncan commented that Senior Executives Sharon Cameron and David Choate are here to answer questions and provide information on the new billing system in Surprise. AWE launched the new system in December and had issues: delayed bills, formatting bills, auto-pay and enrollment.

Regular City Council Meeting Minutes – March 17, 2015 – Page 3

Mr. Choate discussed each issue in detail and stated that he feels confident that we have fixes in place and now implementing.

Council Member Hall inquired if the software was tested before rolling it out.

Mr. Choate stated yes and that it was a year-long implementation process.

Council Member Hall inquired about where calls are handled.

Mr. Choate commented that they are handled locally. He further commented that currently there are 6,500 bills that have issues and in the process of correcting.

Council Member Hall asked for clarification regarding transfer of records.

Mr. Choate commented that they needed to update the old information especially adding e-mails.

Council Member Winters commented on the process, getting phone calls from residents and a booklet. He further commented that he is happy that they are here to address the issues.

Mr. Choate commented that phone service hours have been extended from 8:00 a.m. to 10:00 p.m. and now open on Sundays.

Council Member Villanueva commented on her bill.

Council Member Tande stated that based on responses he has received from residents, there is a lot of confusion with staff, there needs to be additional training. Identified 4 key areas that need solutions for and asked David if these have been resolved to date.

Public Comments:

David Eldridge - Paid double bill, the billing issues are still unresolved as of today. I don't have much faith in any of this. The Call Center has issues, I had to push a button to stay on hold, or the call would hang up. I had to come to City Hall and talk with city staff. I want answers, I want resolution, I want to get treated better. The contract is up in 2020, I want to see action, I have no patience for professional apologists.

6. **Consideration and action to appoint Stephen Wright to fill the Chamber Representative vacancy on the Tourism Commission with a term expiration of July 1, 2015, and to direct the City Clerk to issue the oath of office - APPROVED**

Regular City Council Meeting Minutes – March 17, 2015 – Page 4

Council Member Winters gave an overview of the process; he commented that Mr. Wright was at another engagement.

Council Member Winters made the motion to approve appointing Stephen Wright to fill the Chamber Representative vacancy on the Tourism Commission with a term expiration of July 1, 2015. Vice Mayor Williams seconded the motion. Seven yes votes. Motion carried.

7. Consideration and action authorizing the City Manager to negotiate and execute an agreement with the WHAM Art Association regarding the use of property located at 16560 N. Dysart Road, which is owned by the City - APPROVED

City Manager, Bob Wingenroth gave an overview of this item and the background on WHAM.

Mayor Wolcott clarified this is a contract authorizing the City Manager to negotiate an agreement. She thanked Council Members Hall and Villanueva for bringing this item forward.

Council Member Villanueva commented that she is thrilled that we have this organization and would like to see it continue. She thanked Council Member Hall for going along with this project.

Council Member Winters commented that he also agrees with supporting this organization and all of the programs that WHAM provides.

Connie Whitlock, thanked Council for their support. She commented that we work with many different groups such as Veteran's, special needs, youth and teens from Surprise and WHAM on Wheels.

Mayor Wolcott commented that the beauty of WHAM is that it's organic and a grass roots effort.

Council Member Tande questioned the agreement pertaining to licensing. He also inquired about being consistent and using the best practices.

Council Member Hall commented that WHAM is a great asset to our City especially in the old townsite area. He gave an opinion on Council Member Tande's questions.

Regular City Council Meeting Minutes – March 17, 2015 – Page 5

Mayor Wolcott commented that she agrees and that we should match up as much as possible and we want it to be a fair process for all.

Council Member Tande spoke of concerns about a 20 year agreement especially when we don't know what the land situation will be. He further commented that he has a problem with approving an agreement that goes far beyond my term on Council.

Council Member Villanueva commented on moving forward with this agreement.

Council Member Hall commented that paragraph 11 addresses Council Member Tande's concerns.

Council Member Tande commented that he would like to go for 3-5 years.

Mayor Wolcott commented that she would like to see Council adopt a policy that would clarify and provide continuity. She asked the Committee on Rules to take a look at this.

Council Member Hall made the motion to authorize the City Manager to negotiate and execute a property use agreement with WHAM Art Association. Council Member Villanueva seconded the motion. Seven yes votes. Motion carried.

Regular Agenda Item - Public Hearing

8. Consideration and action on a Rezone of property generally located on the north side of Waddell Road about 1/2 mile east of the intersection of Waddell Road and Bullard Avenue from Rural Residential and General Industrial to Low Density Residential; Ordinance 2015-03 - APPROVED

City Planner, Hobart Wingard gave a powerpoint presentation on Ordinance 2015-03 and Resolution 2015-18.

Council Member Hall inquired about the retention basin and an existing wall. He further commented that he wants to make sure the entrance really pops.

Council Member Tande inquired about the landscaping plan; fire access and trips per day coming out of this development.

Mr. Wingard anticipated a maximum 30.

Public Comments:

Regular City Council Meeting Minutes – March 17, 2015 – Page 6

Chad Koester spoke of traffic concerns of this area; flow of traffic along Waddell Road.

Council Member Tande made the motion to approve Ordinance 2015-03. Council Member Hall seconded the motion. Seven yes votes. Motion carried.

9. Consideration and action on a Preliminary Plat entitled "W Ranch," subdividing property generally located on the north side of Waddell Road about 1/2 mile east of the intersection of Waddell Road and Bullard Avenue; Resolution 2015-18 - APPROVED

Council Member Tande made the motion to approve Resolution 2015-18. Council Member Winters seconded the motion. Seven yes votes. Motion carried.

Call to the Public:

John Yeager, Chairman of the Disability Advisory Commission. Frustrated regarding the limited amount of Stadium handicapped parking. He handed the Council a photo as an exhibit and explained his experience with a Sundancer. He further commented that he met with City staff and Sundancers President about handicapped parking.

Jerry Rooney - Lives at 219th Avenue and Bell Road since 1991. Sold some of my land and the City wouldn't give the buyer a building permit. I ended the process and gave the people back their money. I asked to talk to the City Manager and I was told I had to go through the chain of command. Then I called the Mayor's Office and gave the Secretary the emails on January 29th, and I am still waiting.

Other Business

Council Member Tande asked that City Manager Wingenroth start thinking about RFQ's or RFP's to in-house this service.

Executive Session

Adjournment

Council Member Winters made the motion to adjourn the Regular City Council Meeting of March 17, 2015 at 8:09 PM. Council Member Biundo 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 Regular City Council Meeting of **Tuesday, March 17, 2015.**

Sherry Ann Aguilar, City Clerk



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

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Council Meeting Date:	April 7, 2015	Contact Person:	Karl Zook, Public Works Department
Submitting Department:	Public Works	District:	3
Staff Recommendations:	Approve		

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action accepting maintenance of the Shadow Ridge High School Fine Arts Building offsite improvements at Desert Cove Road, north of Shadow Ridge High School and east of Perryville Road; Resolution 2015-25.

Motion:

I move to approve Resolution 2015-25.

Background:

The Public Works Department conducted the final inspection of the public street improvements for Desert Cove Road on or about November 10, 2014 totaling 1,234 SY of linear feet of asphalt and concrete and determined that the infrastructure was compliant and acceptable to the city.

Financial Impact Statement:

Acceptance of streets, water, and sewer infrastructure increases the city's asset base and adds to future maintenance commitments. The anticipated incremental additional maintenance expense associated with the acceptance of these infrastructure items will be incorporated in future street preservation and maintenance and water and sewer operational budgets.

ATTACHMENTS:

Click to download

- ☐ [Resolution 2015-25](#)
 - ☐ [Memo](#)
 - ☐ [Notice of completion Letter](#)
 - ☐ [Inspector Sign Off-Completion](#)
 - ☐ [Inspector Sign Off - Final](#)
 - ☐ [Final Plat](#)
 - ☐ [Res 2010-85 Approving Final Plat](#)
-

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

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

RESOLUTION # 2015-25

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO ACCEPT MAINTENANCE OF STREETS AND PUBLIC UTILITY IMPROVEMENTS AT SHADOW RIDGE HIGH SCHOOL, GENERALLY LOCATED NEAR THE INTERSECTION OF PERRYVILLE AND DESERT COVE ROADS.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled "Final Plat of DUSD #89" on, September 9, 2010;

WHEREAS, D.L. Withers Construction, the developer of the Shadow Ridge High School Fine Arts building, dedicated to the City the street and offsite street and public utility improvements, specifically those streets and utilities located at Perryville and Desert Cove Roads;

WHEREAS, the City of Surprise Public Works Department Engineering Division certifies that the two-year warranty period has expired; and,

WHEREAS, the City of Surprise Public Works Department Engineering Division conducted the final inspection of the streets and water and sewer improvements located at Perryville and Desert Cove Roads on or about November 14, 2014;

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

Section 1. The City of Surprise accepts the maintenance of the streets and public utility improvements located as generally depicted on the map attached as Exhibit "A."

APPROVED AND ADOPTED this _____ day of _____, 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

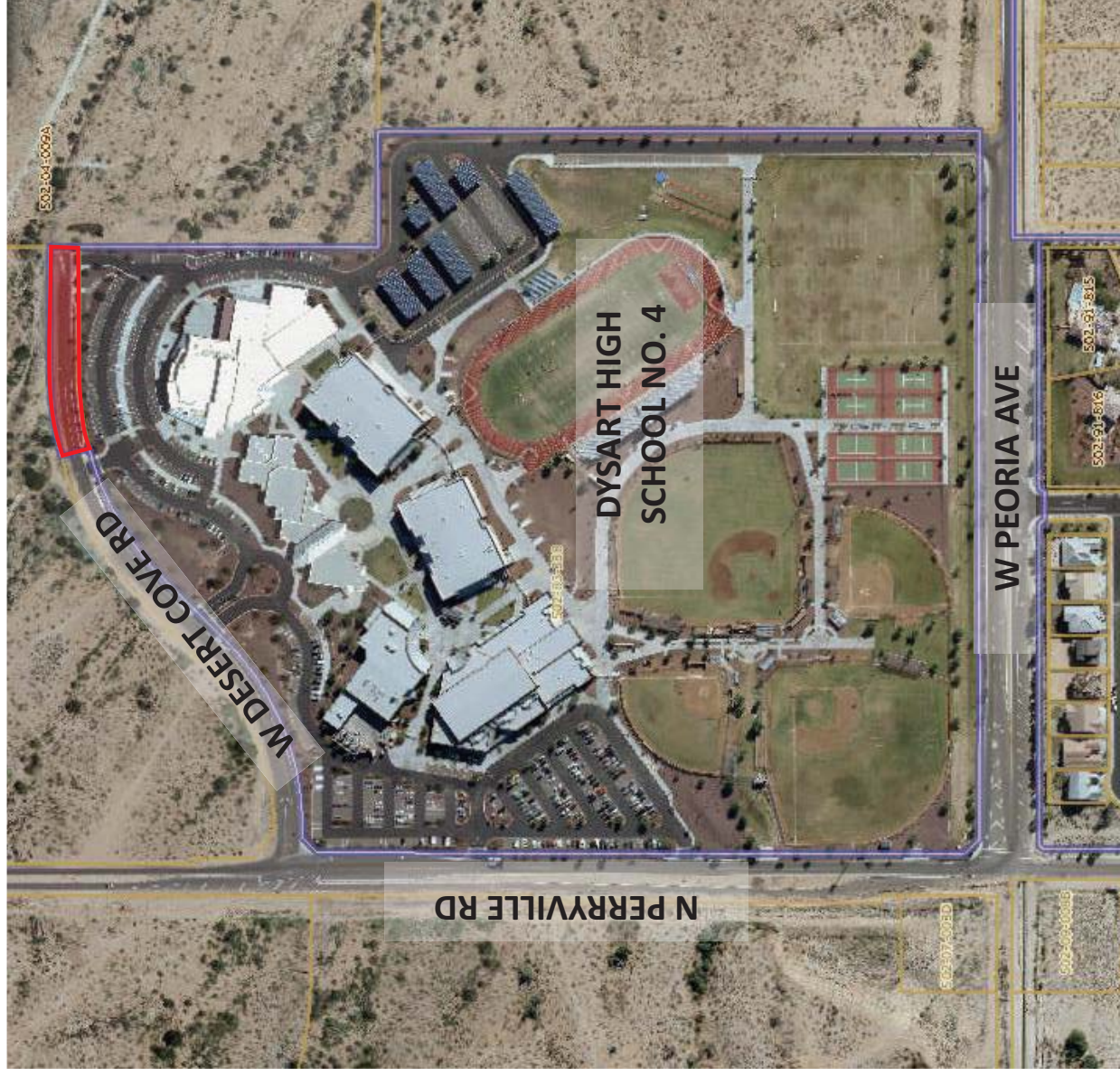
Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

Exhibit A

[Map of Infrastructure]

Dysart High School No. 4 – Fine Arts Building





Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 11/14/14
Re: Shadow Ridge High School Fine Arts Building Improvements and City Acceptance

The public improvements for the above project have been completed and are on the March 3, 2015 council agenda for acceptance. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting.

- City Paving - \$23,370.00
- City Concrete - \$15,442.30



Public Works Department
Engineering Development Services
16000 North Civic Center Plaza
Surprise, Arizona 85374
Phone 623-222-6141
Fax 623-222-6006

January 24, 2012

D.L. Withers Construction
3220 E Harbour Dr
Phoenix, AZ 85034

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR
SHADOW RIDGE HIGH SCHOOL FINE ARTS BUILDING-FS10-078**

The City of Surprise Public Works Department has completed the inspection of the street and public utility improvements for the above referenced subdivision. These improvements are in substantial compliance with the approved plans and specifications. Council action is required prior to conditional acceptance and the official beginning of the warranty period. The time frame for Council action is approximately 90 days after the following items have been submitted:

- A copy of all lien releases or a title report
- Actual construction cost for related civil permits issued
- Warranty assurance in a format acceptable by the City

A notice of the required assurance amount and acceptable formats will be sent via email once actual construction costs have been submitted by the applicant. The warranty period starts upon council acceptance for a period of two (2) years; please ensure warranty assurance will not expire prior to this date. The applicant will be notified of the council date as soon as it is scheduled and the warranty financial assurance is required to be submitted to the city 10 calendar days prior to the council date. If a warranty financial assurance is not received within 10 calendar days, council action and start of the warranty period will be delayed, at a minimum, an additional two (2) weeks.

A letter of conditional acceptance and notification that the warranty period has begun will be forwarded upon the completion of council acceptance. Also, a request to release the associated completion assurance will be made; notification will be sent when assurance document is available for pick up.

If you have any questions or concerns, you can reach me at 623-222-6141.

Sincerely,


Jason Mahkovtz
Civil Engineer Supervisor,

jm/jg

c: David Mobley, Civil Inspector
Cindy Coen, Legal
David Kohlbeck, Public Works
James Shano, Public Works
File

Andrea Scarla, Finance
Antonio DeLaCruz, Public Works
Jody Case, Public Works
Dan Blackson, Public Works



PROJECT SIGN OFF FORM
ENGINEERING DEVELOPMENT SERVICES DIVISION, INSPECTIONS

Date Submitted: 11/22/2011 ☐ Commercial ☒ Commercial w/Offsite ☐ Residential

☒ COMPLETION ACCEPTANCE (End of Construction) ☐ FINAL ACCEPTANCE (End of Warranty)

7/12/2011 Date of Punch-List Walk 10/6/2011 Date Punch-List Completed

Permit Number: E10P-0180

Project Name: Shadow Ridge High School-Fine Arts BLD

Project Description (Phase/Parcel): _____

Project Developer/Builder: (Name, Address, and Phone #)

D.L. Withers Construction

3220 E Harbour Dr Phoenix Az, 85034

MAG TIP Reporting:

Parkways/Arterials:

_____ (See Next Page for Additional Roadways)

Desert Cove Street Name 2 # of Lanes 1/2 Length (nearest ¼ mile)

From: _____ to _____ Features: ☒ Bike Lane ☒ Median ☒ Turn Lane ☒ Landscaping

_____ Street Name # of Lanes Length (nearest ¼ mile)

From: _____ to _____ Features: ☐ Bike Lane ☐ Median ☐ Turn Lane ☐ Landscaping

_____ Street Name # of Lanes Length (nearest ¼ mile)

From: _____ to _____ Features: ☐ Bike Lane ☐ Median ☐ Turn Lane ☐ Landscaping

Major Collectors:

_____ (See Next Page for Additional Roadways)

_____ Street Name # of Lanes Length (nearest ¼ mile)

From: _____ to _____ Features: ☐ Bike Lane ☐ Median ☐ Turn Lane ☐ Landscaping

_____ Street Name # of Lanes Length (nearest ¼ mile)

From: _____ to _____ Features: ☐ Bike Lane ☐ Median ☐ Turn Lane ☐ Landscaping

MATERIALS:

Asphalt: Cemex Supplier 1/2 Total Lane Miles 1,234 Total Square Yards

Water: _____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet

Sewer: 6" Size/Type 117 Total Linear Feet _____ Size/Type _____ Total Linear Feet

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet

Fire Ln: 4" Size/Type 49 Total Linear Feet 6" Size/Type 55 Total Linear Feet

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

☒ Copy of Completed Punch List

n/a Engineer of Record Reports to Include but not limited to:

_____ ATC, _____ AOC, _____ Material Submittal, _____ Geotechnical Reports, _____ Water Report, _____ Water Test Results,

_____ Sewer Report, or _____ Daily Reports

n/a Final Certification Letter from Engineer of Record

n/a Asphalt Concrete Emulsion Fog Seal Cert. (SS1H)

☒ Complete Geotechnical Testing Packet

☒ Asphalt Concrete Ticket w/ Name of Contractor

☒ Sewer Pressure Testing Results

☒ Streetlight Energize Letter

n/a Sewer Manhole Vacuum Testing Certification

☒ As built Documents (☒ 1 Bond and ☒ 1 Mylar)

n/a Sewer Manhole Insecticide Certification

☒ CD with As Built Documents in .pdf format

n/a Sewer Videos with Operators Notes (inc. re-videos)

_____ Other _____ (Specify)

APPROVAL:

Civil Inspector:

[Signature]

Date: 11/22/11

Development Engineer:

[Signature]

Date: 11-22-11



PROJECT SIGN OFF FORM
PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 11/17/2014 ☐ Commercial ☒ Commercial w/Offsite ☐ Residential

☐ COMPLETION ACCEPTANCE (End of Construction) ☒ FINAL ACCEPTANCE (End of Warranty)

11/10/2014 Date of Punch-List Walk 11/14/2014 Date Punch-List Completed

Permit Number: FS10-078

Project Name: Shadow Ridge Fine Arts Building Project Description (Phase/Parcel): _____

Project Developer/Builder: (Name, Address, and Phone #)

D.L Withers

3220 E. Harbour DR Phx AZ 85034

MAG TIP Reporting:

Street Name	Classification	Begin Limits	End Limits	# Lanes	Length to nearest ¼ mi.	Features
Desert Cove	Major	2nd Entrance	East End Entrance	2	1/4	

MATERIALS:

Asphalt: Cemex Supplier 1/4 Total Lane Miles 1,234 Total Square Yards _____

Water: N/A Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Sewer: N/A Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

_____ Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Fire Ln: N/A Size/Type _____ Total Linear Feet _____ Size/Type _____ Total Linear Feet _____

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

☒ Copy of Punch List

☐ Engineer of Record Reports to Include but not limited to:

_____ ATC, _____ AOC, _____ Material Submittals, _____ Water Test Results, _____ Daily Reports

☐ Final Certification Letter from Engineer of Record

☐ Asphalt Concrete Emulsion Fog Seal Cert. (SS1H)

☒ Complete Geotechnical Testing Packet

☒ Asphalt Concrete Ticket w/ Name of Contractor

☐ Sewer Pressure Testing Results

☐ Streetlight Energize Letter

☐ Sewer Manhole Vacuum Testing Certification

☒ As built Documents (☒ 2 Bond and ☒ 1 Mylar)

☐ Sewer Manhole Insecticide Certification

☒ CD with As Built Documents in .pdf format

☐ Sewer Videos with Operators Notes (inc. re-videos)

_____ Other _____ (Specify)

APPROVAL:

Civil Inspector:

Dal A. Mubley

Date: 11/17/2014

Civil Engineering Supervisor:

Kristen J. Jett

Date: 11/17/2014

DEDICATION

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

KNOW ALL PERSONS BY THESE PRESENTS:

THAT DYSART UNIFIED SCHOOL NO. 89, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, ("OWNER"), HAS SUBDIVIDED UNDER THE NAME OF DUSD #89, A SUBDIVISION LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON AND DOES HEREBY PUBLISH THIS PLAT AS AND FOR THE PLAT OF SAID DUSD #89 AND DECLARES THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF EACH LOT, STREET AND EASEMENT CONSTITUTING SAME, AND THAT EACH LOT, STREET AND EASEMENT SHALL BE KNOWN BY THE NUMBER, LETTER, AND/OR NAME GIVEN TO EACH RESPECTIVELY AS SHOWN ON THIS PLAT.

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

OWNER HEREBY GRANTS TO THE CITY OF SURPRISE AN EXCLUSIVE EASEMENT OVER, UPON AND ACROSS ALL SEWER LINES AS SHOWN ON THE PLAT, INCLUDING A CROSS-ACCESS EASEMENT ACROSS THE ENTIRE PLAT FOR THE PURPOSE OF PROVIDING CONTINUOUS AND UNINTERRUPTED INGRESS AND EGRESS FOR EMERGENCY AND TRASH COLLECTION VEHICLES AND TO DEDICATED SEWER LINES FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, REPLACING AND UTILIZING THE SEWER LINES.

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

OWNER HEREBY GRANTS TO THE UNITED STATES OF AMERICA DEPARTMENT OF THE AIR FORCE ("USAF") AN AVIGATION EASEMENT OVER AND ACROSS THIS PLAT, 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.

DYSART UNIFIED SCHOOL NO. 89, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, ("OWNER") DOES HEREBY (1) RELEASE AND DISCHARGE THE CITY OF SURPRISE, AND (2) INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SURPRISE, OF AND FROM ANY LIABILITY FOR ANY AND ALL CLAIMS FOR DAMAGES OF ANY KIND TO PERSONS OR PROPERTY THAT MAY ARISE AT ANY TIME IN THE FUTURE OVER, OR IN CONNECTION WITH THE AREAS LOCATED WITHIN THE NEWLY DEDICATED RIGHT-OF-WAY AS DEPICTED ON THIS PLAT UNTIL SUCH TIME THE RIGHT-OF-WAY IS IMPROVED TO CITY STANDARDS AND THOSE IMPROVEMENTS ARE APPROVED AND ACCEPTED BY THE CITY COUNCIL. THE MAINTENANCE OF THE AREA WITHIN ANY NEWLY DEDICATED RIGHT-OF-WAY AS SHOWN ON THIS PLAT SHALL BE THE RESPONSIBILITY OF THE ADJACENT OWNER/OR SUBSEQUENT ADJACENT OWNERS WITHIN THE BOUNDARIES OF SAID PLAT UNTIL SUCH TIME THAT THE AREA WITHIN THE RIGHT-OF-WAY IS IMPROVED TO CITY STANDARD AND ACCEPTED BY THE CITY OF SURPRISE.

ANY PARTY WITH RIGHTS TO ANY WATER OR SEWER EASEMENT THAT OVERLAPS ANOTHER WATER OR SEWER EASEMENT SHALL HAVE THE RIGHT TO INSTALL, CONSTRUCT, MAINTAIN, REPAIR, REPLACE AND UTILIZE THE WATER/SEWER LINES/WATER METERS IN SUCH EASEMENTS THAT OVERLAP IN AN EMERGENCY SITUATION WITHOUT THE CONSENT OF ALL PARTIES WITH RIGHTS TO SUCH EASEMENTS. IN SUCH AREAS THAT OVERLAP IN A NON-EMERGENCY SITUATION ALL PARTIES SHALL CONSENT PRIOR TO ALLOWING ANY OTHER PARTY TO PERFORM ANY INSTALLATION, CONSTRUCTION, MAINTENANCE, REPAIR, OR REPLACEMENT WORK WITHIN THE EASEMENT.

OWNER HEREBY DEDICATES THE MAINTENANCE OF LANDSCAPING WITHIN THE OPEN SPACES AND RETENTION BASINS SHALL BE THE RESPONSIBILITY OF THE OWNER.

OWNER HEREBY DEDICATES THE MAINTENANCE OF LANDSCAPING WITHIN THE ADJACENT PUBLIC RIGHTS-OF-WAY, INCLUDING LANDSCAPED MEDIANS WITHIN COLLECTORS AND LOCAL STREETS AND LANDSCAPED AREAS BETWEEN THE CURB AND THE DETACHED SIDEWALK, SHALL BE THE RESPONSIBILITY OF THE OWNER.

OWNER HEREBY DEDICATES LANDSCAPING MAINTENANCE WITHIN THE MEDIANS WITHIN THE PUBLIC RIGHT-OF-WAY WITHIN ANY ARTERIAL OR PARKWAY STREET CLASSIFICATION SHALL BE THE RESPONSIBILITY OF THE CITY OF SURPRISE AFTER ACCEPTANCE.

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

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

PERPETUAL WATER EASEMENT ("EASEMENT") AS DESCRIBED IN THE PLAT ARE GRANTED TO ARIZONA-AMERICAN WATER COMPANY, AND ITS SUCCESSORS AND ASSIGNS (COLLECTIVELY, "GRANTEE"), TO CONSTRUCT, OPERATE, AND MAINTAIN WATER LINES AND APPURTENANT FACILITIES (COLLECTIVELY, "FACILITIES") UPON, ACROSS, OVER AND UNDER THE SURFACE OF THE EASEMENTS, TOGETHER WITH THE RIGHT TO OPERATE, REPAIR, REPLACE, MAINTAIN, AND REMOVE THE FACILITIES FROM THE PREMISES; TO ADD OR TO ALTER THE FACILITIES, AND TO PROVIDE GRANTEE WITH REASONABLE INGRESS AND EGRESS TO THE FACILITIES. GRANTEE WILL HAVE UNRESTRICTED ACCESS TO THE EASEMENT FOR THE ACTIVITIES DESCRIBED ABOVE AND FORMAL NOTIFICATION OR APPROVAL BY ANY ASSOCIATION PRIOR TO ACCESSING THE EASEMENT WILL NOT BE REQUIRED.

GRANTOR SHALL NOT ERECT OR CONSTRUCT OR PERMIT TO BE ERECTED OR CONSTRUCTED ANY BUILDING, STRUCTURE OR SIMILAR IMPROVEMENT WITHIN THE LIMITS OF THE EASEMENT GRANTED HEREIN. GRANTOR SHALL NOT, NOR PERMIT, THE GRADE OVER GRANTEE'S FACILITIES TO BE SUBSTANTIALLY ALTERED WITHOUT, IN EACH INSTANCE, THE PRIOR WRITTEN CONSENT OF GRANTEE, AND GRANTOR AGREES THAT NO OTHER PIPES OR CONDUITS SHALL BE PLACED WITHIN THE PREMISES SUBJECT TO THE EASEMENT GRANTED HEREIN, EXCEPT PIPES CROSSING GRANTEE'S FACILITIES AT RIGHT ANGLES, IN WHICH CASE, A MINIMUM VERTICAL DISTANCE OF TWO (2) FEET (AS MEASURED FROM THE CLOSEST POINTS ON THE OUTSIDE EDGES) SHALL BE MAINTAINED BETWEEN GRANTEE'S FACILITIES AND SUCH OTHER PIPES OR CONDUITS, UNLESS GRANTEE'S EXPRESSLY CONSENTS IN WRITING OTHERWISE, ANY AND ALL SEWER PIPES CROSSING THE EASEMENT GRANTED HEREIN SHALL BE LAID BELOW GRANTEE'S FACILITIES. HOWEVER, GRANTOR SHALL HAVE THE RIGHT TO CONSTRUCT AND ERECT FENCES, TO INSTALL LANDSCAPING, PARKING FACILITIES AND DRIVEWAYS, AND TO ESTABLISH OTHER USES WHICH ARE NOT INCONSISTENT WITH USES WITHIN THE LIMITS OF SAID EASEMENT IN A MANNER WHICH WILL NOT UNREASONABLY INTERFERE WITH GRANTEE'S ACCESS TO THE FACILITIES.

IN WITNESS WHEREOF, DYSART UNIFIED SCHOOL NO. 89, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, HAS HEREUNTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY THE UNDERSIGNED, DULY AUTHORIZED OFFICER THIS DAY OF August 27, 2010.

DYSART UNIFIED SCHOOL NO. 89, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA

BY: Scott W. Thompson ATTEST: Vern W. Wolf
ITS: EXEC. DIRECTOR FOR BUSINESS ITS: Senior Planner

ACKNOWLEDGMENT

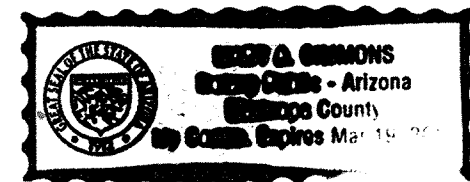
ON THIS, THE 27th DAY OF August, 2010, BEFORE ME, Scott W. Thompson WHO ACKNOWLEDGED HIMSELF/HERSELF TO BE THE Exec. Director OF: DYSART UNIFIED SCHOOL NO. 89, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA AND ACKNOWLEDGED THAT HE, AS SUCH OFFICER, BEING DULY AUTHORIZED SO TO DO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES CONTAINED THEREIN.

IN WITNESS WHEREOF:

I HEREUNTO SET MY HAND AND OFFICIAL SEAL:

Mary A. Chinn
NOTARY PUBLIC

March 19, 2014
MY COMMISSION EXPIRES



FINAL PLAT OF DUSD #89 SURPRISE, ARIZONA

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

FLYOVERS NOTICE:

PUBLIC NOTICE

THE PROPERTY DEPICTED ON THIS PLAT IS LOCATED WITHIN THE VICINITY OF LUKE AIR FORCE BASE AND MAY BE SUBJECT TO OVERFLIGHTS BY JET AIRCRAFT PER DOCUMENT NO. 2001-0743413, M.C.R. ALL STRUCTURES WITHIN THIS PLAT SHALL BE CONSTRUCTED IN COMPLIANCE WITH THE SOUND ATTENUATION STANDARDS ADOPTED BY THE CITY OF SURPRISE. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE CITY OF SURPRISE COMMUNITY DEVELOPMENT DEPARTMENT.

RELEASE OF LIABILITY

DYSART UNIFIED SCHOOL NO. 89, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, ("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.

INTERGOVERNMENTAL AGREEMENT

THE CITY OF SURPRISE ("CITY") AND MARICOPA COUNTY MUNICIPAL WATER CONSERVATION DISTRICT NUMBER ONE ("MWD") ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT DATED APRIL 8, 1997, AND RECORDED IN THE MARICOPA COUNTY RECORDER'S OFFICE ON APRIL 9, 1997, UNDER DOCKET NO. 97-0231759 ("IGA"). CITY AND MWD HAVE FACILITIES AND PROPERTY INTERESTS DESCRIBED AND DELINEATED WITHIN CERTAIN SUBDIVISION PLATS OR, FOR LANDS NOT INCLUDED IN A SUBDIVISION PLAT, DECLARATIONS OF TURF LANDS OF DECLARATIONS OF URBANIZED AREA, THAT HAVE PRIOR AND SUPERIOR RIGHTS TO THE UTILITY SERVICE PROVIDERS, AS DEFINED IN THE IGA. THE IGA PROVIDES FOR THE CITY TO HAVE A PUBLIC UTILITY EASEMENT WITHIN CERTAIN MWD PROPERTY INTERESTS AND FOR MWD TO HAVE AN EASEMENT WITHIN CITY'S PUBLIC RIGHTS-OF-WAY. CITY AND MWD RIGHTS WITHIN THESE EASEMENTS ARE SUBJECT TO AND CONTROLLED BY THE TERMS AND CONDITIONS OF THE IGA.

IN LOCATIONS WHERE APPLICABLE, INCLUDING ANY AND ALL DEDICATIONS WITHIN A SUBDIVISION PLAT, MWD'S PRIOR AND SUPERIOR RIGHTS OF ACCESS TO AND USE OF EXISTING AND FUTURE MWD FACILITIES AND PROPERTY INTERESTS, SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE IGA.

CITY SHALL HAVE THE RIGHT TO AUTHORIZE AND CONTROL THE UTILITY SERVICE PROVIDER'S USE AND OCCUPANCY OF THESE EASEMENTS. CITY REQUIRES THAT UTILITY SERVICE PROVIDER'S CONSENT TO BE BOUND BY THE IGA PRIOR TO THE USE OR OCCUPANCY OF THE EASEMENTS GRANTED UNDER THE IGA. SUCH USE OR OCCUPANCY OF THE EASEMENTS CONSTITUTES CONSENT OF THE UTILITY SERVICE PROVIDERS TO BE BOUND BY THE IGA.

BASIS OF BEARING

BASIS OF BEARING IS N0019'56"E ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA PER THE RECORD OF SURVEY PLSS SUBDIVISION, MARICOPA COUNTY GEODETIC DENSIFICATION AND CADASTRAL SURVEY AS RECORDED IN BOOK 661, PAGE 18, RECORDS OF MARICOPA COUNTY, ARIZONA.

LEGAL DESCRIPTION (SEE SHEET FP02)

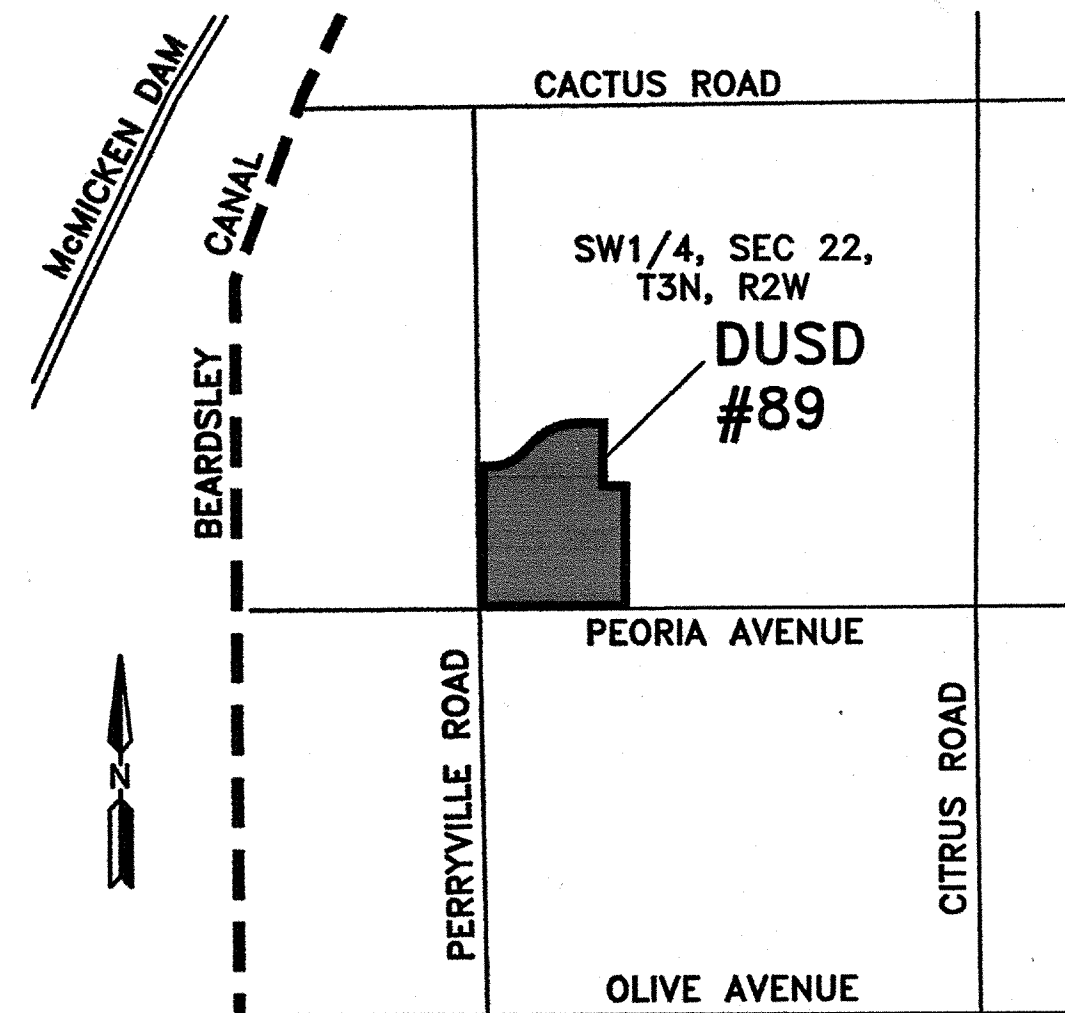
NOTES:

- THE PROPERTY OWNERS, OR ANY SUBSEQUENT OWNERS SHALL NOT PROCEED WITH ANY ON SITE GRADING OR EXCAVATION WITHOUT FIRST OBTAINING A PERMIT FROM THE CITY OF SURPRISE.
- THE PROPERTY IS LOCATED WITHIN AN AREA HAVING FLOOD ZONE "X" BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, ON FLOOD INSURANCE RATE MAP NO. 04013C1580H, WITH A DATE OF IDENTIFICATION OF SEPTEMBER 30, 2005, FOR COMMUNITY NO. 040053, IN MARICOPA COUNTY, STATE OF ARIZONA, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITUATED.
- IN ACCORDANCE WITH A.R.S. § 9-461.07, THE CITY OF SURPRISE HAS DETERMINED THAT ALL DEDICATIONS OCCURRING WITH THIS PLAT ARE IN CONFORMANCE WITH THE SURPRISE GENERAL PLAN.
- PURSUANT TO A.R.S. § 42-1102, THE CITY OF SURPRISE, A POLITICAL SUBDIVISION OF THE STATE OF ARIZONA, IS EXEMPT FROM ALL TAXES AND ASSESSMENTS BASED ON ASSESSED VALUE EXCEPT FOR SPECIAL DISTRICTS # 14751 AND 14710, WHEN APPLICABLE.

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20100792412 09/14/2010 11:42
BOOK 1065 PAGE 16
ELECTRONIC RECORDING
SHADOWRIDGE-3-1-1-M-
chagollaj

SHEET INDEX

FP01 COVER SHEET, SHEET INDEX MAP,
NOTES AND AREA TABLE
FP02 LEGAL DESCRIPTION, LINE AND
CURVE TABLE
FP03 FINAL PLAT



VICINITY MAP N.T.S.

DEVELOPER

SCOTT W. THOMPSON, EXECUTIVE DIRECTOR
OF BUSINESS SERVICES
DYSART UNIFIED SCHOOL DISTRICT
15802 NORTH PARKVIEW PLACE
SURPRISE, AZ 85374
PHONE: 623-876-7008
FAX: 623-764-4960

ENGINEER:

HILGARTWILSON
2390 E. CAMELBACK ROAD, STE 403
PHOENIX, ARIZONA 85016
PHONE: (602) 490-0535
FAX: (602) 325-0161
CONTACT: ZACH HILGART

GROSS AREA =	2,456,718 SQ. FT. OR 56.3985 ACRES
RIGHT-OF-WAY =	25,844 SQ. FT. OR 0.5933 ACRES
NET AREA =	2,430,874 SQ. FT. OR 55.8052 ACRES (NET = GROSS MINUS RIGHT-OF-WAYS)

APPROVALS:

CITY OF SURPRISE ENGINEER APPROVAL:

DATA ON THIS PLAT REVIEWED AND APPROVED THIS 7th DAY OF SEPT., 2010, BY THE CITY ENGINEER OF SURPRISE, ARIZONA.

APPROVED: Nathan D. Thompson
CITY ENGINEER

ARIZONA-AMERICAN WATER COMPANY APPROVAL:

DATA ON THIS PLAT REVIEWED AND APPROVED THIS 2nd DAY OF September 2010, BY ARIZONA-AMERICAN WATER COMPANY.

APPROVED: John L. Reynolds

9/2/10
DATE

CITY OF SURPRISE COUNCIL APPROVAL:

APPROVED BY THE CITY COUNCIL OF THE CITY OF SURPRISE, ARIZONA. THIS 9th DAY OF Sept., 2010.

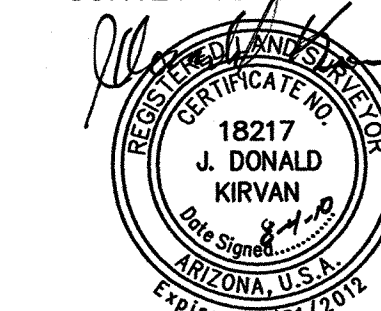
MAYOR: John L. Reynolds

ATTEST:

Sherry Ann Aguilera
CITY CLERK

LAND SURVEYOR CERTIFICATION

THIS IS TO CERTIFY (AS DEFINED AND LIMITED BY A.R.S. 32-151) THAT THE SURVEY AND PLAT OF THE PREMISES DESCRIBED HEREON WERE MADE UNDER MY DIRECTION AND THIS PLAT IS CORRECT AND ACCURATE AND THE FOUND MONUMENTS SHOWN HEREON HAVE BEEN LOCATED AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



BY: J. DONALD KIRVAN
RLS# 18217
HILGARTWILSON
2390 E. CAMELBACK ROAD, SUITE 403
PHOENIX, ARIZONA 85016
P: (602) 490-0535

NOTE:

A.R.S. 32-151 STATES THAT THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" BY A PERSON OR FIRM THAT IS REGISTERED OR CERTIFIED BY THE BOARD IS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING FACTS OR FINDINGS THAT ARE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE AN EXPRESS OR IMPLIED WARRANTY OR GUARANTEE.

COUNTY RECORDER

hilgartwilson
ENGINEERS • PLANNERS • SURVEYORS
2390 E. CAMELBACK RD., STE 403, PHOENIX, ARIZONA 85016
PH: 602-490-0535 / FAX: 602-325-0161
www.hilgartwilson.com

DUSD #89
PERRYVILLE ROAD & PEORIA AVENUE
MARICOPA COUNTY, ARIZONA

FINAL PLAT

PROJ.#:	1028	REV.:	
DATE:	AUGUST 2010		
SCALE:	AS SHOWN		
DRAWN:	JDL		
DESIGNED:	HW		
APPROVED:	ZH		
DWG. NO.	FP01		
		SHT. 1 OF 3	

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WATER EASEMENT LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S00°14'06"W	926.17'
L2	N89°44'29"W	15.50'
L3	N00°14'06"E	20.00'
L4	S89°44'29"E	15.50'
L5	S49°11'11"E	160.60'
L6	S35°12'53"E	310.99'
L7	S54°56'11"W	25.93'
L8	N09°56'11"E	122.27'
L9	N00°20'37"E	252.66'
L10	N47°40'19"W	154.81'
L11	N69°33'19"W	70.40'
L12	N90°00'00"W	133.02'
L13	N69°33'19"E	66.48'
L14	S87°56'41"E	25.57'
L15	S02°03'19"W	5.53'
L16	S20°26'41"E	7.50'
L17	S69°33'19"W	16.39'
L18	S20°26'41"E	20.00'
L19	N69°33'19"E	16.39'
L20	S20°26'41"E	8.75'
L21	N20°26'41"W	32.96'
L22	N02°03'19"E	20.87'
L23	N11°25'31"E	49.22'
L24	N33°55'31"E	61.33'
L25	N56°25'31"E	197.41'
L26	N75°25'31"E	12.47'
L27	N51°05'37"E	58.32'
L28	S87°23'51"E	85.76'
L29	N10°03'19"E	86.73'
L30	S79°59'42"E	13.49'
L31	N10°00'18"E	20.00'
L32	N79°59'42"W	13.49'
L34	N54°59'41"E	17.77'
L35	N77°39'19"E	26.89'
L36	N89°59'41"E	91.07'
L37	S00°19'56"W	20.00'
L38	S89°59'41"W	9.54'
L39	N00°00'19"W	19.20'
L40	S89°59'41"W	20.00'
L41	S00°00'19"E	19.20'
L42	S89°59'41"W	63.80'
L43	S77°39'19"W	29.27'
L44	N35°00'19"W	206.77'
L45	N54°59'41"E	12.51'
L46	N35°00'19"W	20.00'
L47	S54°59'41"W	12.51'
L48	N35°00'19"W	90.05'
L49	N46°08'10"W	15.64'
L50	S89°59'41"W	124.35'
L51	N00°00'02"W	31.46'
L52	S89°59'41"W	12.00'
L53	S00°00'19"E	31.46'
L54	S89°59'41"W	230.51'
L55	N77°00'19"W	29.38'
L56	N66°00'19"W	57.92'
L57	N55°00'19"W	14.00'
L58	N00°05'49"E	101.26'
L59	N89°52'26"W	20.93'
L60	N00°06'11"E	44.65'
L61	N89°53'49"W	12.00'

WATER EASEMENT LINE TABLE		
LINE #	DIRECTION	LENGTH
L62	S00°06'11"W	44.65'
L63	N89°52'26"W	558.38'
L64	N49°11'11"W	112.14'
L65	S54°47'06"W	194.61'
L66	N35°12'53"W	20.00'
L67	N54°47'06"E	189.64'
L68	N49°11'11"W	21.10'
L69	N35°12'53"W	20.07'
L70	N54°47'07"E	123.46'
L71	N35°12'53"W	20.00'
L72	N54°47'07"E	123.46'
L73	N35°12'53"W	273.47'
L74	S54°55'32"W	217.01'
L75	S44°59'41"W	169.14'
L76	S64°59'41"W	169.58'
L77	S55°03'39"W	183.69'
L78	S34°56'21"E	11.00'
L79	S55°03'39"W	20.00'
L80	N34°56'21"W	11.00'
L81	S55°03'39"W	35.08'
L82	S34°56'14"E	22.77'
L83	S55°03'46"W	20.00'
L84	N34°56'14"W	22.77'
L85	S55°03'39"W	71.49'
L86	N89°59'41"E	231.08'
L87	S77°00'19"E	33.58'
L88	S66°00'19"E	57.15'
L89	N34°59'41"E	16.66'
L90	S55°00'19"E	20.00'
L91	S34°59'41"W	15.74'
L92	N89°59'41"E	12.61'
L93	S00°00'19"E	20.00'
L94	S89°59'41"W	12.40'
L95	S00°07'34"W	20.05'
L96	N90°00'00"E	12.48'
L97	S00°00'00"E	12.00'
L98	N90°00'00"W	12.51'
L99	S00°07'34"W	32.57'
L100	S89°52'26"E	571.35'
L101	S09°56'11"W	105.51'
L102	S00°20'37"W	162.36'
L103	N89°39'23"W	22.17'
L104	N00°20'37"E	12.00'
L105	S89°39'23"E	22.17'
L106	S00°20'37"W	67.72'
L107	S47°40'19"E	142.04'
L108	S69°33'19"E	62.93'
L109	N90°00'00"E	125.80'
L110	S69°33'19"W	66.85'
L111	N87°56'41"W	29.55'
L112	S02°03'19"W	7.69'
L113	S47°03'19"W	8.90'
L114	S11°25'31"W	51.55'
L115	S33°55'31"W	69.29'
L116	S56°25'31"W	30.29'
L117	S33°34'29"E	12.50'
L118	S56°25'31"W	20.00'
L119	N33°34'29"W	12.50'
L120	S56°25'31"W	154.45'
L121	S75°25'31"W	11.50'

WATER EASEMENT LINE TABLE		
LINE #	DIRECTION	LENGTH
L122	S51°05'37"W	55.53'
L123	S02°36'09"W	12.15'
L124	N87°23'51"W	21.00'
L125	N02°36'09"E	11.81'
L126	N87°23'51"W	40.52'
L127	S02°36'09"W	11.94'
L128	N87°23'51"W	12.00'
L129	N02°36'09"E	11.94'
L130	N87°23'51"W	5.77'
L131	S10°00'18"W	99.94'
L132	S71°30'44"E	268.37'
L133	N65°25'12"E	29.06'
L134	N54°55'01"E	187.86'
L135	N35°04'59"W	51.78'
L136	N54°55'01"E	15.00'
L137	S35°04'59"E	51.78'
L138	N54°55'01"E	213.49'
L139	N35°04'59"W	22.49'
L140	N54°55'01"E	12.00'
L141	S35°04'59"E	22.49'
L142	N54°55'01"E	115.07'
L143	N77°34'30"W	51.13'
L144	S35°05'47"E	208.42'
L145	N54°55'32"E	78.54'
L146	N35°03'49"W	12.57'
L147	N54°56'11"E	12.00'
L148	S35°03'49"E	7.81'
L149	S35°05'47"E	150.11'
L150	N54°54'13"E	5.98'
L151	S35°05'47"E	12.00'
L152	N54°54'13"E	6.00'
L153	S35°05'47"E	38.51'
L154	N77°34'30"W	34.58'
L155	S54°55'01"W	87.23'
L156	S35°04'59"E	17.92'
L157	S54°55'01"W	12.00'
L158	N35°04'59"W	17.92'
L159	S54°55'01"W	183.82'
L160	S35°04'59"E	15.07'
L161	S54°55'01"W	20.00'
L162	N35°04'59"W	15.07'
L163	S54°55'01"W	65.04'
L164	S35°04'59"E	45.09'
L165	S54°55'01"W	12.00'
L166	N35°04'59"W	45.09'
L167	S54°55'01"W	206.60'
L168	S65°25'12"W	11.12'
L169	S24°34'48"E	52.72'
L170	S34°56'21"E	8.74'
L171	N55°03'39"E	11.00'
L172	S34°56'21"E	20.00'
L173	S55°03'39"W	31.00'
L174	N34°56'21"W	30.56'
L175	N24°34'48"W	54.54'
L176	S65°25'12"W	7.67'
L177	N71°30'44"W	104.59'
L178	S18°29'16"W	4.12'
L179	N71°30'44"W	12.00'
L180	N18°29'16"E	4.12'
L181	N71°30'44"W	158.19'

WATER EASEMENT LINE TABLE		
LINE #	DIRECTION	LENGTH
L182	N79°59'42"W	10.86'
L183	S10°00'18"W	123.15'
L184	S54°59'41"W	13.55'
L185	S35°00'19"E	313.42'
L186	S46°08'10"E	5.64'
L187	N89°59'41"E	105.10'
L188	N00°00'07"E	5.21'
L189	N45°43'22"E	9.06'
L190	N55°03'39"E	340.48'
L191	N64°59'41"E	151.07'
L192	N25°00'19"W	15.01'
L193	N64°59'41"E	20.00'
L194	S25°00'19"E	13.81'
L195	N44°59'41"E	163.86'
L196	N54°55'32"E	150.67'
L199	N89°44'29"W	20.00'
L207	N00°14'06"E	471.90'
L208	N00°14'06"E	452.97'
L209	S00°14'06"W	7.92'
L210	S79°59'42"E	12.34'
L212	S35°04'59"E	14.43'
L213	S54°55'01"W	12.00'
L214	S35°04'59"E	14.43'
L215	S10°00'18"W	20.00'
L216	N59°09'43"E	20.05'
L217	N89°59'41"E	24.90'
L218	N00°14'06"E	20.00'

WATER EASEMENT CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C3	260.37'	33°11'43"	150.85'
C8	240.37'	33°13'14"	139.37'
C5	173.95'	56°44'45"	172.28'
C10	153.95'	55°15'02"	148.46'
C6	207.13'	55°51'18"	201.92'
C7	227.13'	55°03'25"	218.26'
C2	620.00'	1°50'58"	20.01'
C4	93.92'	45°48'35"	75.09'
C9	113.92'	46°11'56"	91.86'

WATER EASEMENT RADIAL BEARING LINE TABLE	
LINE #	DIRECTION
RB219	N17°31'43"W
RB220	N36°11'04"W
RB221	S29°43'40"E
RB222	N12°15'18"W
RB223	N29°40'37"E
RB224	N30°01'49"E
RB225	N35°47'01"W
RB226	S30°34'26"E
RB227	N13°11'47"W

SEWER EASEMENT LINE TABLE		
LINE #	DIRECTION	LENGTH
L200	N89°44'29"W	20.00'
L201	N89°44'39"W	221.07'
L202	S89°39'23"E	20.00'
L204	S89°44'39"E	221.03'

PROPERTY TIES LINE TABLE		
LINE #	DIRECTION	LENGTH
L197	S00°14'06"W	68.00'
L198	N89°44'29"W	15.50'
L203	S89°39'23"E	15.00'
L205	N00°14'06"E	304.74'
L206	N00°19'56"E	109.87'
L211	S00°19'56"W	1001.88'

LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3" MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION BRASS CAP ACCEPTED AS THE SOUTHWEST CORNER OF SAID SECTION 22 FROM WHICH A FOUND ALUMINUM CAP ACCEPTED AS THE WEST QUARTER CORNER THEREOF BEARS NORTH 00 DEGREES 19 MINUTES 56 SECONDS EAST A DISTANCE OF 2636.82 FEET;

THENCE ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, NORTH 00 DEGREES 19 MINUTES 56 SECONDS EAST A DISTANCE OF 100.07 FEET;

THENCE LEAVING SAID WEST LINE, SOUTH 89 DEGREES 40 MINUTES 04 SECONDS EAST A DISTANCE OF 55.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF PERRYVILLE ROAD AS RECORDED IN DOCUMENT NO. 2008-0395969, RECORDS OF MARICOPA COUNTY, ARIZONA, BEING THE POINT OF BEGINNING;

THENCE ALONG SAID EAST RIGHT-OF-WAY LINE THE FOLLOWING 4 COURSES;

THENCE NORTH 00 DEGREES 19 MINUTES 56 SECONDS EAST A DISTANCE OF 1131.75 FEET;

THENCE NORTH 06 DEGREES 49 MINUTES 31 SECONDS EAST A DISTANCE OF 26.53 FEET;

THENCE NORTH 00 DEGREES 19 MINUTES 56 SECONDS EAST A DISTANCE OF 188.56 FEET;

THENCE NORTH 45 DEGREES 19 MINUTES 56 SECONDS EAST A DISTANCE OF 42.43 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DESERT COVE ROAD AS RECORDED IN DOCUMENT NO. 2008-0395969, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID DESERT COVE ROAD THE FOLLOWING 4 COURSES:

THENCE SOUTH 89 DEGREES 40 MINUTES 04 SECONDS EAST A DISTANCE OF 21.26 FEET TO THE BEGINNING OF TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 560.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45 DEGREES 42 MINUTES 38 SECONDS AN ARC LENGTH OF 446.77 FEET;

THENCE NORTH 44 DEGREES 37 MINUTES 18 SECONDS EAST A DISTANCE OF 154.16 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 620.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30 DEGREES 36 MINUTES 50 SECONDS AN ARC LENGTH OF 331.28 FEET;

THENCE LEAVING THE SOUTH RIGHT-OF-WAY LINE OF SAID DESERT COVE ROAD AND ALONG THE EAST LINE OF THE RIGHT-OF-WAY OF SAID DESERT COVE ROAD, NORTH 14 DEGREES 45 MINUTES 52 SECONDS WEST A DISTANCE OF 60.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 680.00 FEET THE CENTER OF WHICH BEARS SOUTH 14 DEGREES 45 MINUTES 52 SECONDS EAST;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15 DEGREES 06 MINUTES 28 SECONDS AN ARC LENGTH OF 179.31 FEET;

THENCE SOUTH 89 DEGREES 39 MINUTES 23 SECONDS EAST A DISTANCE OF 259.34 FEET;

THENCE SOUTH 00 DEGREES 20 MINUTES 37 SECONDS WEST A DISTANCE OF 682.53 FEET;

THENCE SOUTH 89 DEGREES 45 MINUTES 36 SECONDS EAST A DISTANCE OF 241.45 FEET;

THENCE SOUTH 00 DEGREES 14 MINUTES 06 SECONDS WEST A DISTANCE OF 1250.92 FEET TO THE NORTH RIGHT-OF-WAY LINE OF PEORIA AVENUE AS RECORDED IN DOCUMENT NO. 2008-0395969, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING 4 COURSES:

THENCE NORTH 89 DEGREES 44 MINUTES 29 SECONDS WEST A DISTANCE OF 1264.96 FEET;

THENCE NORTH 85 DEGREES 10 MINUTES 03 SECONDS WEST A DISTANCE OF 25.08 FEET;

THENCE NORTH 89 DEGREES 44 MINUTES 29 SECONDS WEST A DISTANCE OF 189.54 FEET;

THENCE NORTH 44 DEGREES 42 MINUTES 16 SECONDS WEST A DISTANCE OF 42.40 FEET TO THE POINT OF BEGINNING.



COUNTY RECORDER

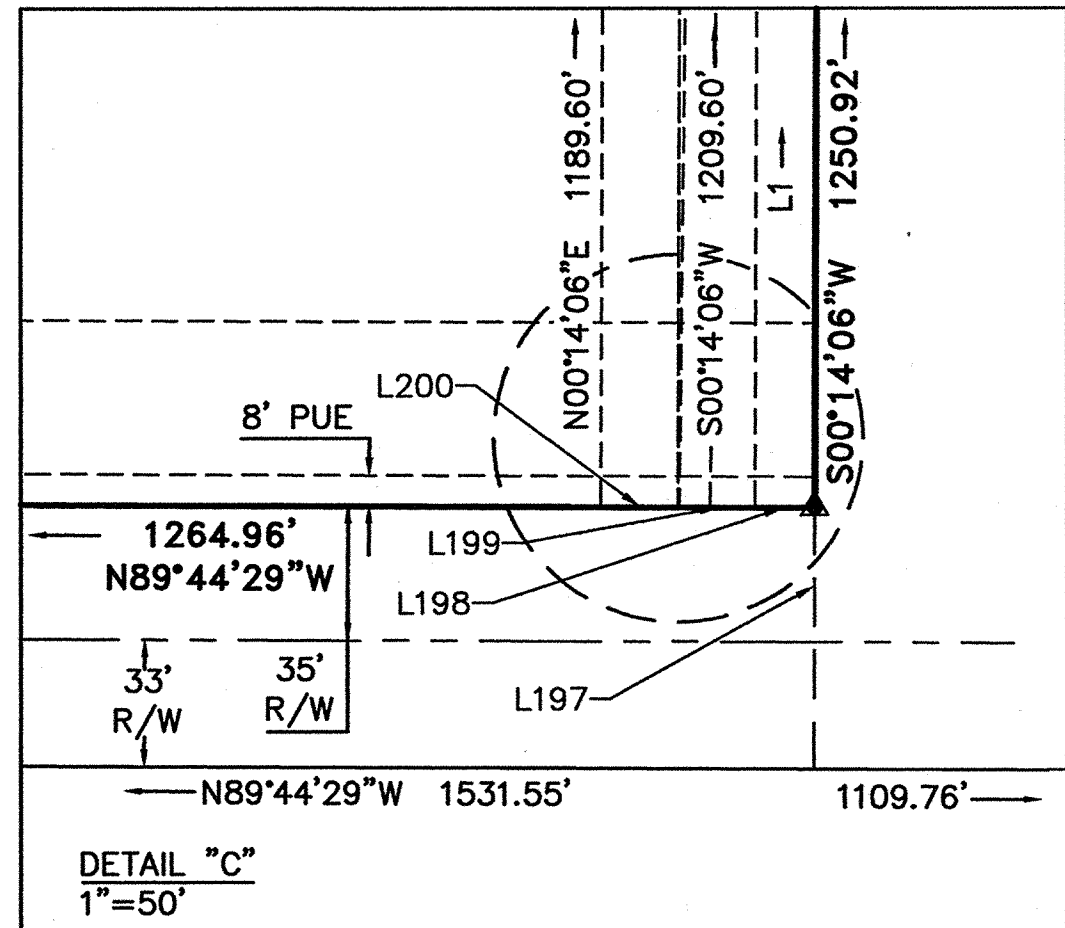
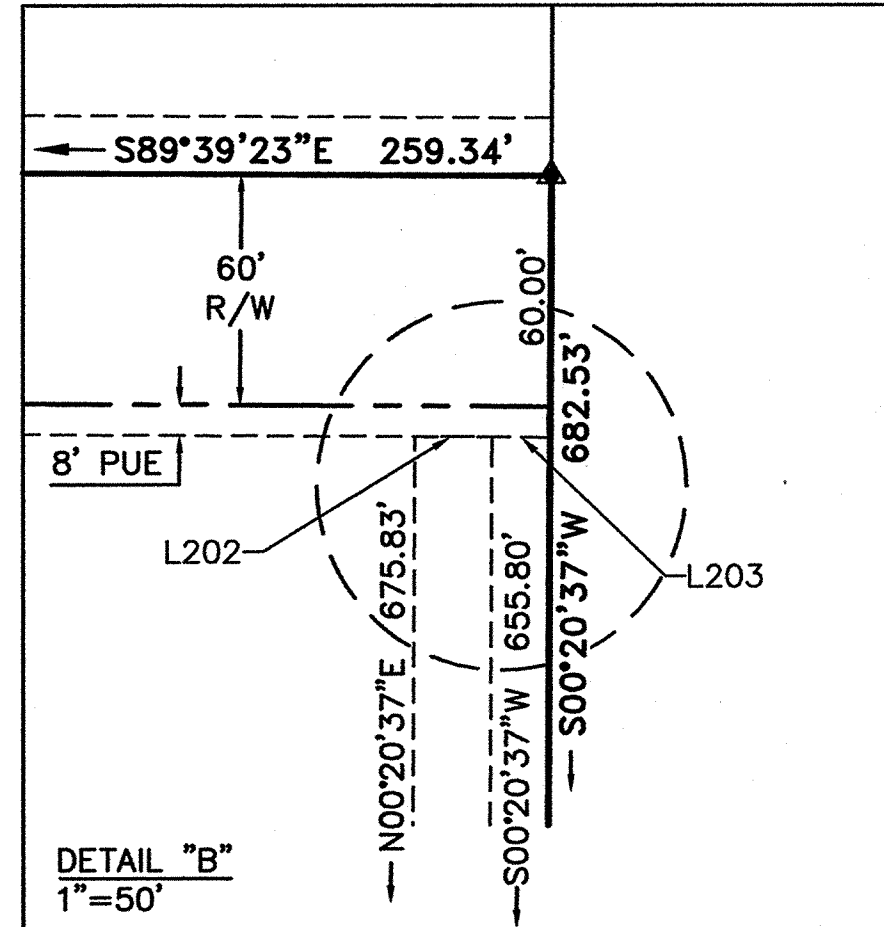
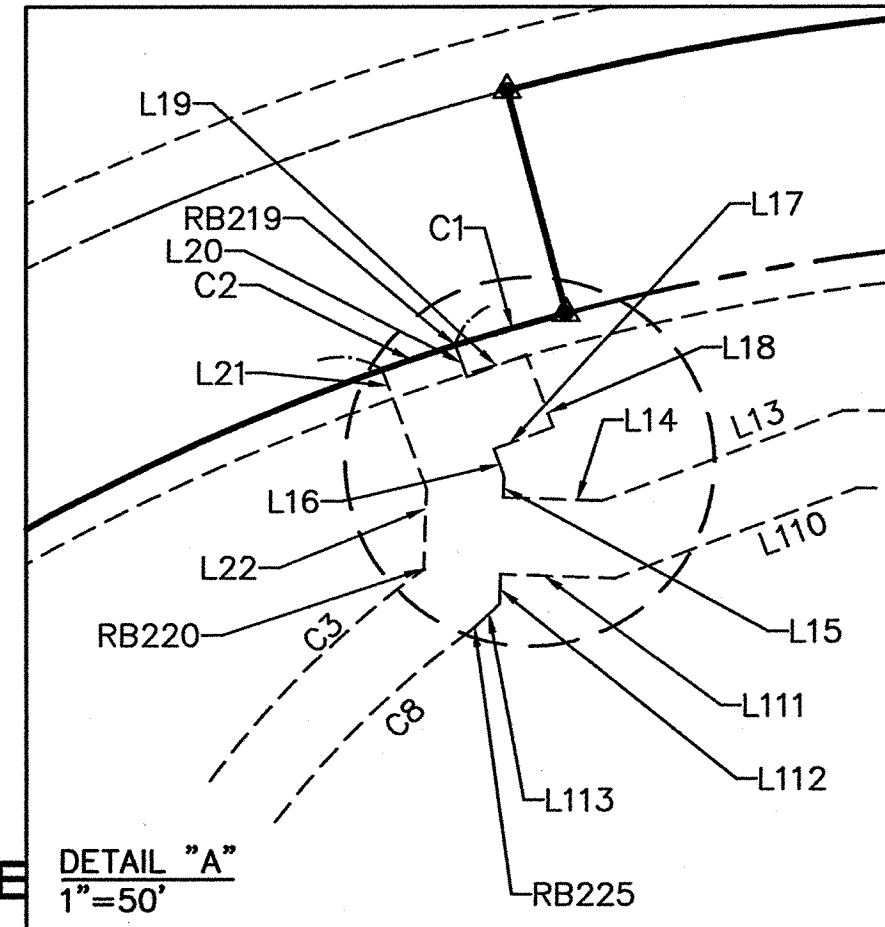
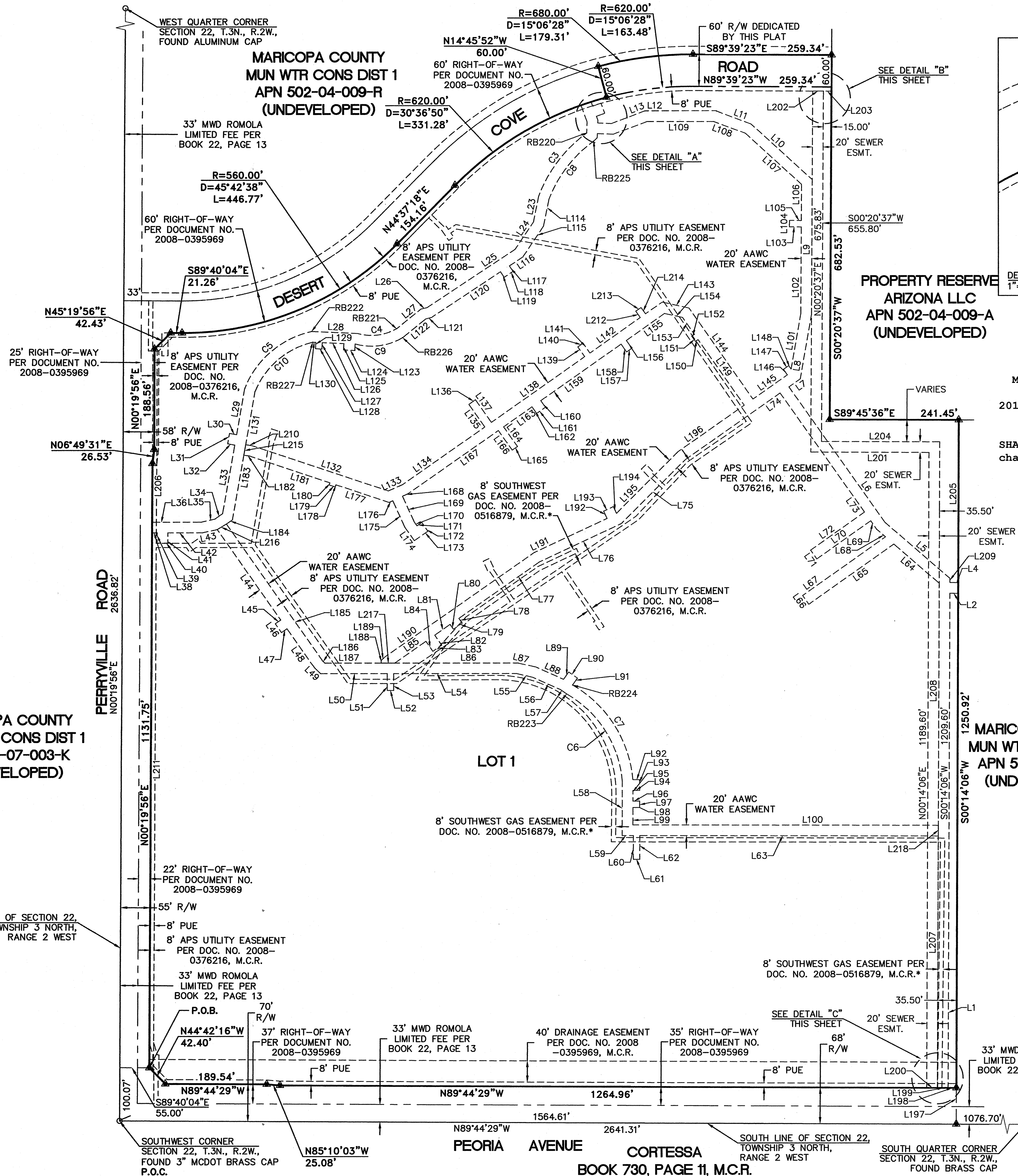
OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

20100792412 09/14/2010 11:42
BOOK 1065 PAGE 16
ELECTRONIC RECORDING
SHADOWRIDGE-3-1-1-M-
chagollaj

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MARICOPA COUNTY
MUN WTR CONS DIST 1
APN 502-07-003-K
(UNDEVELOPED)

WEST LINE OF SECTION 22,
TOWNSHIP 3 NORTH,
RANGE 2 WEST

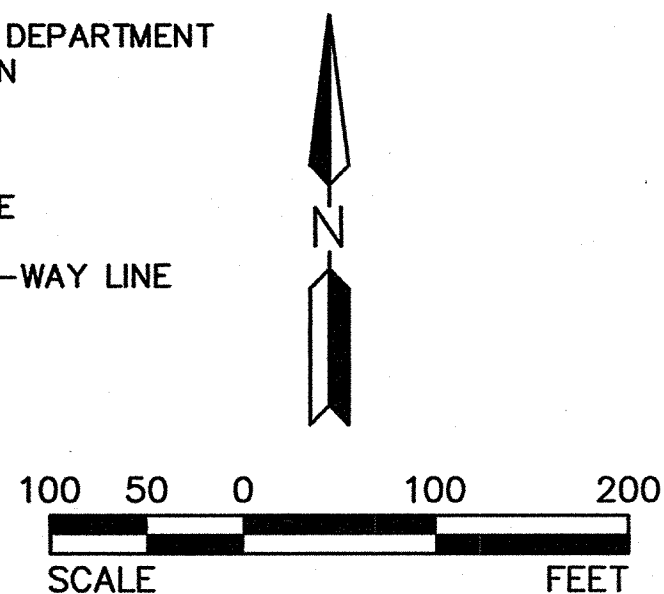


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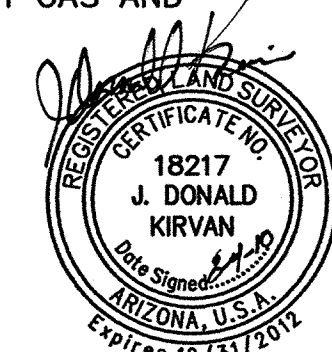
LEGEND

- ▲ SET CORNER OF THIS PLAT PER MAG STD. DTL. 120-1 TYPE "C"
- FOUND MONUMENT AS NOTED
- L1 LINE TABLE NUMBER
- C1 CURVE TABLE NUMBER
- PUE PUBLIC UTILITY EASEMENT
- ESMT. EASEMENT
- MWD MARICOPA WATER DISTRICT
- APN ASSESSOR PARCEL NUMBER
- APS ARIZONA PUBLIC SERVICE
- M.C.R. MARICOPA COUNTY RECORDER
- R/W RIGHT-OF-WAY
- MCDOT MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION
- PARCEL BOUNDARY
- RIGHT-OF-WAY LINE
- EXISTING RIGHT-OF-WAY LINE
- EASEMENT LINE
- SECTION LINE

*NOTE:
PER DOCUMENT 2008-0516879,
M.C.R. THERE IS A 8' WIDE
EASEMENT FOR SOUTHWEST GAS.
LOCATION OF SAID EASEMENT WAS
OBTAINED FROM MAP "SW1/4 SEC 22
T3N-R2W" DATED 2-16-2010
PROVIDED BY SOUTHWEST GAS AND
SHOULD BE CONSIDERED
APPROXIMATE.



COUNTY RECORDER



hilgartwilson
ENGINEERS • PLANNERS • SURVEYORS
2390 E. CAMELBACK RD., STE. 403, PHOENIX, ARIZONA 85016
PH: 602-486-0355 / FAX: 602-325-0161
www.hilgartwilson.com

DUSD #89
PERRYVILLE ROAD & PEORIA AVENUE
MARICOPA COUNTY, ARIZONA
FINAL PLAT

PROJ#:	1028	REV:	
DATE:	AUGUST 2010		
SCALE:	AS SHOWN		
DRAWN:	JDL		
DESIGNED:	HW		
APPROVED:	ZH		
DWG. NO.	FP03		
SHT.	3 OF 3		

RESOLUTION NUMBER 2010-85

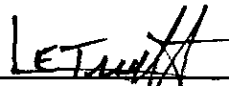
A RESOLUTION OF THE MAYOR AND COUNCIL
OF THE CITY OF SURPRISE, ARIZONA,
APPROVING A FINAL PLAT (FS10-132) FOR
"DUSD #89." THE SUBJECT SITE IS GENERALLY
LOCATED ON THE NORTHEAST CORNER OF
PEORIA AVENUE AND PERRYVILLE ROAD.

WHEREAS, the conditions identified in Section 1 of this resolution apply to all properties within the legal description identified on the final plat and within the adjacent right-of-way;

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

Section 1. The Final Plat (FS10-132) entitled "DUSD #89" is approved.

APPROVED AND ADOPTED this 9 day of September, 2010.



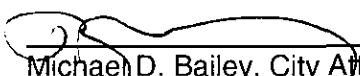
L.E. Truitt, Mayor

Attest:



Sherry Aguilar, City Clerk

Approved as to form:



Michael D. Bailey, City Attorney

Yeas: Mayor Truitt, Vice Mayor Alton, Council Members: Wolcott, Williams,
Villanueva, Woodard and Hall

Nays: _____



COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: September 9, 2010

To: Mayor and City Council

From: Jeffrey J. Mihelich, Community and Economic Development Director
Hobart Wingard, Planner
hobart.wingard@surpriseaz.gov 623-222-3156

Re: FS10-132, Final Plat for Shadow Ridge High School

Application Summary

The applicant is requesting final plat approval in order to properly identify all of the existing easements and rights-of-way and to dedicate the remaining easements within the school site and the right-of-way for Desert Cove Road.

Location

The project is located on the northeast corner of Peoria Avenue and Perryville Road on a 56-acre parcel.

History

- On September 11, 2008, the Mayor and City Council approved the annexation and planned unit development (PAD) for the Zanjero Trails Master Plan.
- On August 6, 2009, a certificate of occupancy was issued for the educational facility.

Project Summary

During the review of the Fine Arts Building for Shadow Ridge High School, it was identified that the adjacent roadway known as Desert Cove Road, was required to be dedicated as right-of-way. Further review of the overall master plan uncovered easements that were in need of dedication and rights-of-way that were dedicated through a separate instrument. The subject final plat will clearly dedicate all unrecorded easements and rights-of-way into a single document.

Economic Impact

The proposed final plat will have minimal financial impact to the city.

Staff Review

All departments involved in the subject review are recommending the project for approval.

Findings

1. Staff finds that the proposed final plat complies with the Surprise Municipal Code.
2. Staff finds that the proposed final plat complies with the Surprise General Plan.
3. Staff finds that the proposed final plat complies with the Zanjero Trails PAD.

Recommendation

Staff recommends to the Mayor and City Council the project for approval.

Attachments

Vicinity Map, Resolution, and Plat Map

[illegible]

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APPROVED: 24
DESIGNED: JH
DRAWN: JH
SCALE: AS SHOWN
DATE: JULY 2010
REV: 102B

FIG. NO. 3
FPO3

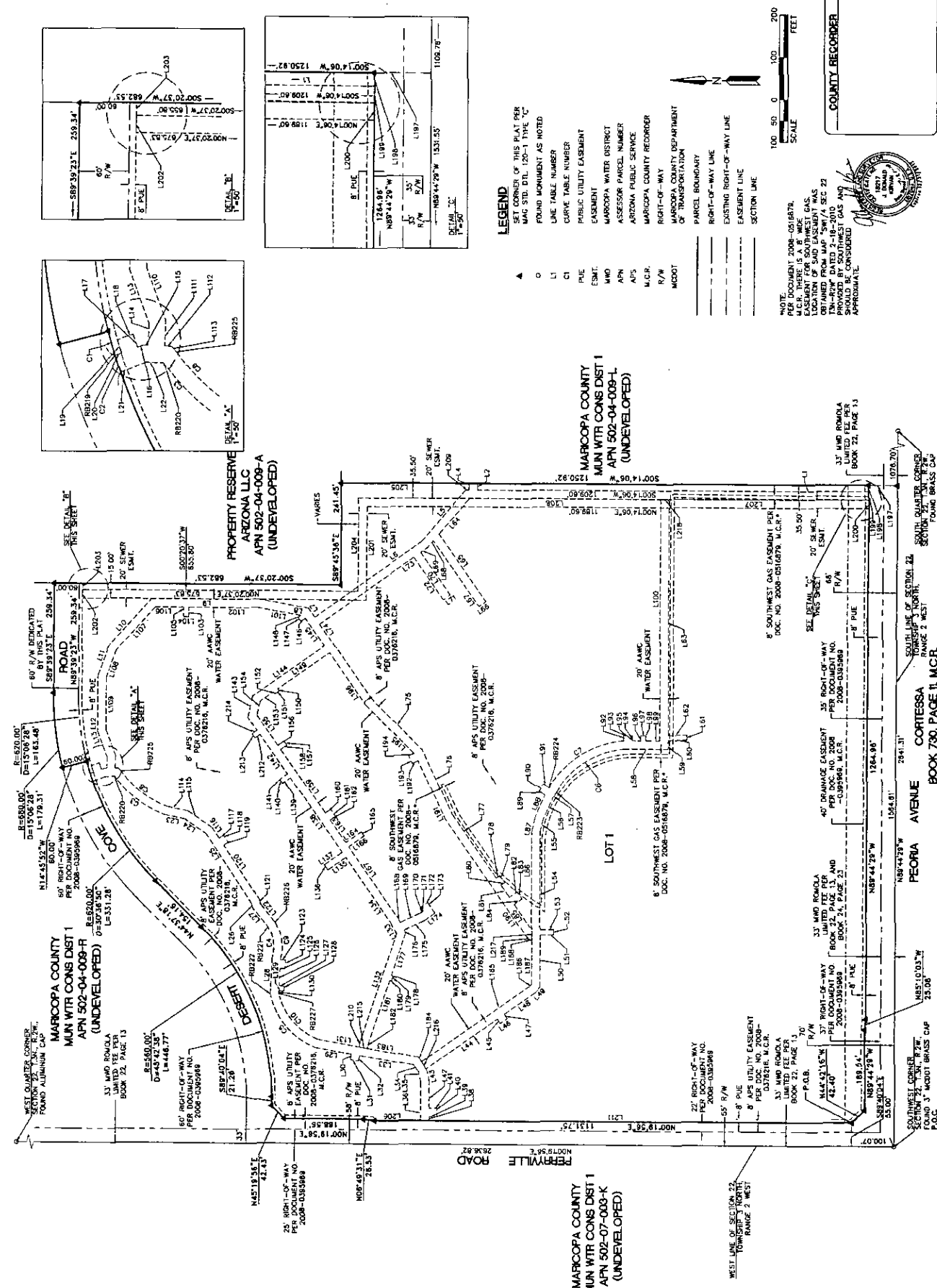
FINAL PLAT
MARICOPA COUNTY, ARIZONA
PERRYVILLE ROAD & PEORIA AVENUE
DUSD #88

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PH: 602-998-1111 / FAX: 602-998-1112
WWW.HILGARTWILSON.COM

COUNTY RECORDER
MARICOPA COUNTY
RECORDED
BOOK 780, PAGE 11, M.C.R.

NOTE:
PER DOCUMENT 2008-051672,
M.C.R. THERE IS A 6' WIDE
EASEMENT FOR THE GAS
LOCATION OF SAID EASEMENT WAS
OBTAINED FROM MAP "SW/4 SEC 22
T2N-R2W DATED 2-18-2010
BOOK 780, PAGE 13 AND
SHOULD BE CONSIDERED
APPROXIMATE.

- LEGEND
- SET CORNER OF THIS PLAT PER
MAG. STD. DTL. 120-1 TYPE "C"
 - FOUND MONUMENT AS NOTED
 - LINE TABLE NUMBER
 - CURVE TABLE NUMBER
 - PUBLIC UTILITY EASEMENT
 - EASEMENT
 - MARICOPA WATER DISTRICT
 - ASSESSOR PARCEL NUMBER
 - ARIZONA PUBLIC SERVICE
 - MARICOPA COUNTY RECORDER
 - RIGHT-OF-WAY
 - MARICOPA COUNTY DEPARTMENT
OF TRANSPORTATION
 - PARCEL BOUNDARY
 - RIGHT-OF-WAY LINE
 - EXISTING RIGHT-OF-WAY LINE
 - EASEMENT LINE
 - SECTION LINE



WEST QUARTER CORNER
SECTION 22, T2N, R2W,
FOUND 3' MCDOT BRASS CAP

SOUTH QUARTER CORNER
SECTION 22, T2N, R2W,
FOUND BRASS CAP

PEORIA AVENUE
CORTESIA
BOOK 780, PAGE 11, M.C.R.

PEORIA AVENUE
CORTESIA
BOOK 780, PAGE 11, M.C.R.

PEORIA AVENUE
CORTESIA
BOOK 780, PAGE 11, M.C.R.

PEORIA AVENUE
CORTESIA
BOOK 780, PAGE 11, M.C.R.

PEORIA AVENUE
CORTESIA
BOOK 780, PAGE 11, M.C.R.



CITY OF SURPRISE
Main Agenda

#9

September 9, 2010 @ 6:00:00 PM

Back Print

Council Meeting Date:	September 9, 2010	Contact Person:	Hobart Wingard, Community & Economic Development
Submitting Department:	CD	District:	3
Staff Recommendations:	Approve		

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action on Resolution 2010-85, a resolution of the Mayor and Council of the City of Surprise, Arizona, approving a final plat case FS10-132, entitled "DUSD #89," located on the northeast corner of Peoria Avenue and Perryville Road.

Motion:

I move to approve Resolution 2010-85.

Background:

The applicant is requesting final plat approval in order to properly identify all of the existing easements and rights-of-way and to dedicate the remaining easements within the school site and the right-of-way for Desert Cove Road.

Financial Impact Statement:

The proposed final plat will have minimal financial impact to the city.

ATTACHMENTS:

Click to download

- ☐ Resolution
 - ☐ Staff Report
 - ☐ Final Plat
-

External Attachment Links:

Meeting Requirements:

Powerpoint	x	Video	White Board	Other	x
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Presentation Speaker Names (spelling and titles for TV captions):

Hobart Wingard, Planner, Community & Economic Development

=====

City Clerk's Office only

Council Action

Motion/Second:

Truitt	_____
Wolcott	<u>S</u> _____
Alton	_____
Williams	<u>M</u> _____
Villanueva	_____
Woodard	_____
Hall	_____

Results:

For	<u>7</u> _____
Against	<u>0</u> _____
Passed	☒ _____
Failed	_____
Continue	_____
Tabled	_____
Absent	_____



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date:	April 7, 2015	Contact Person:	Mike Gent
Submitting Department:		District:	5
Staff Recommendations:	Approve		

Consent	x	Regular	Public Hearing	Report/Discussion
---------	---	---------	----------------	-------------------

Agenda Wording:

Consideration and action to amend the FY2015 budget in the amount of \$170,000 from the general fund, general operations' contingency to establish the Surprise Campus/Fields Electrical Panel Split capital improvement project; Resolution 2015-31.

Motion:

I move to approve Resolution 2015-31.

Background:

The electrical setup for the lights at the 8 Acre Park / KC practice fields is currently in the E-32L APS rate category under one meter. By splitting the electrical panels for the 8 Acre Park and KC practice fields so that each stand alone with its own meter, would result in the meters going from an E-32L rate category to a lower rate category of an E-32M. This operational change should result in an anticipated annual savings of approximately \$68,000. The anticipated savings has been calculated by APS rate administration on behalf of the City. The table below outlines those savings. Current Service E-32L \$139,100 New Service E-32M (2 Meters) \$71,100 Savings (49%) \$68,000

Financial Impact Statement:

This is a non-growth project. This project was not approved in the FY2015 capital improvements budget. This capital improvement project will result in substantial operational cost savings. Resolution 2015-31 will establish a budget of \$170,000 in the general fund by transferring appropriation from the general fund, general operations contingency budget allowing fund balance to be spent.

ATTACHMENTS:

Click to download

☐ [Resolution 2015-31](#)

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

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

RESOLUTION # 2015-31

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2015 BUDGET BY REALLOCATING APPROPRIATIONS OF \$170,000 FROM THE GENERAL FUND, GENERAL OPERATIONS' CONTINGENCY BUDGET TO ESTABLISH A NEW CAPITAL PROJECT WITHIN THE GENERAL FUND FOR THE SURPRISE CAMPUS/FIELDS ELECTRICAL PANEL SPLIT PROJECT.

WHEREAS, the Public Works Department continues to identify areas of operational savings;

WHEREAS, the City wishes to improve and reduce its electrical consumption costs as part of the Council Strategic plan;

WHEREAS, the Public Works Department working in conjunction with APS has identified an opportunity to save the City approximately \$68,000 annually related to the Campus Electrical Service Split;

WHEREAS, the City wishes to take full advantage of this service modification by amending the FY2015 budget and establishing this project;

WHEREAS, the FY2015 budget was adopted by Council Resolution #2014-53 on June 3, 2014;

WHEREAS, this action will necessitate a budget amendment; and,

WHEREAS, City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

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

Section 1. The City's Chief Financial Officer is authorized to make the fund source budget adjustments described and estimated in Exhibit "A".

Section 2. 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, 2014 through June 30, 2015.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this ____ day of _____, 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

RESOLUTION # 2015-31
Exhibit A

The FY2015 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.

The fund changes are as follows

Fund, Department, Account or Project	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
General fund, General Operations, Contingency	10,861,000	(170,000)	10,691,000
General fund, Parks and Recreation, Surprise Campus/Fields Electrical Panel Split Project (project number to be assigned)	0	170,000	170,000
	<u>\$10,861,000</u>	<u>\$0</u>	<u>\$10,861,000</u>

- The amendment reallocates appropriation of \$170,000 from the General fund, General Operations' contingency budget to establish new capital improvement project for the Surprise Campus/Fields Electrical Panel Split Project (project number to be assigned).



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date:	April 7, 2015	Contact Person:	Sherry Ann Aguilar, City Clerk MMC
Submitting Department:		District:	2
Staff Recommendations:	Approve		

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action to approve sampling privileges requested by Nicholas Guttilla (applicant) for Albertsons #977 located at 14551 W. Grand Avenue, Surprise, AZ. 85374 (Current License 09070567).

Motion:

I move to approve sampling privileges requested by Nicholas Guttilla (applicant) for Albertsons #977 located at 14551 W. Grand Avenue, Surprise, AZ. 85374 (Current License 09070567).

Background:

This request is of a routine nature. No concerns are noted with this request.

Financial Impact Statement:

N/A

ATTACHMENTS:

Click to download

☐ [Albertsons Police Report](#)

External Attachment Links:

Meeting Requirements:

Powerpoint	x	Video	White Board	Other	x
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Presentation Speaker Names (spelling and titles for TV captions):

Sherry Ann Aguilar, City Clerk



Memorandum

To: Sherry Aguilar

CC:

From: Officer Chris Tovar #2059

Date: March 12, 2015

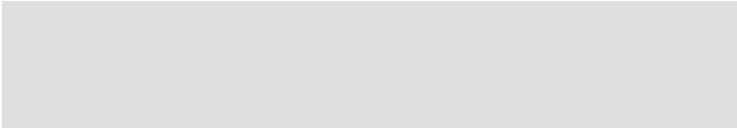
Re: Albertsons #977, 14551 W. Grand Avenue, Surprise, AZ / Sampling License
Request/License #09070567 on file

I researched incidents of interest regarding Albertsons #977, from March 12, 2013 until today's date, in reference to criminal activity, per your request.

Within this time, there have been twelve incidents of shoplifting, which include six involving theft of alcohol. There was also a vehicle burglary and two arrests for trespassing. There was also a few other incidents where individuals were trespassed from the store. There was also one robbery incident, in which a subject was shoplifting some food and alcohol. An employee confronted the shoplifter, who then displayed a knife, before fleeing the store. There was also one case involving the theft of a bicycle from in front of the store.

No other major incidents noted to have taken place at the store.

This concludes my report.





CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date:	April 7, 2015	Contact Person:	Fire Chief Tom Abbott
Submitting Department:		District:	Citywide
Staff Recommendations:	Approve		

Consent	☒	Regular	☐	Public Hearing	☐	Report/Discussion	☐
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Agenda Wording:

Consideration and action accepting grant funding from the Federal Emergency Management Association (FEMA) and amending the fiscal year 2015 budget in the amount of \$312,500 to support projects associated with the flood event that took place in the City of Surprise on September 8, 2014; Resolution 2015-37.

Motion:

I move to approve Resolution 2015-37.

Background:

The City of Surprise experienced extensive flooding citywide on September 8, 2014. The City's Emergency Operation Center (EOC) was activated and roadways and bridges were impacted. Many citizens were also impacted and schools were closed. The City immediately began assessing cleanup efforts and got in touch with the Arizona Division of Emergency Management (ADEM) for assistance. Some roadways were in need of repair while others were in need of major debris removal. The City has been working with ADEM, Federal Emergency Management Association (FEMA), Federal Highway Administration (FHWA) and Arizona Department of Transportation (ADOT) for guidance on funding mechanisms including the Emergency Relief Program. On November 5, 2014, the President declared the storms from September 7-9, 2014 as a major disaster thus making federal funding available to involved stakeholders in Maricopa and LaPaz Counties under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (ADEM/FEMA-4203-DR-AZ). Currently some of Surprise's projects will be funded under the FEMA declaration and a few of the other permanent projects will likely be funded through FHWA. The City of Surprise currently has six projects pending with ADEM/FEMA Disaster 4203. The City needs the budget authority to get these six projects moving in a timely manner to be able to finalize them and apply for reimbursement within the designated performance period.

Financial Impact Statement:

Acceptance of Federal Emergency Management Association (FEMA) grant funds will reallocate appropriations in the amount of \$312,500 from Grant Fund Contingency to salaries, overtime, equipment, supplies, and professional and outside services. Costs that were incurred during the initial response to the incident will be applied toward the 10% (\$31,250) grant match requirement. This does

not represent an actual transfer of funds, but only a transfer of spending authority and does not increase or decrease the total budget.

ATTACHMENTS:

Click to download

- ☐ [ADEM FEMA-4203 DR-AZ Contract](#)
 - ☐ [Res 2015-37 Budget Amendment and FEMA Grant Acceptance](#)
-

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

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

Fire Chief Tom Abbott



Douglas A. Ducey
GOVERNOR

STATE OF ARIZONA
DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
ARIZONA DIVISION OF EMERGENCY MANAGEMENT

5636 East McDowell Road, Phoenix, Arizona 85008-3495
(602) 244-0504 FAX: (602) 464-6250



Major General Michael T. McGuire
THE ADJUTANT GENERAL

January 29, 2015

Tom Abbott, Fire Chief
Applicant Agent
City of Surprise
14250 W. Statler Plaza, Ste. 101
Surprise, AZ 85374

RECEIVED FEB 02 2015

Re: Agreement and Certifications
ADEM/FEMA-4203-DR-AZ

Dear Chief Abbott,

Enclosed for your records is a signed copy of the Disaster Assistance Agreement for the City of Surprise for the above referenced emergency. This agreement applies to all assistance funds provided by or through the State of Arizona, Division of Emergency Management to the City of Surprise based on damages resulting from the Statewide 2014 Flooding Emergency beginning September 7-9, 2014, and pursuant to the President's Major Disaster Declaration dated November 4, 2014

If you have any questions, please contact me at (602) 464-6446 or darlene.quihuis@azdema.gov.

Sincerely,

Darlene Quihuis
Infrastructure Grants Coordinator

**DISASTER ASSISTANCE AGREEMENT FOR MAJOR DISASTERS
(Political Subdivisions)**

This Agreement between the Department of Emergency and Military Affairs, Division of Emergency Management, State of Arizona ("Division"), and City of Surprise ("Applicant") shall be effective on the date signed by both parties. This agreement shall apply to all assistance funds provided by the State to the Applicant as a result of STATEWIDE 2014 FLOODING, which occurred SEPTEMBER 7-9, 2014, and pursuant to the President's Major Disaster Declaration on NOVEMBER 4, 2014.

The designated representative of the Applicant certifies that:

1. He/She has legal authority, as outlined in the designation form, to apply for assistance on behalf of the Applicant.
2. The Applicant is an eligible entity as defined in AAC R8-2-301
3. Any change to the Applicant's designated representative or their contact information must be provided to Division in writing.
4. The Applicant shall provide all necessary financial and managerial resources to meet the terms and conditions of receiving State and Federal disaster assistance. The Division does manage or oversee the applicant's project(s).
5. The Applicant understands this is a reimbursement program and the Applicant must expend its own funds for the approved project prior to being reimbursed by the Division. The Division will not pre-approve a project for reimbursement prior to commencement of repairs at the Applicant's own expense. Partial payments can be processed as work is completed and costs expended. Final payment will be made after work is completed and claimed costs have been audited. (R8-2-316)
6. The Applicant shall establish and maintain a proper accounting system to record expenditures of disaster assistance funds in accordance with generally accepted accounting standards or as directed by the Division's Governor's Authorized Representative (GAR) or Alternate GAR to ensure compliance with audit requirement. (R8-2-316)
7. The Applicant shall, upon request of the GAR (or designee), cooperate with Division personnel in performing interim and/or final inspections of the project site.
8. The Applicant shall comply with all applicable current codes and standards, including but not limited to fire, building and construction, during completion of eligible repair or replacement work on eligible damaged public facilities consistent with 44 CFR § 206.226(b).
9. The Applicant shall comply with any mitigation requirements approved by the Division for repair or replacement projects subject to repeated damages from flooding or other hazards. (R8-2-314)

**DISASTER ASSISTANCE AGREEMENT FOR MAJOR DISASTERS
(Political Subdivisions)**

10. The Applicant shall comply with all applicable provisions of State and Federal laws and regulations in regard to procurement of goods and services and to contracts for repair or restoration of eligible public facilities including, but not limited to: A.A.C. Title 8, Chapter 2, Article 3.
11. The Applicant shall comply with all existing State and Federal laws, rules or requirements or those enacted during the duration of this Agreement, including those involving the environment (National Environmental Protection Act).
12. The Applicant shall comply with provisions of the Hatch Act limiting the political activities of public employees.
13. The Applicant must comply, as applicable, provisions of the Davis-Bacon Act relating to labor standards.
14. The Applicant shall comply with applicable flood insurance purchase requirements required by the Arizona Department of Water Resources Floodplain Management Program.
15. The Applicant shall not enter into cost-plus-percentage-of-cost contracts for completion of disaster restoration or repair work. A cost-reimbursement contract may be used only if a determination is made in writing that such contract is likely to be less costly to this state than any other type or that it is impracticable to obtain the materials, services or construction required except under such a contract. (ARS § 41-2544)
16. The Applicant shall not enter into contracts for which payment is contingent upon approval of project or receipt of State or Federal funds. (ARS § 41-2546)
17. In accordance with the A.A.C. R2-7-C907, the Applicant shall not enter into any contract with any party that is debarred or suspended from participating in State or Federal assistance programs.
18. The Applicant, as outlined in A.A.C. R8-2-306(D), shall comply with cost-sharing requirements of State and Federal disaster assistance; specifically, that Federal assistance is limited to 75% of total eligible expenditures and State assistance is limited to 15% of total eligible expenditures. The Applicant is responsible for the remaining 10% share of total eligible costs.
19. In accordance with the provisions of 31 U.S.C. § 1352, and implementing regulations at 44 CFR Part 18, the Applicant is responsible for providing the State agencies and subgrantees, contractors and subcontractors under this contract the requisite "Certification Regarding Lobbying" and "New Restriction on Lobbying" (44 C.F.R. Part 18 Appendix A) for each grant. The Applicant is responsible for filing these certification and disclosure forms with the State.

**DISASTER ASSISTANCE AGREEMENT FOR MAJOR DISASTERS
(Political Subdivisions)**

20. In accordance with the Drug Free Workplace Act of 1988 and implementing regulations, the Applicant will provide the State a "Certification Regarding Drug-Free Workplace Requirements".
21. Except for small projects (which are covered by paragraph 22) and for alternate projects selected by the Applicant (which are covered by paragraph 23), and for improved projects selected by the Applicant (which are covered by paragraph 24), the Applicant is aware of and shall comply with cost-sharing requirements of Federal and State disaster assistance; specifically that Federal; assistance is limited to 75% of eligible expenditures, that State assistance is limited to 15% of eligible costs, and that the Applicant shall provide from the Applicant's funds 10% of eligible costs.
22. The amount of State assistance for each small project shall be calculated as follows: The total eligible cost of the small project shall first be reduced by the amount of federal assistance provided under Section 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189). The remaining balance, if any, shall be borne as follows: The State 3/5 and the Applicant 2/5, provided, that in no event will the state share exceed 15% of the total eligible cost of the small projects.
23. The amount of assistance for an alternate project if selected by the subgrantee, shall be calculated as follows: The total eligible costs that would be associated with repairing the damaged facility to its pre-disaster condition, or the actual costs of completing the alternate project, whichever is less, will be reduced by 25% and capped at that reduced amount. The cost-sharing requirements for the alternate project are the same as stated in paragraph 18 (Federal 75%, State 15%, Applicant 10%).
24. The amount of assistance for an improved project if selected by the subgrantee, shall be calculated as follows: The total eligible costs that would be associated with repairing the damaged facility to its pre-disaster condition will be capped at that amount. The cost-sharing requirements for the improved project are the same as stated in paragraph 18 (Federal 75%, State 15%, Applicant 10%). State approval must be held pending environmental clearance prior to commencement of construction. If the applicant begins construction prior to receiving approval from the State, the project may be determined ineligible for reimbursable Federal and/or State funding.
25. The Applicant is aware that the funding available for Section 404 mitigation programs requires cost-sharing on the basis of 75% federal and 25% local contribution. Mitigation, either approved or recommended, on a Project Worksheet shall be cost shared as described in paragraph 21.
26. The Applicant shall use disaster assistance funds solely for the purposes for which these funds are provided and as approved by the GAR.

**DISASTER ASSISTANCE AGREEMENT FOR MAJOR DISASTERS
(Political Subdivisions)**

27. The Applicant shall return to the State, within two months of such request by the GAR, any partial reimbursement not supported by audit or other Division review of documentation maintained by the Applicant. (R8-2-319)
28. The Applicant understands and will abide by the following work completion deadlines:
- Emergency Work (eligible work that is performed to reduce or eliminate and immediate threat to life, protect public health and safety, and to protect improved property that is threatened in a significant way as a result of the disaster). 5/5/2015
- Permanent Work (required to restore a damaged facility, through repair or restoration, to its pre-disaster design, function, and capacity in accordance with applicable codes and standards). 5/5/2016
29. The Division shall grant time extensions for project completion will be granted due to conditions or causes which are beyond Applicant's control. Applicant must submit requests for time extensions must be submitted in writing prior to work completion deadline date. Requests must demonstrate extenuating circumstances or unusual project requirements supporting the request and include a projected completion date and revised project completion timeline.
30. None of the provisions of the Agreement may be waived, changed or altered except in writing signed by both parties.
31. Pursuant to A.R.S. § 41-2586, the Division is not authorized to indemnify Contractor.
32. Every payment obligation of the Division under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the Division or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to the Division or any other agency of the State of Arizona in the event this provision is exercised, and neither the Division nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
33. Pursuant to A.R.S. §§ 35-214 and 35-215, the Contractor shall retain all records relating to this Agreement for a period of five years after completion of the Agreement. All records shall be subject to inspection and audit by the State of Arizona at reasonable times. Upon request, the Contractor shall produce the original of any or all such records at the offices of the Division.

**DISASTER ASSISTANCE AGREEMENT FOR MAJOR DISASTERS
(Political Subdivisions)**

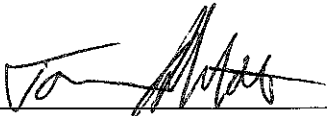
34. The requirements of A.R.S. § 38-511 apply to this Agreement. The Division, may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Division is, at any time while this Agreement or any extension is in effect, an employee, agent or consultant of Contractor with respect to the subject matter of this Agreement.
35. Contractor shall comply with Arizona Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, or national origin not mentioned in Order shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.
36. Scrutinized Business Operations. Pursuant to A.R.S. § 35-391.06 and 35-393.06, the Contractor certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in A.R.S. § 35-391 and 35-393, as applicable. If the State of Arizona or the Division determines that the Contractor submitted a false certification, the Division may impose remedies as provided by law including cancellation or termination of this Agreement.
37. Contractor assigns to the Division any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Contractor toward fulfillment of this Agreement.
38. This Agreement shall be construed in accordance with the laws of the State of Arizona and applicable federal program laws, Executive Orders, regulations, OMB Circulars, and FEMA policies and guidance, including, but not limited to: 44 CFR Parts 13 and 206, and the Robert T. Stafford Disaster Relief & Emergency Assistance Act (42 U.S.C. § 5189).
39. The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.
40. Applicant shall submit financial status reports (SF269 or equivalent) to the State 30 days after the end of the first federal quarter following the initial grant award. (This initial report may be waived by the Disaster Recovery Manager). The Applicant shall submit quarterly financial status reports thereafter until the grant ends. Reports are due on September 30, December 30, March 30, and June 30. Applicant shall further provide quarterly and closeout information as may be required by FEMA.
41. Applicant shall submit a final financial status report, any required performance reports, a request to close the program, and any other required forms and certifications within 90 days of completion of grant activities.

**DISASTER ASSISTANCE AGREEMENT FOR MAJOR DISASTERS
(Political Subdivisions)**

42. Applicant shall comply with all terms and conditions of the FEMA - State Agreement dated 11-20-2014.
43. Applicant shall (i) initiate cash draw downs only when actually needed for its disbursement; (ii) timely financial reporting per FEMA requirements, using the SF269 or equivalent report; and (iii) imposing the same standards of timing and amount upon any secondary recipient.
44. Any and all cost overruns must presented to the Division must be in writing and be approved by the Division prior to reimbursement.
45. The file number for this Governor's Proclamation is PCA 73027.

Designee/Applicant Agent:

Tom Abbott
Applicant Agent Name


Signature

Fire Chief
Title

1/8/2015
Date

Division:

Will Schulz
Assistant Director, Recovery


Signature

Alternate Governor's Authorized
Representative

Title

1/2/15
Date

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 44 CFR Part 17, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. (See 44 CFR Part 17, Subpart C, 17.300, and Subpart D, 17.400.)

- A. **The grantee certifies that it will or will continue to provide a drug-free workplace by:**
- (a) 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;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) 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 (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) 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;
 - (e) Notifying the agency in writing within ten calendar days after receiving notice under subparagraph (d)(2) 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;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

- (1) 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
 - (2) 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;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with this grant:

Place(s) of Performance: (Street address, city, county, state, zip code)

16000 N. Civic Center Plaza

City of Surprise

ADEM/FEMA-4203-DR-AZ

Organization Name

Disaster Number

Tom Abbott

Fire Chief

Name and Title of Authorized Representative

Signature

Date

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS,
AND COOPERATIVE AGREEMENTS**

This certification is required by the regulations implementing the New Restrictions on Lobbying, 44 CFR Part 18. The undersigned certifies, to the best of his or her knowledge and belief, that:

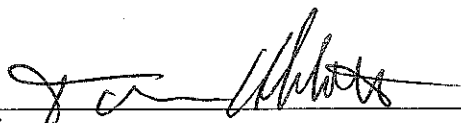
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 31 U.S.C. § 1352. 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.

Tom Abbott

Fire Chief

Name and Title of Authorized Representative


Signature

11/2/2015
Date

RESOLUTION # 2015-37

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, ACCEPTING FEDERAL EMERGENCY MANAGEMENT ASSOCIATION GRANT FUNDS IN THE AMOUNT OF \$312,500; AND AMENDING THE FISCAL YEAR 2015 BUDGET BY REALLOCATING APPROPRIATIONS OF \$312,500 FROM THE GRANTS AND CONTINGENCY FUND TO SIX PROJECTS ASSOCIATED WITH THE FLOOD EVENT THAT OCCURRED ON SEPTEMBER 8, 2014.

WHEREAS, The City of Surprise experienced extensive flooding citywide on September 8, 2014;

WHEREAS, on November 5, 2014 the President declared the storms which occurred between September 7, 2014 and September 9, 2014 as a major disaster thus making federal funding available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (ADEM/FEMA-4203-DR-AZ);

WHEREAS, the City has applied and has been awarded \$312,500 in grant funds from the Federal Emergency Management Association;

WHEREAS, the City is required to provide 10% in grant match funds totaling \$31, 250;

WHEREAS, the FY2015 budget was adopted by Council Resolution #2014-53 on June 3, 2014;

WHEREAS, this action will necessitate a budget amendment; and

WHEREAS, City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

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

Section 1. The agreement with the Arizona Department of Emergency and Military Affairs ADEM/FEMA-4203-DR-AZ for damages resulting from the Statewide 2014 Flooding emergency is hereby approved and the City Manager is authorized to conduct all negotiations and execute and submit all documents and other necessary or desirable instruments associated with the agreement and to accept grant funding in the amount of \$312,500.

Section 2. The finance department is authorized to make the fund source budget adjustments described and estimated in Exhibit "A".

Section 3. 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, 2014 through June 30, 2015.

APPROVED AND ADOPTED this ____ day of _____, 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

RESOLUTION # 2015-37
Exhibit A

The FY2015 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.

Project: MA-85 Citywide Debris Fund, Department, Account	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
Grants Fund, General Operations, Contingency	\$4,319,200	\$(166,400)	\$4,152,800
Grants Fund, Streets, Salaries	\$0	\$12,100	\$12,100
Grants Fund, Streets, Overtime Compensation	\$0	\$800	\$800
Grants Fund, Streets, Equipment Rental	\$0	\$25,600	\$25,600
Grants Fund, Streets, Supplies	\$0	\$26,800	\$26,800
Grants Fund, Streets, Professional Outside Services	\$0	\$101,100	\$101,100
	<u>\$4,319,200</u>	<u>\$0</u>	<u>\$4,319,200</u>
Revenues:			
Grants Fund, General Operations, Other Grant Revenue	\$4,483,800	\$(166,400)	\$4,317,400
Grants Fund, Streets, Federal Grant Revenue (project number to be assigned)	\$0	\$166,400	\$166,400
	<u>\$4,483,800</u>	<u>\$0</u>	<u>\$4,483,800</u>

Project: MA-86 Bridges Fund, Department, Account	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
Grants Fund, General Operations, Contingency	\$4,152,800	\$(75,000)	\$4,077,800
Grants Fund, Streets, Professional Outside Services	\$0	\$75,000	\$75,000
	<u>\$4,152,800</u>	<u>\$0</u>	<u>\$4,152,800</u>
Revenues:			
Grants Fund, General Operations, Other Grant Revenue	\$4,317,400	\$(75,000)	\$4,242,400
Grants Fund, Streets, Federal Grant Revenue (project number to be assigned)	\$0	\$75,000	\$75,000
	<u>\$4,317,400</u>	<u>\$0</u>	<u>\$4,317,400</u>

Project: MA-87 Emergency Protective Measures Fund, Department, Account	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
Grants Fund, General Operations, Contingency	\$4,077,800	\$(13,200)	\$4,064,600
Grants Fund, Streets, Salaries	\$0	\$4,200	\$4,200
Grants Fund, Police, Overtime Compensation	\$0	\$1,400	\$1,400
Grants Fund, Fire, Overtime Compensation	\$0	1,800	\$1,800
Grants Fund, Streets, Equipment Rental	\$0	\$3,700	\$3,700
Grants Fund, Streets, Professional and Outside Services	\$0	\$1,400	\$1,400
Grants Fund, Streets, Supplies	\$0	\$700	\$700
	<u>\$0</u>	<u>\$0</u>	<u>\$4,077,800</u>
Revenues:			
Grants Fund, General Operations, Other Grant Revenue	\$4,242,400	\$(13,200)	\$4,229,200
Grants Fund, Streets, Federal Grant Revenue (project number to be assigned)	\$0	\$13,200	\$13,200
	<u>\$4,242,400</u>	<u>\$0</u>	<u>\$4,242,400</u>

Project: MA-88 Road Repairs Fund, Department, Account	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
Grants Fund, General Operations, Contingency	\$4,064,600	\$(44,900)	\$4,019,700
Grants Fund, Streets, Overtime Compensation	\$0	\$35,000	\$35,000
Grants Fund, Streets, Professional and Outside Services	\$0	\$9,900	\$9,900
	<u>\$4,064,600</u>	<u>\$0</u>	<u>\$4,064,600</u>

Revenues:			
Grants Fund, General Operations, Other Grant Revenue	\$4,229,200	\$(44,900)	\$4,184,300
Grants Fund, Streets, Federal Grant Revenue (project number to be assigned)	\$0	\$44,900	\$44,900
	<u>\$4,229,200</u>	<u>\$0</u>	<u>\$4,229,200</u>

Project: MA-89 IT Equipment Fund, Department, Account	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
Grants Fund, General Operations, Contingency	\$4,019,700	\$(9,100)	\$4,010,600
Grants Fund, Streets, Equipment	\$0	\$9,100	\$9,100
	<u>\$4,019,700</u>	<u>\$0</u>	<u>\$4,019,700</u>

Revenues:			
Grants Fund, General Operations, Other Grant Revenue	\$4,184,300	\$(9,100)	\$4,175,200
Grants Fund, Streets, Federal Grant Revenue (project number to be assigned)	\$0	\$9,100	\$9,100
	<u>\$4,184,300</u>	<u>\$0</u>	<u>\$4,184,300</u>

Project: MA-90 Vehicles Fund, Department, Account	Current Appropriation	Increase (Decrease)	Amended Appropriation
Expenses:			
Grants Fund, General Operations, Contingency	\$4,010,600	\$(3,900)	\$4,006,700
Grants Fund, Streets, Settlement	\$0	\$3,900	\$3,900
	<u>\$4,010,600</u>	<u>\$0</u>	<u>\$4,010,600</u>
Revenues:			
Grant Fund/Other Grant Revenue	\$4,175,200	\$(3,900)	\$4,171,300
Grant Fund/Federal Grant Revenue	\$0	\$3,900	\$3,900
	<u>\$4,175,200</u>	<u>\$0</u>	<u>\$4,175,200</u>

The fund changes are as follows:

- The amendment utilizes the Grants Fund Contingency in the amount of \$312,500 for various object codes within six different FEMA projects without exceeding the approved total annual budget for FY2015.



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date:	April 7, 2015	Contact Person:	Michael Boule, Public Works Department
Submitting Department:		District:	1
Staff Recommendations:	Approve		

Consent	x	Regular	Public Hearing	Report/Discussion
---------	---	---------	----------------	-------------------

Agenda Wording:

Consideration and action approving the Development Agreement Regarding Martin Acres Flood Control and Norwich Drive Improvements, and authorizing execution of necessary documents; Resolution 2015-32.

Motion:

I move to approve Resolution 2015-32.

Background:

Martin Acres was platted in the County over 30 years ago and portions of the community are currently within the Flood Plain and Floodway (11 homes). This community has experienced flooding on numerous occasions causing property inundation and access problems for residents and emergency vehicles. The cause of this flooding is due to a wash that bisects the Martin Acres community from North to South. Many property owners in the area have resorted to berming, fence modifications, and channeling to prevent the flooding of their property. These improvements have compounded the flooding that is occurring within the community by widening the watershed. Resolution 2011-50 was entered into authorizing the city to peruse a design concept report with the Flood Control District to remedy the flooding that is currently occurring in Martin Acres. Resolution 2014-15 was entered into authorizing the acceptance of grant funding from the Flood Control District of Maricopa County. During the preparation of the 60% flood improvement design plans staff reached out to the development south of Norwich Drive, Austin Ranch, to coordinate the drainage outfall. The purpose of this Development Agreement is to memorialize the terms and conditions associated with the flood control improvements, Norwich Drive improvements, and authorize the necessary easements.

Financial Impact Statement:

The Development Agreement has no financial impact on this project. This is a non-growth project in the general capital fund under the Martin Acres Flood Control project (21106). The total project estimated cost is \$910,000. The Maricopa County Flood Control District is programmed to reimburse \$250,000 of the project cost. The programmed budget for FY2015 is \$850,000. The project had prior year expenses of \$81,900.

ATTACHMENTS:

Click to download

- ☐ [Presentation](#)
- ☐ [Resolution](#)
- ☐ [Development Agreement - Signed](#)

External Attachment Links:

Meeting Requirements:

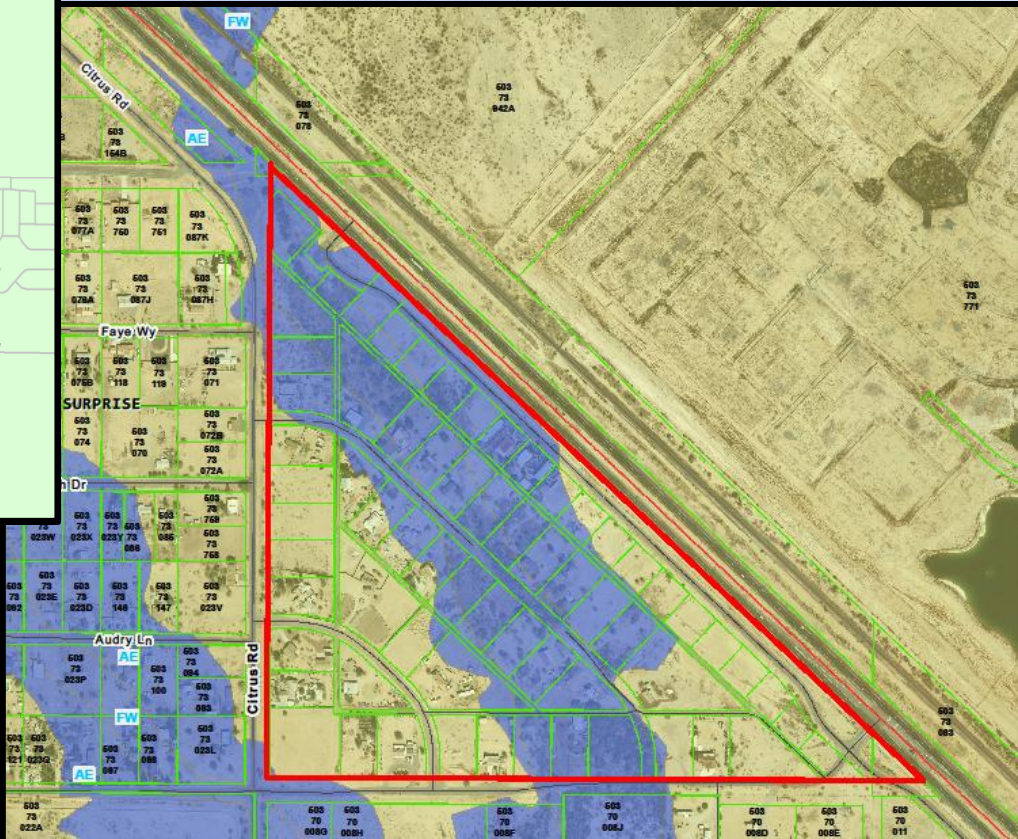
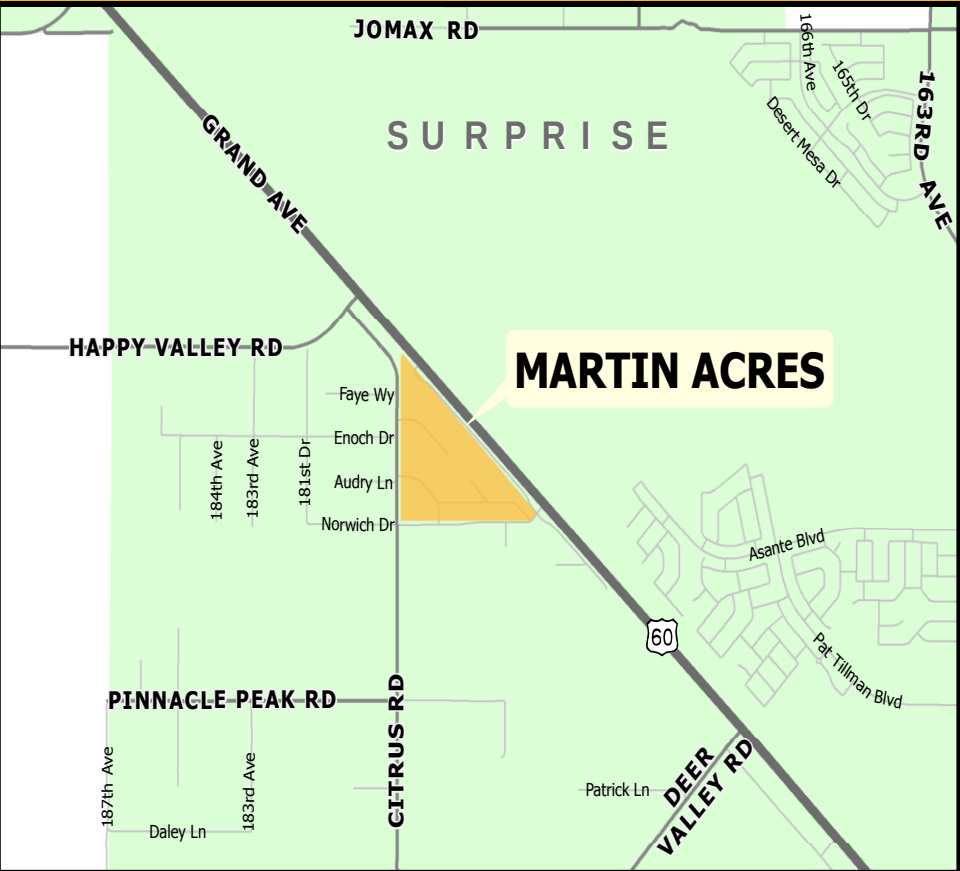
Powerpoint x Video White Board Other x

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

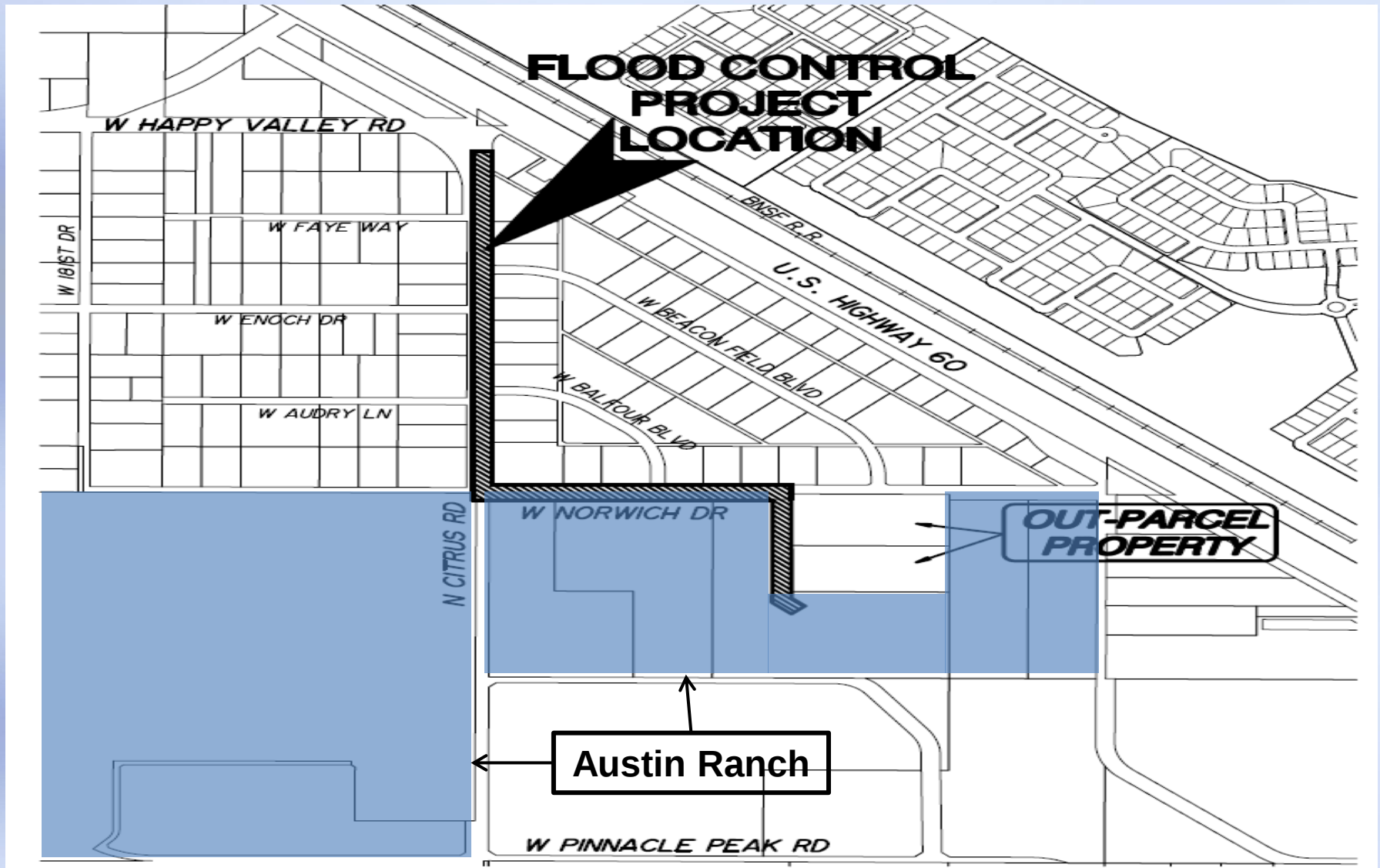
Martin Acres Flood Control & Norwich Drive Improvements Development Agreement City Council Work Session April 7, 2015



Martin Acres



Project Location



Development Agreement



- Outlines the Flood Control improvement responsibilities
- Identifies the developers responsibility associated with the Norwich Dr. improvements.
- Authorizes the appropriate easements for the construction of the improvements
- Outlines the Operation and Maintenance responsibilities for the drainage improvements.

Construction Budget & Schedule



- \$500,000 - FY15 General Capital Fund
 - \$250,000- Grant Funding from FCD-FY15
 - \$750,000- Total Construction Budget
-
- March-April: Procure Construction Contractor
 - April- August: Construction

RESOLUTION # 2015-32

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING THE DEVELOPMENT AGREEMENT REGARDING MARTIN ACRES FLOOD CONTROL AND NORWICH DRIVE IMPROVEMENTS, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF HAPPY VALLEY ROAD AND CITRUS ROAD.

WHEREAS, traditionally flooding has occurred in the area known as Martin Acres;

WHEREAS, the city hopes to mitigate some of the negative effects of large rain events with the construction of a flood control project;

WHEREAS, Austin Ranch LLC has agreed to allow some of the diverted rain water to cross a portion of its land and returned to the natural wash bed; and

WHEREAS, the City is under time constraints to complete the project in FY 2014-2015 to use certain funds from an intergovernmental agreement with the Maricopa County Flood Control District recorded on April 3, 2014 in the Offices of the Maricopa County Recorder as Document Number 20140213367;

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

Section 1. The Mayor and Council hereby approve the development agreement between the City of Surprise and Austin Ranch LLC, entitled the "DEVELOPMENT AGREEMENT REGARDING MARTIN ACRES FLOOD CONTROL AND NORWICH DRIVE IMPROVEMENTS" and exhibits A through I, and which are incorporated by this reference.

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

[SIGNATURES ON THE FOLLOWING PAGE]

APPROVED AND ADOPTED this ____ day of _____, 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

When recorded, return to:

Mr. Hans Koppenhoefer
Austin Ranch LLC
4160 W. Kitty Hawk
Chandler, Arizona 85226

**DEVELOPMENT AGREEMENT REGARDING
MARTIN ACRES FLOOD CONTROL AND NORWICH DRIVE IMPROVEMENTS**

This Development Agreement Regarding Martin Acres Flood Control and Norwich Drive Improvements (this "Agreement") is dated as of this _____ day of _____, 2015 (the "Effective Date") by and between the City of Surprise, Arizona, an Arizona municipal corporation (the "City"), and Austin Ranch, LLC ("Developer").

RECITALS

A. WHEREAS, Martin Acres ("Martin Acres") is a large-lot residential subdivision located at the southeast corner of the intersection of Happy Valley Road and Citrus Road, and is in the City of Surprise, Arizona; and

B. WHEREAS, Austin Ranch ("Austin Ranch") is a property governed by the Austin Ranch Development Agreement recorded in the Offices of the Maricopa County Recorder as Document Number 2005-1667137 and by the Austin Ranch Planned Area Development zoning (City of Surprise PAD 03-278 and 05-075) (collectively, the Development Agreement and the PADs shall be referred to herein as the "Austin Ranch Entitlements"); and

C. WHEREAS, the City and the Maricopa County Flood Control District ("FCD") have executed an intergovernmental agreement recorded on April 3, 2014 in the Offices of the Maricopa County Recorder as Document Number 2014 0213367 (the "IGA") and that the City is under time constraints to complete the Flood Control Project within the City's 2014-2015 fiscal year in order to use certain funds. The project will include installation of certain public infrastructure necessary to address flood control issues in order to mitigate some, BUT NOT ALL, of the flooding in the Martin Acres subdivision (the foregoing described Martin Acres Flood Control Project is hereinafter referred to as the "Flood Control Project" and is depicted on **Exhibit A** attached hereto); and

D. WHEREAS, the original plans for the Flood Control Project contemplated installing some of the improvements adjacent to Austin Ranch within existing rights of way, which concerned Developer due to the impact of such improvements on the Austin Ranch Entitlements. As a result of cooperative discussions between the Parties, the plans for a portion of the Flood Control

Project have been modified (the foregoing described portion of the Flood Control Project is hereinafter referred to as the "Norwich Drive FCP" and is depicted on **Exhibit B** attached hereto); and

E. WHEREAS, Developer owns and proposes to develop certain real property within Austin Ranch legally described and depicted on **Exhibit C** attached hereto (the "Property"). Developer has certain improvement obligations within Norwich Drive right-of-way ("Developer Obligations") that are impacted by the Flood Control Project; and

F. WHEREAS, the City has requested that Developer dedicate an easement for the Norwich Drive FCP. Developer will provide an easement for drainage facilities provided the City complies with terms of Agreement; and

G. WHEREAS, Developer desires to accommodate the City's construction of the Norwich Drive FCP; and

H. WHEREAS, both Parties acknowledged the difficulty of completing improvements within Norwich Drive right-of-way and as a result wish to specify and assign certain current and future obligations in this Agreement.

AGREEMENT

NOW, THEREFORE, the Parties hereby agree as follows:

- 1) Accuracy and Incorporation of Recitals and Exhibits. The parties hereto acknowledge the accuracy of the Recitals and Exhibits and the Recitals and the Exhibits are incorporated herein by reference.
- 2) Term/Termination. This Agreement shall become effective on the date this Agreement is recorded and shall continue in full force and effect until November 1, 2024 or City Council acceptance of the final phase of Developer's required street improvements within Norwich Drive and Citrus Road, whichever is later. This Agreement shall automatically terminate upon the effective date of Developer requested and Council approved re-zoning of the Property in conflict with this Agreement. Written notice shall be provided from one party to the other prior to any re-zoning action being scheduled for Planning and Zoning Commission should they believe the re-zoning action is in conflict with this Agreement.
- 3) Intent of the Parties.
 - a) Nothing in this Agreement may be read to obligate the City to construct the Flood Control Project which is the subject of this Agreement.

b) It is the intent of the parties to continue all of the promises previously made in the "Austin Ranch Development Agreement," recorded in the official records of the Maricopa County Recorder, 2005-1667137. This Agreement is intended as additional and cumulative promises. Because the promises regarding road construction are such an essential portion of the "Austin Ranch Development Agreement," and because the improvements to Norwich Drive and Deer Valley Road have been the subject of much debate, the parties are repeating and re-affirming and restating the promises related to those roads in this Agreement:

(i) In the normal course of development based upon market conditions, Owner will improve Norwich Drive from 183rd Avenue to Grand Avenue, consistent with cross sections attached to this Agreement. However, in carrying out this obligation, Developer shall have no obligation to obtain and/or dedicate any rights-of-way or parcels that are not part of the Property.

(ii) Owner will construct on Deer Valley Road dedicated right and left hand turning lanes at the entrances to Austin Ranch, but shall not be required to construct any additional improvements to Deer Valley Road.

(iii) All other provisions of the Austin Ranch Development Agreement, not amended by this Agreement, continue as written.

c) Notwithstanding anything herein to the contrary, the owners of Austin Ranch are third party beneficiaries to this Section 3 and may rely upon it when developing the remainder of Austin Ranch.

d) This Section 3 shall survive termination of this Agreement.

4) Norwich Drive FCP Construction Drawings and Construction

a) The City shall prepare construction drawings for the Flood Control Project that are in conformance with this Agreement, city standards and federal, state and county regulations. The City shall provide the construction drawings to Developer to ensure conformance with the above. Developer shall review and provide comments to City within seven (7) calendar days; comments consistent with this Agreement shall be accommodated by the City in the construction drawings.

b) The construction drawings shall conform to Exhibit D, which shows the cross-section for the improvements adjacent to Norwich Drive, Exhibit E, which shows the cross-section for the improvements from Norwich Drive to the south boundary of APN 503-70-008J & 503-70-008K ("Outparcel Property," as shown in Exhibit A) and the Conceptual Drainage Report for Austin Ranch, Norwich Drive 183rd Avenue to 178th Avenue, prepared by Baker and dated November 10, 2014 ("Drainage Report").

c) Prior to the Norwich Drive FCP construction drawings being completed and construction commenced, City and Developer will determine the proposed centerline for Norwich Drive and those grades will be used as the basis for Developer's future construction drawings and the Norwich Drive FCP channel bottom. Developer will be responsible for preparing the plans depicting the Norwich Drive centerline and grades and submitting to the City 30 days after execution of this Agreement. After

both Parties agree on the centerline, the City will confirm the centerline grade and Drainage Report with the issuance of an approval letter ("Approval Letter"). The Norwich Drive centerline shall be used as the basis for any improvements that the City permits within Norwich Drive from 183rd Avenue to the Outparcel Property.

d) The City may phase the construction of the Flood Control Project to accommodate budget constraints; provided however, that the Norwich Drive FCP is included in the first phase of the Flood Control Project. In any event, City agrees to have the Norwich Drive FCP, as agreed to in the construction documents, installed prior to Developer initiating construction of the Norwich Drive improvements referenced in Section 5, below.

5) Norwich Drive Construction Drawings & Developer Improvements

a) The ultimate cross-section for Norwich Drive (including adjacent drainage ways) shall be in conformance with **Exhibit F** from 183rd Avenue to Citrus Road and **Exhibit D** from Citrus to the Outparcel Property (APN 503-70-008J).

b) Subdivision plats and improvement plans for the Property will be created by Developer, and development of the Property will occur, in Developer's normal course of development based upon market conditions and the Austin Ranch Entitlements, with the understanding that the improvements shown on **Exhibits D, E and F** (collectively, the "Cross Sections") constitute the ultimate Cross Sections for Norwich Drive and the Norwich Drive FCP.

c) Developer will install improvements to Norwich Drive in phases and concurrently with development of the adjacent Property as approved by the City. The City shall only require Developer to install erosion control for drainage inlets from Property into the Norwich Drive FCP and landscaping (irrigation, trees, shrubs/groundcover) within the Norwich Drive FCP. Should the City install erosion control improvements within the Norwich Drive FCP, those improvements shall remain intact and need not be improved or replaced by Developer, unless damaged by Developer as part of Developer's construction activities. Developer, at its option, may upgrade the erosion and dust control improvements within the Norwich Drive FCP at Developer's cost pursuant to Developer initiated and City approved plans.

d) The plans and specifications for Norwich Drive shall conform to **Exhibit D**, which shows the cross-section for the improvements along Norwich Drive (from Citrus Road to APN 503-70-008J) and **Exhibit F**, which shows the cross-section for the improvements along Norwich Drive (from 183rd Avenue to Citrus Road). Improvement plans shall be reviewed and approved through the standard review process conducted by the City Engineering Department. The Approval Letter, Cross Sections and Drainage Report shall be viewed as a Modification to the Engineering Development Standards. In addition,:

- i) The City will use the Cross Sections and Drainage Report as the basis for the civil engineering improvements.
 - ii) The City acknowledges that the Cross Sections and Drainage Report are designed to be in compliance with applicable Federal, State, and County regulations. However, if applicable Federal, State and/or County regulations change after the date of this Agreement and compliance with such changes requires an amendment to the Cross Sections or civil engineering improvement plans, no amendment to this Agreement shall be necessary. The City Manager, with recommendation from the City Engineer, will be the person who determines if such changes to the Cross Sections or civil engineering improvement plans are required.
 - iii) Minor deviations in the Norwich Drive civil engineering improvement plans shall not trigger an amendment to this Agreement provided that those deviations are customary during the process of more detailed design of roadway or drainage projects within the Phoenix Metropolitan Area or those Developer elected deviations exceed the requirements noted in this Agreement, as may be mutually agreed upon by the Parties. Some examples of a deviation that is customary in the detailed design of roadway or drainage project may include, but are not limited to, realigning sidewalk around existing or planned improvements, Developer use of retaining walls adjacent to drainage channels, modification of grading slopes around culverts where rip-rap is installed, etc. Developer elected deviations may include, but are not limited to, increasing the sidewalk setback from the curb in certain areas, flattening the side slopes along certain segments of the channel west of Citrus Road, etc.
- e) This Section 5 shall survive the termination of this Agreement.

6) Land Dedications

- a) Developer shall execute a temporary construction easement in the form of the document shown in **Exhibit G** within seven (7) calendar days after Norwich Drive FCP construction drawing approval by all approving entities including Developer. This temporary construction easement shall remain in place until completion of the Norwich Drive FCP.
- b) Upon completion of Norwich Drive FCP and Developer approval of as-built drawings and other required documentation showing conformance with this Agreement and bid documents, the Developer shall dedicate a drainage easement in the form shown in **Exhibit H**. The area encompassing this easement will be inclusive of the Norwich Drive FCP area.
- c) Developer is required to dedicate, in Developer's normal course of development based upon market conditions and as part of construction of Norwich Drive Improvements, one-hundred ten (110) feet width of right-of-way from Citrus Road to the Outparcel Property. See **Exhibit F**. Currently, only one-hundred five (105) feet

of right-of-way exists. Developer shall be allowed to dedicate an additional five (5) feet of right-of-way within the northernmost portion of drainage easement to meet its obligation to dedicate one-hundred ten (110) feet of right-of-way.

7. Mitigation of Impact. To accommodate the additional width of the drainage easement needed to locate a portion of the City's Flood Control Project on the Property, the City agrees that: (a) a fifty (50) foot right-of-way cross-section for local streets within the Property, as shown in **Exhibit I** is appropriate and is permitted by the Austin Ranch Entitlements; and (b) that the Norwich Drive FCP is designed to also address flood waters impacting the Property from north of Norwich, as described in the Drainage Report. This Section 7 shall survive the termination of this Agreement.

8. Maintenance and Ownership. The City shall own and maintain the Flood Control Project until City Council acceptance of the street improvements within Parcel 6 (as shown on PAD 03-278) or this Agreement terminates, whichever occurs later. Upon City Council's acceptance of the Parcel 6 street improvements, Developer or its assignee (which may include the homeowners' association established for the Property), shall be required to maintain the Norwich Drive FCP from that date forward. The City shall continue to maintain that portion of the Flood Control Project exclusive of the Norwich Drive FCP. This Section 8 shall survive the termination of this Agreement.

9. Easement Relocation. Developer shall have the right to modify the location of the Norwich Drive FCP and easement in its sole and absolute discretion at the time of final platting the Property as necessary to accommodate Developer initiated and city approved modifications of the Norwich Drive FCP. Should Developer wish modify the channel alignment the City will not withhold approval, except for applicable building code, engineering, or other applicable health or safety related reasons, provided the final plat (or separate instrument in the form noted in **Exhibit H**) shows the new location of the channel and it conveys (at a minimum) the flow that was built as part of the Norwich Drive FCP. This Section 9 shall survive the termination of this Agreement.

10. Miscellaneous Provisions

(a) Choice of Law, Venue and Attorneys' Fees. The laws of the State of Arizona shall govern any dispute, controversy, claim or cause of action arising out of or related to this Agreement. The venue for any such dispute shall be Maricopa County, Arizona, and each Party waives the right to object to venue in Maricopa County for any reason. Neither Party shall be entitled to recover any of its attorneys' fees or other costs from the other Party incurred in any such dispute, controversy, claim, or cause of action, but each Party shall bear its own attorneys' fees and costs, whether the same is resolved through arbitration, litigation in a court, or otherwise.

(b) Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last date of the period so completed shall be included unless it

is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Phoenix, Arizona time) on the last day of the applicable time period provided herein.

(c) Conflict of Interest. Pursuant to A.R.S. § 38-503 and § 38-511, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to cancellation pursuant to the terms of A.R.S. § 38-511.

(d) Conflicting Provisions. If there is any conflict between this Agreement and the Austin Ranch Entitlements, this Agreement shall control. In all other respects, the Austin Ranch Entitlements shall continue in full force and effect.

(e) Counterparts. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, but all of which taken together shall constitute one of the same instrument.

(f) Default. In the event a Party fails to perform or fails to otherwise act in accordance with any term or provision hereof (the "Defaulting Party") then the other Party (the "Non-Defaulting Party") may provide written notice to perform to the Defaulting Party (the "Notice of Default"). The Defaulting Party shall have 30 days from receipt of the Notice of Default to cure the default. In the event the failure is such that more than 30 days would reasonably be required to cure the default or otherwise comply with any term or provision herein, then the Defaulting Party shall notify the other Party of such and the time frame needed to cure such default, so long as the Defaulting Party commences performance or compliance or gives notice of additional time needed to cure within said 30-day period and diligently proceeds to complete such performance or fulfill such obligation; provided further, however, that no such cure period shall exceed 90 days. Any written notice shall specify the nature of the default and the manner in which the default may be satisfactorily cured, if possible. In the event a Party fails to cure as provided above in this Section 8, it shall be deemed an "Event of Default."

(g) Upon the occurrence of an "Event of Default," the non-defaulting party (1) shall have all the remedies afforded by law and in equity, including but not limited to the recovery of damages and specific performance; and (2) shall have the right to terminate this Agreement.

(h) Development Agreement. This Agreement is intended to be a "Development Agreement" within the meaning of A.R.S. § 9-500.05.

(i) Entire Agreement. This Agreement, together with the following Exhibits attached hereto and listed on page 13 (which are incorporated herein by this reference) constitute the entire agreement between the Parties. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded by and merged in this Agreement. The foregoing sentence shall in no way affect the validity of any instruments executed by the parties in the form of the exhibits attached to this Agreement.

(j) Fair Interpretation. The Parties have been represented by counsel in the negotiation and drafting of this Agreement and this Agreement shall be construed according to the fair meaning of its language. The rule of construction that ambiguities shall be resolved against the Party who drafted a provision shall not be employed in interpreting this Agreement.

(k) Further Documentation. The Parties agree in good faith to execute such further or additional instruments and documents and to take such further acts as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

(l) Good Standing; Authority. Each Party represents and warrants that it is a duly formed and legally valid existing entity under the laws of the State of Arizona with respect to Developer, or a municipal corporation within Arizona with respect to the City and that the individuals executing this Agreement on behalf of their respective Party are authorized and empowered to bind the Party on whose behalf each such individual is signing.

(m) Indemnification. The City shall indemnify and hold harmless Developer and its successors and assigns for, from and against any and all third party losses, claims, damages, actions or liabilities related in any way to the Flood Control Project, including but not limited to: (1) claims of any contractor, vendor, subcontractor or supplier; (2) claims of flooding, water damage, water discharge, trespass, nuisance or other cause action, including but not limited to claims for monetary, injunctive or declaratory relief, arising out of the design, construction, implementation, maintenance by the City or use of land, infrastructure, equipment, improvements or any other element of the Flood Control Project; (3) claims, demands, assertions or actions of any kind that the design, construction, implementation, maintenance or use of the Flood Control Project are inadequate, deficient, defective or wrongful in any way; provided that this paragraph shall not apply to improvements designed, constructed and maintained solely and exclusively by Developer. This paragraph also shall not apply to maintenance by Developer (or HOA, once such maintenance obligation is assigned by Developer to the HOA) of the Norwich Drive FCP pursuant to Section 7 of this Agreement, or to claims, assertions or actions of any kind that are due to the negligence or willful misconduct of Developer. The City shall reimburse any legal or other expenses reasonably incurred by Developer in connection with investigating or defending any such loss, claim, damage, liability or action. For purposes of this Section, the City agrees that it will not raise statutory

immunity as a defense to an indemnity claim made by Developer to the City. This Section 10(m) shall survive termination of this Agreement.

(n) Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona.

(o) Proposition 207 Waiver. Developer hereby waives and releases the City from any and all claims under A.R.S. § 12-1134 et seq., including any right to compensation for reduction to the fair market value of the Property, as a result of the City's approval of this Agreement. The terms of this waiver are conditioned on the City's performance of its obligations under this Agreement, shall run with the land, shall be binding upon all subsequent landowners, and shall survive the expiration or earlier termination of this Agreement.

(p) Recordation. This Agreement shall be recorded in its entirety in the Official Records of Maricopa County, Arizona, not later than ten days after its full execution by the Parties.

(q) Runs with the Land. The provisions of this Agreement are binding upon and shall inure to the benefit and burden of the Parties, and all of their successors in interest and assigns.

(r) Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law, except if the remaining portions of the Agreement do not provide one or both of the parties with the essential consideration for entering into this Agreement.

(s) Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Parties. Except as expressly provided herein, no term or provision of this Agreement is intended to, or shall be for the benefit of any person, firm or entity not a party hereto, and no such other person, firm, or entity shall have any right or cause of action hereunder.

(t) Time of the Essence. Time is of the essence in this Agreement and with respect to the performance required by each Party hereunder.

(u) Waiver. No waiver by either party of a breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained.

(v) Warranties. The individual executing this Agreement on behalf of Developer warrants that he has the requisite authority to bind the entity on whose behalf he is signing and no other consents are required.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement, and this Agreement shall be effective, as of the 27 day of MARCH, 2015.

DEVELOPER: AUSTIN RANCH LLC

By: Alan Hamberlin
Alan Hamberlin

Its: Manager

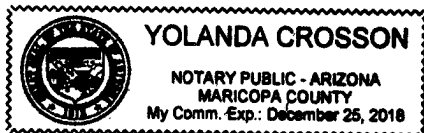
Date: MARCH 27, 2015

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 27th day of March, 2015, by Alan Hamberlin, the Manager of Austin Ranch, a(n) Arizona Limited Liability Company, on behalf of the company.

(Seal and Expiration Date)
Exp 12-25-2018

Yolanda Crosson
Notary Public



CITY OF SURPRISE, an Arizona municipal corporation

By: _____
Sharon Wolcott, Mayor

ATTEST:

Sherry Ann Aguilar, Town Clerk

APPROVED AS TO FORM:

Misty Leslie, City Attorney

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Sharon Wolcott, the Mayor of the City of Surprise, Arizona, on behalf of the City.

(Seal and Expiration Date)
Notary Public

LIST OF EXHIBITS TO AGREEMENT

- EXHIBIT A** Flood Control Project Map
- EXHIBIT B** Norwich Drive Flood Control Project
- EXHIBIT C** Impacted Property - Legal Description and Exhibit
- EXHIBIT D** Flood Control Project Cross-Section Adjacent to Norwich Drive
- EXHIBIT E** Flood Control Project Cross-Section Adjacent to Outparcel Property
- EXHIBIT F** Norwich Drive Cross-Section (183rd Avenue to Citrus Road)
- EXHIBIT G** Form of Temporary Construction Easement
- EXHIBIT H** Form of Drainage Easement
- EXHIBIT I** Local Street Cross-Section for Developer Property North of Pinnacle Peak

EXHIBIT A

[Flood Control Project Map]

See following pages.

EXHIBIT A

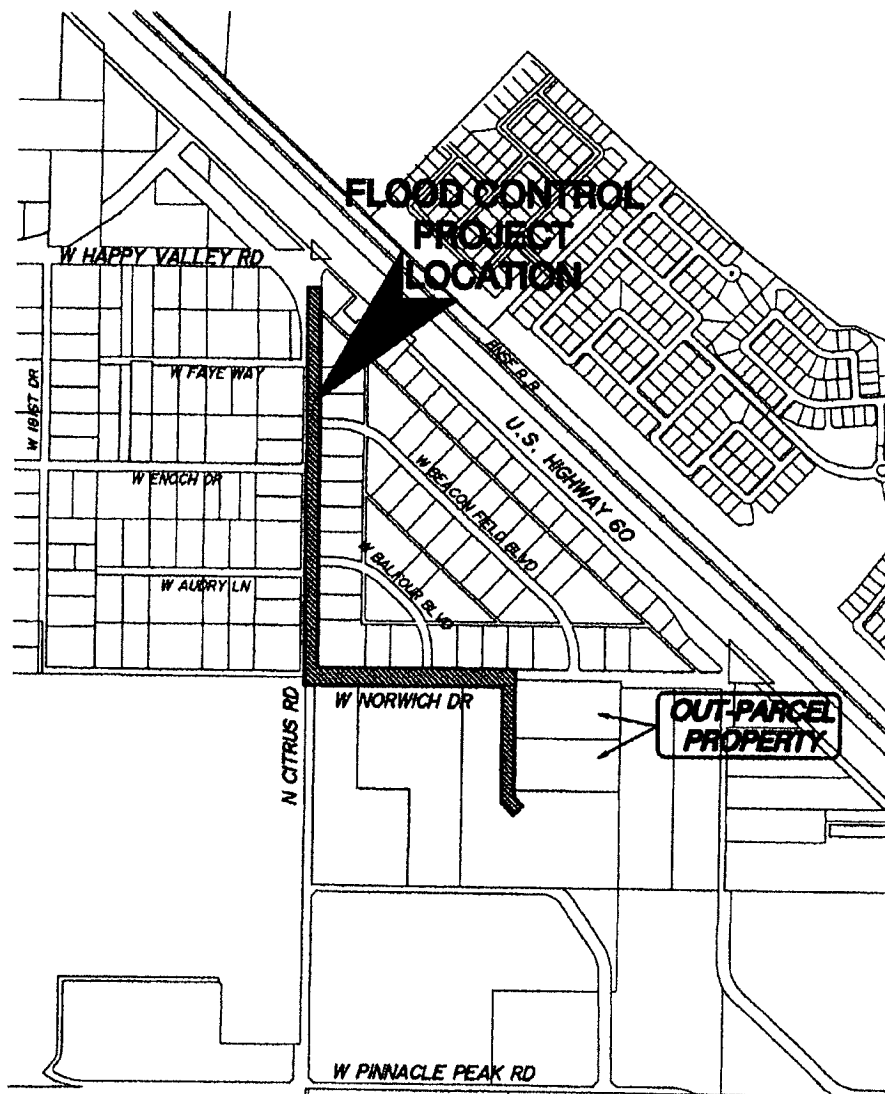


EXHIBIT B

[Norwich Drive Flood Control Project Map]

See following pages.

EXHIBIT B

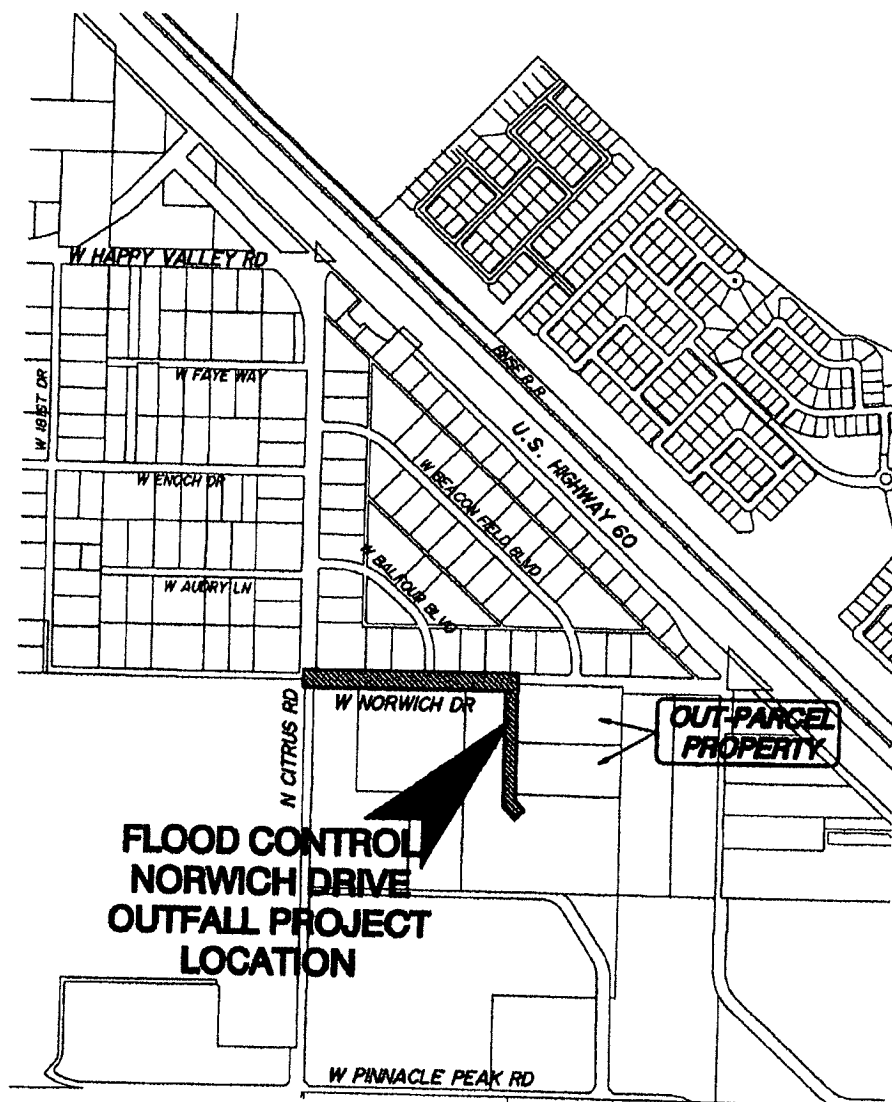


EXHIBIT C

[Impacted Property - Legal Description and Exhibit]

See following pages.

EXHIBIT C

PROPERTY 22

The Southeast quarter of Section 10, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPTION THEREFROM all coal, oil and other mineral deposits as reserved in the patent to said land.

PROPERTY 24

The Southwest quarter of the Northwest quarter of the Southwest quarter and the West half of the Northwest quarter of the Northwest quarter of the Southwest quarter of Section 11, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

The Southwest quarter of the Northeast quarter of the Southwest quarter and the East half of the East half of the Northwest quarter of the Southwest quarter of Section 11, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

The East half of the East half of the Northeast quarter of the Southwest quarter of Section 11, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

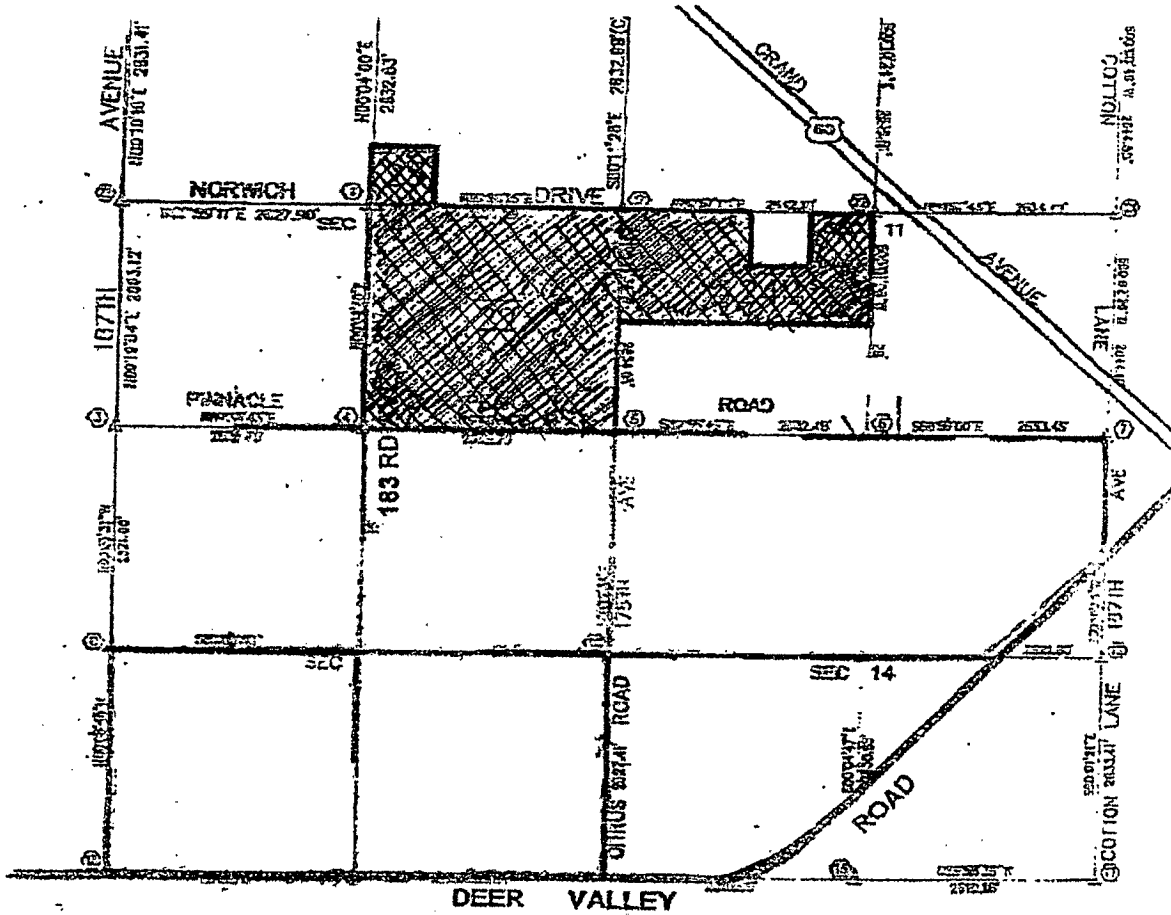
The West half of the East half of the Northeast quarter of the Southwest quarter of Section 11, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

The West half of the East half of the Northwest quarter of the Southwest quarter and the East half of the Northwest quarter of the Northwest quarter of the Southwest quarter of Section 11, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

EXCEPT all coal and other minerals as reserved in Patent from the United States of America.

PROPERTY 25

The Southwest quarter of the Southwest quarter of the Northeast quarter of Section 10, Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona and the East half of the Southwest quarter of the Southwest quarter of the Northeast quarter of Section 10 Township 4 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.



DEPICTION OF PROPERTY

EXHIBIT D

[Flood Control Project Cross-Section Adjacent to Norwich Drive]

See following pages.

Plan view of a proposed street layout. The layout includes a 65' R/W (Right of Way) section on the left, followed by a 45' R/W section, and a 45.5' TRACT section. Key features and dimensions include:

- Utility Corridor:** 8' wide, located at the far left.
- EX PP TO REMAIN:** Existing property line to remain.
- 65' R/W:** Right of Way section.
- 45' R/W:** Right of Way section.
- 45.5' TRACT:** Tract section.
- 21.3'± EX E/P:** Existing Easement/Property line.
- BIKE LANE:** 5' wide.
- 2% MAX:** Maximum slope.
- 2' CURB & GUTTER:** Curb and gutter width.
- 3" AC ON 8" ABC (MINIMUM):** Minimum asphalt concrete on 8-inch aggregate base.
- SIDEWALK:** Sidewalk width.
- 6:1 MAX:** Maximum slope.
- 6:1:** Slope.
- 4:1:** Slope.
- 22':** Dimension.
- 16':** Dimension.
- 18':** Dimension.
- 6':** Dimension.
- 6':** Dimension.
- 19':** Dimension.
- 6':** Dimension.
- 2':** Dimension.
- 1' MIN:** Minimum dimension.
- SITE WALL:** Site wall location.
- FLOOD CONTROL PROJECT:** Flood control project area.
- Q=659cfs:** Flow rate.

Q=659cfs

ADDITIONAL BERMING/SLOPE REQUIRED WITH
SUITABLE FILL TO 95% COMPACTION.
CITY TO PROVIDE DEVELOPER WITH POST
CONSTRUCTION GEOTECHNICAL DOCUMENTATION.

1. DEVELOPER NOT REQUIRED TO INSTALL CULVERT CROSSINGS ON NORWICH OTHER THAN CULVERT CROSSING NEAR 177TH AVENUE ALIGNMENT.
2. A SINGLE 20" DRY LANE (MIN) IS REQUIRED PER CITY OF SURPRISE FIRE DEPARTMENT.
3. LONGITUDINAL SLOPE OF CHANNEL A MINIMUM OF 0.25%.
4. ONE WAY STREET CROSS SLOPE.
5. EROSION CONTROL RESPONSIBILITIES TO BE DETERMINED.

EXHIBIT E

[Flood Control Project Cross-Section Adjacent to Outparcel Property]

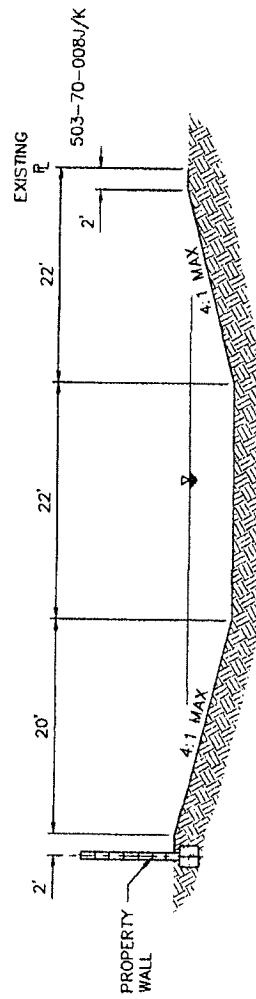
See following pages.

AUSTIN RANCH

EXHIBIT E

NORTH-SOUTH CHANNEL

ADJACENT TO OUT PARCEL (503-70-008J/K)
(LOOKING NORTH)



Q=659cfs

NOTES:

1. LONGITUDINAL SLOPE OF 0.25% MINIMUM.
2. EROSION CONTROL RESPONSIBILITIES TO BE DETERMINED.

Baker

MICHAEL BAKER JR. INC.

2828 NORTH CENTRAL AVENUE, SUITE 800
PHOENIX, ARIZONA 85028-2764
602.279.8234 • FAX 602.279.1411 • WWW.MBAKERCORP.COM

AUSTIN RANCH
NORWICH ROAD

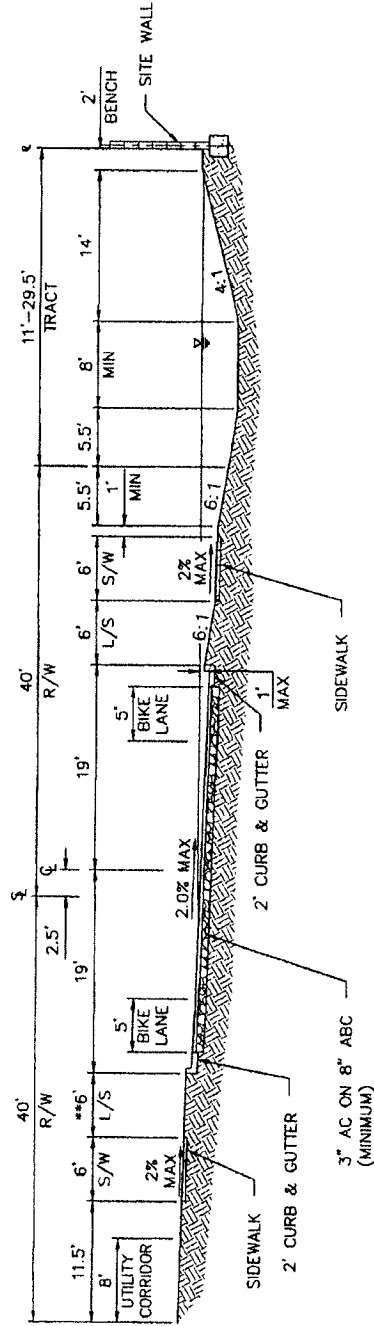
140880
12/12/2014

EXHIBIT F

[Norwich Drive Cross-Section (183rd Avenue to Citrus Road)]

See following pages.

**AUSTIN RANCH
EXHIBIT F
NORWICH DRIVE (183RD TO CITRUS)
(LOOKING EAST)**



Q=479cfs

- NOTES:
1. ONE WAY STREET CROSS SLOPE.
 2. DEVELOPER NOT REQUIRED TO INSTALL CULVERT CROSSINGS ON NORWICH OTHER THAN CULVERT CROSSING NEAR 177TH AVENUE ALIGNMENT.
 3. ALLOW 100-YR FLOWS UP TO 1' DEEP @ SOUTH CURB.
 4. EROSION CONTROL RESPONSIBILITIES TO BE DETERMINED.
 5. A SINGLE 20' DRY LANE IS REQUIRED PER CITY OF SURPRISE FIRE DEPARTMENT.

***SIDEWALK SEPARATION WILL VARY WHERE LOCATION CONFLICTS WITH EXISTING POWER POLES OR FENCES.

Baker

2828 NORTH CENTRAL AVENUE, SUITE 800
PHOENIX, ARIZONA 85012-2704
MICHAEL BAKER JR. INC. 602.279.1234 • FAX 602.279.1451 • WWW.MBAKERCORP.COM

AUSTIN RANCH
NORWICH ROAD

140880
12/12/2014

EXHIBIT G

[Form of Temporary Construction Easement]

See following pages.

When Recorded Mail To:

When recorded, return to:
Austin Ranch LLC
Attn: Hans Koppenhoefer
4160 W. Kitty Hawk
Chandler, Arizona 85226

Exempt under A.R.S. §42-11102(A) and § 11-1134(A)(2)

TEMPORARY CONSTRUCTION EASEMENT

For and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, _____, an _____, ("**Grantor**") does hereby grant and convey to the CITY OF SURPRISE, ARIZONA, an Arizona municipal corporation ("**Grantee**"), a Temporary Construction Easement for purposes of installation of public improvements on adjacent right-of-way, together with the temporary rights of ingress and egress over Grantor's adjoining property as are reasonably necessary, for the purposes of excavating and removing, installation, placement or replacement of soil, including any additional grading work deemed necessary or appropriate by the Grantee over, under and across the real property situated in Maricopa County, Arizona, as described in **Exhibit A** attached hereto and made a part hereof. Grantor's property shall be restored by Grantee to an "as good as" condition as existed prior to construction.

This easement right shall be extinguished, without the need for any further act by either party hereto, upon the earlier to occur of (a) substantial completion of the public improvements referred to above; or (b) the date that is twelve (12) months following the date hereof.

Dated this _____ day of _____, 20____.

[signature page follows]

By:
Name:
Its:

The foregoing instrument was acknowledged before me this ____ day of _____ 20__, by _____, _____, _____, _____, _____, _____.

My Commission Expires:

EXHIBIT A

TEMPORARY CONSTRUCTION EASEMENT

PROPERTY

[TO BE INSERTED]

EXHIBIT H

[Form of Drainage Easement]

See following pages.

When Recorded, mail to:

Austin Ranch LLC
Attn: Hans Koppenhoefer
4160 W. Kitty Hawk
Chandler, Arizona 85226

STORM DRAINAGE EASEMENT

For the consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, _____, a _____, Grantor, has granted and conveyed, and by these presents, does grant and convey unto and for the benefit of the **CITY OF SURPRISE**, a municipal corporation of the State of Arizona, Grantee, and its successors and assigns, a perpetual exclusive storm drainage easement, together with the necessary right of ingress and egress and the right to enter upon the Property (defined below) for the purpose of installation, maintenance, operation, and replacement of such storm drainage utilities, over, under, and across the Property described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property"), subject to the Development Agreement Regarding Martin Acres Flood Control and Norwich Drive Improvements, recorded in the records of the Maricopa County Recorder's Office as Document Number _____.

IN WITNESS WHEREOF Grantor has executed this Drainage Easement as of the ____ day of _____, 20__.

GRANTOR:

AUSTIN RANCH LLC

By: _____

Name: _____

Its: _____

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of
_____, 20__, by _____, the
_____ of _____,
a(n) _____, on behalf of the _____.

(Seal and Expiration Date)

Notary Public

EXHIBIT A

STORM DRAINAGE EASEMENT

PROPERTY

[TO BE INSERTED]

EXHIBIT I

[Local Street Cross-Section for Developer Property North of Pinnacle Peak Road]

See following pages.

EXHIBIT I

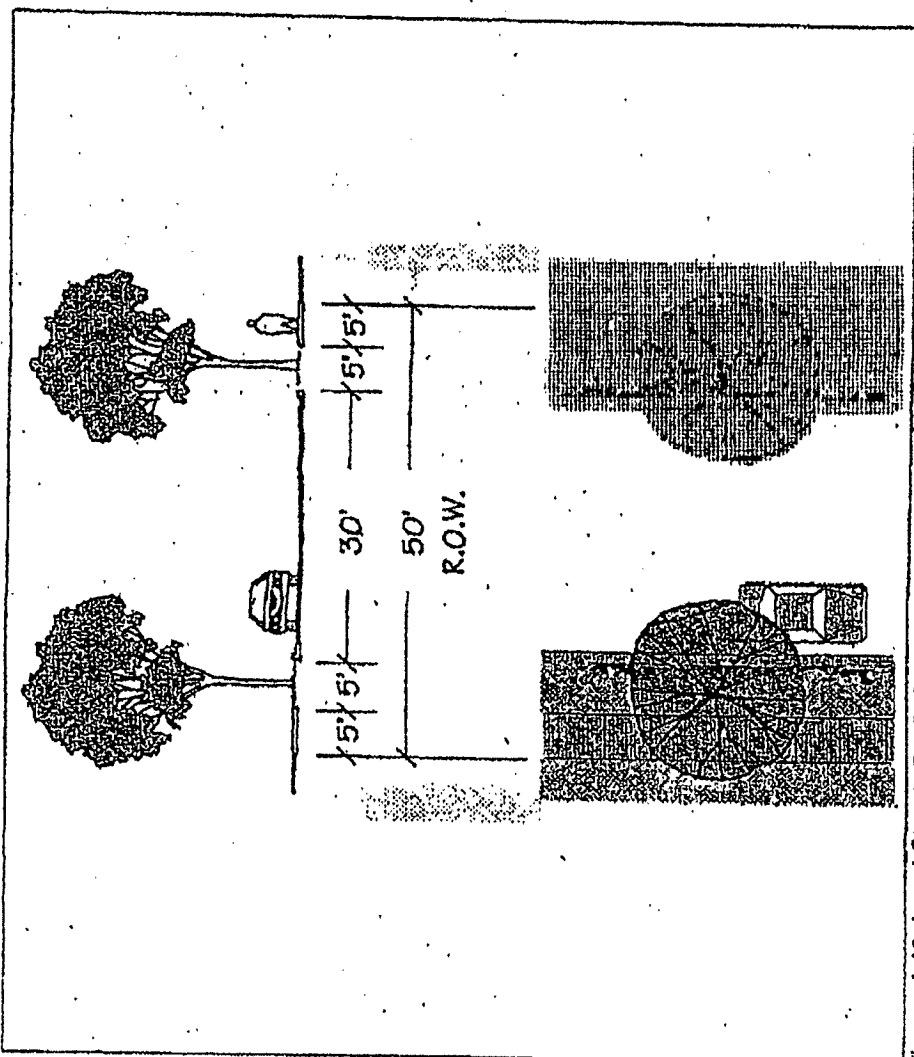


figure 4.12: Local Street, Ex. 2. Street Dimensions from Back of Curb



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date: April 7, 2015

Contact Person: Council Member Biundo

Submitting Department:

District: Internal

Staff Recommendations: No Action

Consent

Regular

Public Hearing

Report/Discussion

Agenda Wording:

Discussion and presentation by Greg Pereira regarding the Communiversy.

Motion:

None.

Background:

Financial Impact Statement:

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

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date:	April 7, 2015	Contact Person:	Jeanine Jerkovic, Economic Development Director
Submitting Department:	Econ Development	District:	Citywide
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	Report/Discussion
---------	---------	----------------	-------------------

Agenda Wording:

Consideration and action amending the fiscal year 2015 budget in the amount of \$500,000 and establishing an AZ TechCelerator renovation capital improvement project using identified monies from the City Manager's Economic Development division operational contingency fund; Resolution 2015-27.

Motion:

I move to approve Resolution 2015-27.

Background:

The Public Works Department is working with the Economic Development Department to create an AZ TechCelerator Renovation project. The AZ TechCelerator, a four-building campus owned and operated by the City of Surprise, totals 58,800 square feet and is designed and primarily programmed to accommodate business needs and provide innovative start-ups with the affordable space, tools and resources to grow their businesses. Launched in January 2010, the program has helped start-up, counsel, and educate companies throughout the region and generated a positive economic and social impact for the City of Surprise. The facility has also helped larger Surprise employers such as RioGlass and Gestamp get into business faster, offering them a place to start operating and hiring during the process of their facility construction. Demonstrating the program's additional potential, MD24, the incubator's first graduate, has recently occupied 10,000 square feet in the community and employs 100 employees and is expected to grow to 250 employees by the end of the year. In order to generate new programs and accommodate new partnerships that will facilitate future success and community growth, a renovation project is required to improve the condition of the facility and attract quality start-ups and partners. In addition to the support and education programs for business, the Economic Development Department will soon be advancing home-based business co-working space, an international soft-landing strategy for foreign companies seeking a new market, and additional services on site with new business partnerships. The renovation will include exterior painting of the entire AZ TechCelerator campus, rehabilitation of the fountain, additional directional signage around the campus, and a new monument sign. Interior renovations on Building D include demolition of the existing flooring and council dais. The flooring on the first floor will be replaced with a new, rubber-based flooring while the second floor will have carpet tiles installed. Building D renovations will also include drywall repairs, new paint, and replacement of interior and exterior doors. Interior renovations on Building C include floor treatments and new paint.

Access Control for Buildings C and D is also planned through the project.

Financial Impact Statement:

This is a non-growth project. This project was not approved in the FY2015 capital improvement budget. Resolution #2015-27 will establish a budget for the AZ TechCelerator renovation project of \$500,000 in the general fund by transferring appropriation from the City Manager's Economic Development operating contingency within the general fund, allowing fund balance to be spent.

ATTACHMENTS:

Click to download

- ☐ [PRESENTATION](#)
 - ☐ [Resolution 2015-27](#)
-

External Attachment Links:

Meeting Requirements:

Powerpoint	x	Video	White Board	Other	x
------------	---	-------	-------------	-------	---

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

Jeanine Jerkovic, Economic Development Director

AZ TechCelerator Improvements

April 7, 2015



About AZ TechCelerator



- Opened January 2010
- 4 Building Campus
- Julie Neal, Program Administration
- Cash Positive Facility - \$65,800
- Currently Supports
 - 10 Clients
 - 12 Mentors
 - 3 On-Site Service Providers



Recent Success



- MD24
- Athena Wireless
- Bootcamps, Classes and Seminars
- Temporary Corporate Office Space



Improvement Details



Proposed AZ TechCelerator Renovation Items:

Improvement:	Est. Cost
Exterior painting of the entire AZ TechCelerator campus	\$100,000
Landscape rehabilitation of the fountain and common areas	\$25,000
Additional directional signage around the campus	\$15,000
New monument sign	\$100,000
Interior renovations on Building D includes demolition of the existing flooring and Council dais, drywall repairs, new paint, and replacement of interior and exterior doors.	\$170,000
Interior renovations on Building C include floor treatments and new paint	\$50,000
Access Control for Buildings C and D is also planned through the project	\$15,000
Upgraded Wireless Internet	\$15,000
Cost variables	\$10,000
ESTIMATED TOTAL	\$500,000



Thank You



RESOLUTION # 2015-27

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2015 BUDGET BY REALLOCATING APPROPRIATIONS OF \$500,000 FROM CITY MANAGER'S ECONOMIC DEVELOPMENT DEPARTMENT ONE-TIME CONTINGENCY BUDGET AND; ESTABLISH A NEW CAPITAL PROJECT FOR RENOVATIONS AT THE AZ TECHCELERATOR.

WHEREAS, the City wishes to continue to operate a business incubator at the old city hall location known as the AZ TechCelerator;

WHEREAS, the City wishes to improve the facility to attract and accommodate those businesses by amending the FY2015 budget and establishing this project;

WHEREAS, the City approved contingency funds for such projects as part of the FY2015 budget City Manager Economic Development Department one-time contingency dollars;

WHEREAS, the FY2015 budget was adopted by Council Resolution #2014-53 on June 3, 2014;

WHEREAS, this action will necessitate a budget amendment; and

WHEREAS, City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

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

Section 1. The budget amendment has been reviewed and approved by the appropriate staff according to the City's administrative policies.

Section 2. 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, 2014 through June 30, 2015.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this ____ day of _____, 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

RESOLUTION # 2015-27
Exhibit A

The FY2015 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.

General Fund City Manager	Current Appropriation	Increase (Decrease)	Amended Appropriation
Economic Development Contingency	\$622,200	(\$500,000)	\$122,200
AZ TechCelerator Renovation Proj. #TBD	0	500,000	500,000
	<u>\$622,200</u>	<u>-</u>	<u>\$622,200</u>

The fund changes are as follows:

- The amendment reallocates appropriation of \$500,000 from the City Manager Economic Development Division One-Time Contingency, to establish a new capital project for renovations at the City's AZ TechCelerator facility.



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date: April 7, 2015

Contact Person: Lindsey Duncan, Finance Director

Submitting Department:

District: Citywide

Staff Recommendations: Approve

Consent

Regular

Public Hearing

Report/Discussion

Agenda Wording:

Consideration and action approving an agreement with the U.S. Census Bureau for the mid-decade census, and amending the FY2015 budget in the amount of \$850,000; Resolution 2015-36.

Motion:

I move to approve Resolution 2015-36.

Background:

State Shared revenue is estimated to be \$29.3 million or 31.4% of all General Fund sources in FY2015. An additional \$7.0 million of revenue in the Highway User Revenue Fund (HURF) is also State Shared. State Shared revenue is allocated based on a city's population compared to the overall population of the state. The population is based on the last decennial census, currently the 2010 census. Arizona Revised Statute 28-6532 allows a city to undertake a mid-decade census to update the city's population amount. At this time, five cities, Buckeye, Gilbert, Goodyear, Peoria, and Queen Creek, have already entered into agreements with the Census Bureau to begin a mid-decade census this fall. The City of Chandler has also expressed interest, but has not yet entered into an agreement with the Census Bureau. The City of Surprise would potentially have State Shared revenues reduced by \$700,000 annually if it does not participate in a mid-decade census with these six cities. Conversely, the City would potentially see State Shared revenues increased by \$1,100,000 if it does participate in a mid-decade census. The total net impact of participating in the mid-decade census is estimated to be an increase of \$1,800,000 annually. The amount will vary based on which cities decide to participate in a mid-decade census. The Memorandum of Agreement outlines estimated costs for the City's participation in the mid-decade census. A payment of \$840,121 will be made to the Census Bureau to during FY2015 to begin work. This is the total estimated cost for the Census Bureau's involvement throughout the census. The Census Bureau estimates \$1,636,182 for locally hired enumerators that will be recruited and paid directly by the City. The total of those two estimates is \$2,476,303. The City is also responsible for the costs associated with recruiting and providing office space, among others, that are not included in the estimated costs outlined in the agreement. The City will also be responsible for any costs that exceed the original estimated amounts. City staff recommends a total project budget of \$2,700,000. Based on a total project budget of \$2,700,000 and an annual increase in State Shared revenues of \$1,800,000, the project amount will be repaid in less than two years.

Financial Impact Statement:

The agreement will require an amendment that reallocates budget authority within the general fund in the amount of \$850,000 without exceeding the approved total annual budget for FY2015. This amount will be paid to the Census Bureau immediately to allow work to begin. Additionally, the FY2016 Recommended Budget will include \$1,850,000 that will be paid to individual census workers and for other incidental costs associated with the special census. The total amount budgeted for the special census will be \$2,700,000. It is anticipated that completing a mid-decade census would result in a net increase in State Shared revenues of \$1,800,000 annually beginning in FY2017, essentially repaying the original investment in less than two years.

ATTACHMENTS:

Click to download

- ☐ [Memorandum of Agreement](#)
 - ☐ [Resolution 2015-36](#)
-

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

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

Lindsey Duncan, Finance Director

Memorandum of Agreement
Through Which
The City of Surprise, Maricopa County, Arizona
Is Purchasing a Special Census
From the U.S. Census Bureau

Agreement No. **31070**

1) Parties and Scope

This document establishes an agreement between the **City of Surprise, Maricopa County, Arizona** (Governmental Unit) and the Field Division, U.S. Census Bureau (Census), through which the Governmental Unit will pay the Census Bureau to take a special census under the authority of 13 U.S.C. § 196.

2) Authority

The Census Bureau may undertake this work pursuant to 13 U.S.C. § 196, which provides that the “Secretary may conduct special censuses for the government of any State, or of any county, city, or other political subdivision within a State, for the government of the District of Columbia, and for the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, on subjects covered by the censuses provided for in this title, upon payment to the Secretary of the actual or estimated cost of each such special census. The results of each such special census shall be designated ‘Official Census Statistics’. These statistics may be used in the manner provided by applicable law.”

3) Confidentiality

The data, including individual information collected by the enumerators on the special census questionnaires, collected under this agreement are confidential under 13 U.S.C. § 9, and the questionnaires shall be controlled by and returned directly to the authorized representative of the Census Bureau. All such special census questionnaires and all other papers relating to the special census are the property of the Census Bureau and under the law may only be made available to and examined by sworn Census Bureau officials and employees. Unlawful disclosure subjects employees to a fine of up to \$250,000 or imprisonment of up to 5 years, or both.

Should the Governmental Unit require access to Title 13 data to assist in the planning, data collection, data analysis, or production of final products, those staff members are required to obtain Census Bureau Special Sworn Status pursuant to 13 U.S.C. § 23(c). Such staff members must demonstrate that they have suitable background clearance and they must take Title 13 awareness training. Any access to Title 13 data at *the Governmental Unit’s facility* is subject to prior approval by the Census Bureau’s Data Stewardship Executive Policy Committee upon assurance that the facility and information technology security meet Census Bureau requirements.

4) Terms and Conditions

Acknowledging the foregoing, the parties agree as follows:

- a) The Census Bureau will achieve full cost recovery for the goods and services it is providing under this agreement:
 - i) The Census Bureau shall designate one or more experienced employees to direct the taking of the special census.
 - ii) The Census Bureau employee(s) shall oversee all aspects of the enumeration including the hiring, training, and separation of enumerators, crew leaders, and other temporary personnel employed locally to take the special census. The designated Census Bureau employee(s) shall exercise day-to-day technical supervision of these employees. All such temporary personnel shall be Federal Government employees and neither the Governmental Unit nor any representative of the Governmental Unit shall supervise, exercise control over, or in any other way interfere with such employees in the performance of their responsibilities.
 - iii) The Census Bureau shall provide to the Governmental Unit the official population and housing unit count derived from the special census at the earliest practicable date after completion of the enumeration and the processing required to produce the statistical results. This count, which shall be as of the date of the special census, will be provided in writing and signed by an appropriate Census Bureau official.
 - iv) The Census Bureau will not guarantee delivery of the final count by any specified date and shall not be held responsible for any loss or damages suffered by the Governmental Unit due to the data not being available by a specific date.

The Governmental Unit accepts that responses to a special census, unlike a decennial census, are voluntary and some respondents may choose to not answer some questions. When this happens, the Census Bureau will make every effort to collect as much information as possible. If the Census Bureau cannot obtain information directly from respondents, the Census Bureau will follow statistical procedures to assign the missing information based on information provided by people in the housing unit or from people from neighboring housing units.

The Governmental Unit also accepts that, to complete the count of the group quarters population, it may be necessary for the Census Bureau to obtain information for people residing in certain institutions (such as correctional facilities with security issues) from administrative records rather than from the respondents themselves. The Census Bureau will provide detailed statistical results to the Governmental Unit subject to limitations imposed by Title 13, United States Code, to protect the confidentiality of respondents.

The Census Bureau can only use the special census counts in the intercensal population estimates program if:

- (a) the entire area of a governmental unit is included in the special census,
- (b) the legal boundaries of the governmental unit correspond to those used in the Population Estimates program (boundaries legally in effect on January 1 of the estimates year), and
- (c) the boundaries are reported to the Census Bureau for processing by April 1 of the estimates year, and

- (d) final approved counts from the Special Census enumeration are ready by August 1 of the estimates year.

If a Governmental Unit requests a special census for only a portion of their area, they do so with the understanding that the results of this partial special census will not be included in any subsequent Census Bureau population estimates. The Governmental Unit shall accept as final the official population count and other statistical results when provided by the Census Bureau.

- b) The Governmental Unit is responsible for all costs of taking the special census including, but not limited to, appropriately furnished office quarters, total compensation of all field enumeration and supervisory personnel, compensation of Census Bureau headquarters and regional office personnel for time allocated to the special census, overhead for headquarters and regional offices, processing and tabulation of data, and all other costs attributable to taking the special census:
 - i) The Governmental Unit shall update maps of the proposed census area in accordance with instructions provided by the Census Bureau. The Governmental Unit shall provide any certification of legal boundaries within the proposed census area as required by the Census Bureau. Once the Governmental Unit boundaries have been certified by the Census Bureau, these boundaries will become the official boundaries for the special census. Any annexations after the Governmental Unit has certified its boundaries will not be included in the special census. The special census will not be scheduled until these obligations have been completed to the satisfaction of the Census Bureau.
 - ii) The Governmental Unit shall supply, free of charge, satisfactory office quarters equipped with telephone(s), office furniture, photocopier, fax machine, and other equipment and furnishings as determined necessary and proper by the Census Bureau. These quarters must meet all security and confidentiality requirements as agreed to by the Census Bureau representative.
 - iii) In taking the special census, the Governmental Unit is directly responsible for recruiting and compensating all field personnel determined necessary by the Census Bureau for taking the special census. The Governmental Unit shall recruit sufficient qualified applicants for enumerators, crew leaders, and other positions as may be needed to complete the special census. Employees shall be selected for employment and separated under standards established by the Census Bureau, and shall take an oath or affirmation, as required, to protect the confidentiality of the information they collect. The Governmental Unit shall be responsible for all administrative operations relating to the reconciliation and payment of these employees.
 - iv) Notwithstanding the Governmental Unit's responsibility for recruitment and compensation, such field personnel shall be and remain employees of the Census Bureau, subject to all applicable federal, state, and local laws, including but not limited to those pertaining to the Equal Employment Opportunity Act and the Fair Labor Standards Act applicable to these employees, and shall complete and file any and all reports required thereunder. The Census Bureau reserves the right to reject any persons recommended by the Governmental Unit if such persons fail to meet the established employment standards.

In the event that sufficient suitable applicants are not furnished by the Governmental Unit for the necessary positions and the Census Bureau must expend funds to obtain applicants to fill the remaining positions, the Governmental Unit agrees to reimburse the Census Bureau for

those additional expenses. This will increase the costs estimated in (b)(v) and (b)(vi) below. In addition, if the Governmental Unit fails to provide sufficient suitable applicants, delays in completing the special census may occur.

- v) The Governmental Unit shall pay directly enumerators, crew leaders, and others hired locally to conduct the actual enumeration, at rates of pay fixed by the Census Bureau.
 - (1) The compensation of such enumerators, crew leaders, and others shall be paid to them directly by the Governmental Unit upon approval by the designated Census Bureau employee. The Governmental Unit shall pay or withhold from the compensation paid to the enumerators, crew leaders, and others locally employed all amounts necessary for Social Security, federal, state, and local income tax, continuation of pay, or other sums required to be paid or withheld by federal, state, or local laws. The amount necessary to cover these expenses, not including worker's compensation and continuation of pay, is estimated to be **\$1,636,182**. The Governmental Unit agrees that these funds will be available for disbursement upon approval of the designated Census Bureau employee.
 - (2) The Government Unit shall reimburse the Census Bureau for all funds expended by the Census Bureau resulting from payments to the Department of Labor under applicable federal workers' compensation and unemployment benefits laws.
 - (3) The Governmental Unit shall reimburse the Census Bureau and/or the United States for all funds expended in the processing, investigation and defense of all administrative and/or judicial claims regarding the actions of temporary employees arising from their employment pursuant to this Memorandum of Agreement (MOA). In addition, the Governmental unit agrees to indemnify the Census Bureau and/or the United States for any settlements and/or judgments incurred by the latter as a result of the actions of temporary employees arising from their employment pursuant to this MOA.
- vi) In addition to the salary expenses to be paid directly by the Governmental Unit to all temporary employees hired locally, the Governmental Unit agrees to pay all other expenses related to the taking of the special census, including but not limited to
 - (1) administrative and technical work performed by headquarters and regional personnel;
 - (2) printing and preparation of enumeration questionnaires and related materials;
 - (3) map preparation;
 - (4) tabulation expenses;
 - (5) the cost of the designated Census Bureau employee's salary, allowances for subsistence at the standard federal rate per day, traveling expenses, other reasonable and necessary expenses, and overhead and other charges applicable to these costs; and
 - (6) other incidental expenses incurred by the Census Bureau in completing the special census. Based on an estimate of the population of **123,797** the estimated cost for these services is **\$840,121**. A payment of that amount shall be furnished to the Census Bureau before any work on the special census is performed. The advance payment will be adjusted to actual costs and billing or refund made as appropriate. This payment is for Census Bureau costs referenced in this item and excludes those directly payable by the Governmental Unit under item (b)(v) above.
- vii) In accordance with (b)(vi), if actual cost exceeds the advance payment, the additional payment to the Census Bureau is due in full, 30 days from the date of the invoice. A late charge shall be imposed on the overdue amount for each 30-day period or portion thereof during which the remittance is due. The late charge will be based on a percentage rate equal

to the current value of funds to U.S. Treasury in accordance with Treasury fiscal requirements.

- c) Notwithstanding the Governmental Unit's direct payment of compensation, all temporary enumerators, crew leaders, and others hired locally to conduct the special census are employees of the Federal Government. Therefore, regarding the negligent or wrongful acts of any temporary employees arising from their employment pursuant to this MOA, any claims and/or litigation arising from said acts will be adjudicated pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. (see section (b)(v)(3) herein regarding reimbursement and indemnification requirements).

5) Transfer of Funds

On a periodic basis, the parties will reconcile balances related to revenue and expenses for work performed under the agreement.

6) Contacts

Mr. Michael A. Hall
Chief, Special Census Branch
U.S. Census Bureau
4600 Silver Hill Road
Field Division
Special Census Branch
5H023
Washington, D.C. 20233
301-763-1429
301-763-4851
Michael.a.hall@census.gov

City of Surprise
Attn: Mr. Jared Askelson
16000 N Civic Center Plaza
Surprise, AZ 85374
623-222-1823
623-222-1801 Fax
Jared.askelson@surpriseaz.gov

The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

7) Duration of Agreement, Amendments, and Modifications

This agreement will become effective when signed by all parties. The agreement will terminate on **March 27, 2017**, but may be amended at any time by mutual consent of the parties. Any party may terminate this agreement by providing **30** day's written notice to the other party. This agreement is subject to the availability of funds.

8) Resolution of Disagreements

Should disagreement arise on the interpretation of the provisions of this agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

9) Termination Cost

If the **City of Surprise** cancels the order, the Census Bureau is authorized to collect costs incurred prior to cancellation of the order plus any termination costs, up to the total payment amount provided for under this agreement.

FOR THE GOVERNMENTAL UNIT

BY:

NAME: DATE:
TITLE:
AGENCY:

FOR THE CENSUS BUREAU

BY:

Timothy P. Olson DATE:
Chief, Field Division
Bureau of the Census

RESOLUTION # 2015-36

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AUTHORIZING THE UNITED STATES CENSUS BUREAU TO CONDUCT A FULL SPECIAL CENSUS AND AMENDING THE FISCAL YEAR 2015 BUDGET BY REALLOCATING APPROPRIATIONS OF \$850,000 FROM GENERAL FUND CONTINGENCY TO THE MID-DECADE CENSUS PROJECT.

WHEREAS, the City wishes to complete a full special census for the purposes of positively impacting the City's portion of revenues shared by the State of Arizona;

WHEREAS, the FY2015 budget was adopted by Council Resolution #2014-53 on June 3, 2014;

WHEREAS, this action will necessitate a budget amendment; and

WHEREAS, the City of Surprise Administrative Policies requires the approval of the Mayor and Council for budget amendments of this nature.

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

Section 1. The Memorandum of Agreement with the United States Census to conduct a full special census is approved.

Section 2. The finance department is authorized to make the budget adjustments described in Exhibit "A."

Section 3. 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, 2014 through June 30, 2015.

[SIGNATURES ON THE FOLLOWING PAGE]

APPROVED AND ADOPTED this ____ day of _____, 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

RESOLUTION # 2015-36
Exhibit A

The FY2015 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.

General Fund Contingency	Current Appropriation	Increase (Decrease)	Amended Appropriation
Mid-Decade Census Project, 27187	\$0	\$850,000	\$850,000
Contingency	10,861,000	(\$850,000)	10,011,000
	<u>\$10,861,000</u>	<u>\$0</u>	<u>\$10,861,000</u>



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

Council Meeting Date:	April 7, 2015	Contact Person:	Robert Kuhfuss, Community Development
Submitting Department:		District:	Citywide
Staff Recommendations:	Approve		

Consent	Regular	Public Hearing	x	Report/Discussion
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Agenda Wording:

Consideration and action approving proposed Zoning Text Amendment pertaining to Assisted Living Facilities; Ordinance 2015-07.

Motion:

I move to approve Ordinance 2015-07.

Background:

Senior management requested staff research the city's methodology for evaluating assisted living facilities and prepare draft language for a possible Zoning Text Amendment. Staff presented draft language at a stakeholder meeting on January 5, 2015 and presented the matter to the Planning and Zoning Commission on January 8, 2015. Staff revised the draft language and presented the changes to a subsequent stakeholder meeting held on January 29, 2015. The Planning and Zoning Commission heard the matter at their regular session on February 5, 2015 and recommended approval to the City Council with certain changes. The City Council reviewed the matter at their work session of March 17, 2015.

Financial Impact Statement:

The financial impact is minimal and can be absorbed by the department.

ATTACHMENTS:

Click to download

- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Staff Report](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - 2-5-15 PZ Minutes](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Exhibit A](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Exhibit B](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Exhibit C](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Exhibit D](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Opposition - Buhr](#)
- ☐ [FS14-444 - Assisted Living Facilities Text Amendment - Opposition - Lane](#)

☐ [PRESENTATION](#)

☐ [Ordinance 2015-07](#)

External Attachment Links:

Meeting Requirements:

Powerpoint x Video White Board Other x

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

Robert Kuhfuss, Planner II Eric Fitzer, Director



COMMUNITY DEVELOPMENT DEPARTMENT

Date: April 7, 2015
To: City Council
From: Eric Fitzer, Community Development Director
Robert H. Kuhfuss, AICP, Planner II
Re: FS14-444– Text Amendment regarding Assisted Living Facilities

Application Summary

The subject application involves revisions to the SUDC as it pertains to Assisted Living Facilities. The purpose of the Text Amendment is three-fold:

- Remove ambiguity
- Streamline process
- Provide consistency with state statute

Staff proposes certain changes to Section 122-43 Zoning Use Matrix, Section 122-99 Residential Setting Care Facility and Section 122-178 Definitions. These proposed changes are included in the attached Exhibits A-D and are presented in legislative-edit format, with deleted language in ~~strike-through~~ and new language in UNDERLINE CAPS.

Background

November 26, 2014: Staff formally submitted the subject case for review under FS14-444.

January 5, 2015: Staff held a Citizen Review meeting to discuss the subject request.

January 8, 2014: The Planning and Zoning Commission reviewed the subject request as a discussion item only. No action was taken.

January 29, 2015: Staff held a 2nd Citizen Review meeting to discuss the subject request.

February 5, 2015: The Planning and Zoning Commission held a public hearing on the matter and voted to recommend approval of the proposed language as presented by staff with certain modifications to Section 122-99 as discussed below.

March 17, 2015: The City Council reviewed the matter at their work session on this date.

Citizen Review

Staff held a Citizen Review meeting on January 5, 2015, which was advertised in accordance with the SUDC. The meeting was attended by approximately 11 individuals, mostly representing the Assisted Living industry. These individuals expressed certain concerns, which were conveyed to the Commission during the January 8, 2015 Commission work session, many of which were incorporated into the proposed language.

In preparation of the January 5, 2015 Citizen Review Meeting, staff sent notice to all HOAs and assisted living facilities located within the City of Surprise, in addition to certain other industry stakeholders; however, many of the notices that were sent to the HOAs were returned as undeliverable due to erroneous addresses. Concerned that HOAs might be underrepresented in the process, staff scheduled a second Citizen Review meeting for January 29, 2015 then verified these addresses and resent the entire notification packet advising of the second Citizen Review meeting. This second meeting was also advertised in accordance with the SUDC.

The second Citizen Review meeting was attended by four members of the assisted living industry and one person representing an HOA. Staff presented the proposed changes that came about as a result of the previous P&Z meeting, which was followed by discussion regarding:

- HOA desire for reversion of assisted living homes back to original configuration upon closure of the facility
- City coordination with HOAs prior to city approval of assisted living home
- HOA's ability to enforce CC&Rs against assisted living operators
- Fire bell requirement
- Assisted Living Home ability to petition for relief from separation requirements
- Assisted Living Home concerns over the "120-Day Rule"

Staff also received two items of opposition from the general public, which are included as attachments to this report. These concerns are generally follows:

- Business use in a residential area
- Privacy
- Role of the HOA

Location

This Text Amendment will apply to all areas of the incorporated City.

Summary

Staff recommended the Planning and Zoning Commission move to recommend approval to the City Council of certain proposed language. The Planning and Zoning Commission voted to recommend approval of the staff-proposed language, but deleting certain language contained in Section 122-99 regarding state revocation or termination of an operator's license (the "120-Day Rule") as follows:

(f) In the event that the Arizona Department of Health Services, or any other state agency with such authority, revokes or terminates a person's license to operate ~~a residential setting care facility~~ AN ASSISTED LIVING HOME, then the person operating the ~~residential setting care facility~~ ASSISTED LIVING HOME shall immediately ~~cease operations and~~ inform the city of such revocation or termination of their license. ~~IF THE STATE AGENCY HAVING THE AUTHORITY TO REVOKE OR TERMINATE THE LICENSE DOES NOT REINSTATE THAT LICENSE OR ISSUE A NEW LICENSE GRANTING AUTHORITY TO OPERATE ON THE PROPERTY WITHIN A PERIOD OF 120 DAYS FROM THE DATE OF REVOKATION OR TERMINATION, THE FACILITY SHALL IMMEDIATELY CEASE OPERATIONS AND ANY LEGAL NON CONFORMING STATUS RELATING TO THE PROPERTY WITH REPSECT TO ASSISTED LIVING SHALL BE NULL AND VOID.~~

The City Council reviewed the matter at their regularly scheduled work session held on March 17, 2015 and requested certain peripheral issues be more fully researched, but offered no suggested revisions to the language as proposed by the Planning and Zoning Commission on February 5, 2015.

Recommendations:

Approve per Planning and Zoning Commission recommendation

Attached:

Minutes of the February 5, 2015 P&Z hearing – (4 pages)
Exhibit "A" – Summary of Proposed Changes – P&Z version, leg-edit (5 pages)
Exhibit "B" – Section 122-43 Zoning Use Matrix – P&Z version, leg-edit (8 pages)
Exhibit "C" – Section 122-99 Assisted Living Home – P&Z version, leg-edit (3 pages)
Exhibit "D" – Section 122-178 Definitions – P&Z version, leg-edit (24 pages)
Opposition (3 pages)

**CITY OF SURPRISE
PLANNING AND ZONING COMMISSION**

MEETING MINUTES

February 5, 2015 / 6:00 PM

**COUNCIL CHAMBERS
16000 North Civic Center Plaza
Surprise, AZ 85374**

CALL TO ORDER.

Chair Steve Somers called the Planning and Zoning Commission Meeting to order at 6 p.m. at Surprise City Hall, 16000 North Civic Center Plaza, Surprise, Arizona 85374, on Thursday, February 5, 2015.

A. ROLL CALL

In attendance were Chair Somers, Vice Chair Ken Chapman and Commissioners Peter Pervi, Dennis Smith, Matthew Bieniek, Jerry Hoyler and Mathew Keating.

STAFF PRESENT:

Community Development Director Eric Fitzer, Deputy City Attorney Donna Bronski, Assistant Director Chris Boyd, Long Range Planning Manager Lloyd Abrams, Planner Hobart Wingard, Planner Jackie Keller, Neighborhood Services Supervisor Christina Ramirez, Community Program Coordinator Alicia Rubio and Planning and Zoning Commission Secretary Heather Donaldson.

COUNCIL MEMBERS PRESENT:

None

B. PLEDGE OF ALLEGIANCE

C. CURRENT EVENTS REPORT

D. STAFF REPORT

None

CALL TO THE PUBLIC:

Chair Somers called to the public to discuss any issues not noted on the agenda. Hearing no comments, Chair Somers closed the call to the public.

- E. All items listed with an asterisk (*) are considered to be routine by the Planning and Zoning Commission and were approved by one motion. There was no separate discussion of these items during this meeting.

CONSENT AGENDA:

No Items

REGULAR AGENDA ITEMS NOT REQUIRING A PUBLIC HEARING:

Item 1 – INTERNAL - Consideration and action on the January 22, 2015 Planning and Zoning Commission minutes.

Commissioner Pervi made a motion to approve the **Planning and Zoning Commission Minutes for January 22, 2014**. Commissioner Bieniek seconded the motion. The motion passed with 7 yes votes.

Item 2 – CITYWIDE – Discussion regarding bi-monthly meetings.

Eric Fitzer, Director, advised the Commission that with the present work load we will be having two meetings each month when necessary. The Commission agreed to attend bi-monthly meetings.

REGULAR AGENDA ITEMS REQUIRING A PUBLIC HEARING:

Item 3 – INTERNAL - Presentation and discussion from the Community Development Block Grant Public Service applicants.

Christina Ramirez, Neighborhood Services Supervisor, gave an overview of the program, the applicants and the requirements to qualify.

Public Service Application presentations were given by the following:

- Kenneth McKinley & Rick Fresia – Tumbleweed (Document distributed to Commission attached hereto)
- Joanne Thomsen – Benevilla
- Julie Turko – AASK (Document distributed to Commission attached hereto)
- Darrel Christenson – ABIL
- Muriel Gutierrez – City of Surprise (Document distributed to Commission attached hereto)
- Melissa Holdaway – Arizona Charter Academy (Document distributed to Commission attached hereto)
- Mark Holleran – CASS (Document distributed to Commission attached hereto)
- John Yantis – St. Mary's Food Bank

Chair Somers opened the Call to the Public. Hearing no comments, Chair Somers closed the call to the public.

Item 4 – CITYWIDE - Consideration and action on a proposed Zoning Text Amendment pertaining to Assisted Living Facilities.

Robert Kuhfuss, Planner II, presented the proposed Zoning Text Amendment pertaining to Assisted Living Facilities to the Commission.

The Commission had some discussion regarding:

- 300sf livable space per resident
- Clarification on the grandfathering clause
- HOA/CC&R's exclusions (zoning regulations)
- Assisted Living Facilities notification requirements
- Business licenses for multiple assisted living facilities belonging to individual owner (zoning clearance)
- Extenuating circumstances with the death of an assisted living facility operator (distinction between business operations and land use)

Chair Somers opened the Call to the Public:

William Burnette believes the City is trying to supersede state ordinances. Would like to know what the criteria are of the Fire Department for Assisted Living Facilities fire bells.

Nunzio Howard believes progress has been made but would like to see 120 day rule language eliminated. He thanked the Commission for removing the language of 12. He said adding more state agencies will just muddy the waters.

Alexandra Yovatt had a few items for clarification:

- The purpose for the division of homes and centers and ramifications of that division
- Notice of changed dates for public hearings
- Will facilities affected by revision to legal and non-conforming policy be provided with a letter or will it only take place through the amendment
- HOA action to prohibit assisted living facilities
- 3 new permitted uses for assisted living homes – definitions

Randolph Lumm wanted to advise the Commission that an appraiser of a home will not consider the number of assisted living facilities in the area when determining an appraisal of the property. His is concerned that there is no control over the rules of an HOA.

Chair Somers closed the call to the public.

Vice-Chair Chapman commented that he would like to revise the language of the amendment to exclude the 120 day rule.

Both Commissioner Keating and Vice Chair Chapman commented that in the past they have lived in very close proximity to an assisted living facility and they were very good neighbors.

Commissioner Pervi made a motion to remove the 120 day rule from Exhibit A, Section F so that it reads in its entirety, "In the event that the Arizona Department of Health Services, or any other state agency with such authority, revokes or terminates a person's license to operate an assisted living home, then the person operating the assisted living home shall immediately inform the city of such revocation or termination of their license." Vice Chair Chapman seconded the motion. The motion passed with 7 yes votes.

Commissioner Pervi made a motion to recommend approval to the City Council of the proposed Text Amendment and to adopt the proposed language as presented in exhibits A through D as listed in the staff report, including the amendment in the previous motion as read by the Commission, except as that: Section 122-99(c) shall read “An assisted living home shall maintain 300 square feet of overall living space for each resident.”: Section 122-178 shall include the following definition for “Living Space”: “Living Space. Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing and sanitation.” All sections shall be re-sequenced as necessary. Vice Chair Chapman seconded the motion. The motion passed with 7 yes votes.

OTHER BUSINESS:

Item 5 – INTERNAL - Discussion for future agenda items.

None

ADJOURNMENT:

Hearing no further business, Chair Somers adjourned the Planning and Zoning Commission meeting at 8:14 p.m.

Eric Fitzer
Community Development Director

Steve Somers, Chair
Planning and Zoning Commission

The foregoing instrument is a full, true and correct copy of the original document on file in the office of the City Clerk, City of Surprise, Arizona.

ATTEST BY: _____
Heather Donaldson, Commission Secretary

DATE: _____



Surprise CDBG Public Services Summary

Proposed Activities

Outreach Expansion:

- Expansion of Safe Place program to two new designated sites in Surprise
- Two Safe Place presentations to Surprise youth and adults
- Increased targeted Street Outreach in cooperation with the city, local businesses, and residents.

Program per Diem:

The expansion of outreach through Safe Place and targeted street outreach will increase the number of Surprise youth who will know about Tumbleweed's services and who will enter our programs. We expect a **35% increase** in the number of Surprise youth we serve in the next year.

The proposal asks for a per diem funding for Surprise youth that enter into the following programs:

- Open Hands Shelter for Teens: provides residential shelter for unaccompanied homeless teenagers ages 12-17 in a safe home environment
- Young Adult Program: provides semi-independent apartment living for youth ages 16-18 that cannot be reunified with family.
- Emergency Housing Program: provides emergency shelter and support for homeless youth ages 18-24. The program facilitates entry into transitional housing programs and on-going resources.
- Youth Resource Centers: meet the basic needs of the youth, provide case management, social and educational groups, and connections to community resources.

Per Diem Cost per Program:

Tumbleweed Program	Per Diem/Per Youth
Youth Resource Centers	\$ 12.24
Emergency Housing Program	\$ 69.85
Young Adult Program	\$ 109.06
Open Hands	\$ 157.95

Outcomes

Project Component	Outcomes
Safe Place	• 500 Surprise youth and 40 Surprise adults will be given presentations of Safe Place; • 500 Safe Place materials will be distributed to MUC youth;
Street Outreach	• Tumbleweed will perform targeted outreach utilizing our traditional street outreach teams as well as our new (still in production) mobile outreach unit when homeless youth have been identified and we have been informed of their location.
Open Hands Crisis Shelter; Young Adult Program; Emergency Housing Program; Youth Resource Centers	Serve 11 unduplicated youth • 100% of all youth will have their basic needs met and will be given access to case management, legal advice, and community resources. • 80% of youth ages 12-18 (Open Hands and Young Adult Program) will leave programs to safe, stable housing • 50% of youth ages 18-24 (Emergency Housing) will move into transitional or permanent housing • 80% of all youth will engage in case management and develop case plan goals working toward self-sufficiency



Mobile Youth Resource Centers

Challenge: Youth Resource Centers (YRCs) are a beacon to draw homeless and at-risk youth off the streets or dangerous living situations into counseling, but they must be conveniently located to the clients.

Background:

- YRCs offer showers, laundry, email access, hot meals, and counseling.
- Counseling is essential to channel youth into Tumbleweed's shelter programs.
- Tumbleweed has two permanent YRC locations: Phoenix and Tempe.
- More locations are needed, but are expensive to build, maintain, and staff.

Solution: A resource center that offers geographic flexibility and provide assistance in their own community

- A mobile YRC can offer most of the services as a permanent location.
- Partnerships with local sites facilitate ten locations per week.
- A mobile YRC is much less expensive to build/maintain as a permanent facility.

Mobile Outreach Van and Trailer



Coming this Summer 2015



*Ensuring every child has
someone who cares...*

THE CHILDREN:

More than 17,000 children are in Arizona's foster care system. These children enter the system through no fault of their own and often come from backgrounds filled with abuse, neglect and pain. Sadly, the family and community relationships that most children experience while growing up are nonexistent for foster children. No one will remember their birthday; take them to the park; or cheer for them when they graduate from high school.

ABOUT AASK:

Aid to Adoption of Special Kids or AASK is a private 501(c)(3) non-profit charity that was founded in 1988 with the mission of serving children in Arizona's foster care system. Local philanthropist and child advocate, Katherine "Kax" Herberger, founded AASK with the strong belief that all children need homes and families, regardless of their backgrounds and unique challenges. Since its inception, AASK has been dedicated to Katherine's vision of ensuring every child has a relationship with someone who cares.

Licensed by the Arizona Department of Economic Security (DES), AASK leads the effort in recruiting families through on-going community outreach, including 12 News' *Wednesday's Child*. Strong advocacy and lifelong family support by knowledgeable specialists has helped AASK facilitate more than 2,500 adoptions.

WHAT WE DO:

Through our adoption, fostering and mentoring programs, AASK works to match quality families and individuals with children in need of love. Our focus is maximizing the experience of each child through building strong relationships that will last a lifetime. AASK's adoption program helps children find a permanent home with a family that can best meet their needs; the fostering program serves as a way for children to seek stability with a family while away from their biological parents, with the end goal of reunification; and AASK's mentoring program pairs committed adults with foster children from ages 9 – 21. A new sibling program helps preserve and strengthen relationships among brothers and sisters who have been separated by the foster care system.





*Ensuring every child has
someone who cares...*

OUR BELIEF:

AASK's vision is simple: Ensuring that every child has a relationship with someone who cares. We believe every child deserves the opportunity to build trusting relationships that will nurture them into becoming responsible, productive citizens. All of our programs are designed to allow qualified families and individuals of diverse backgrounds to have this important relationship with a child in foster care. No child should age out of the foster care system without someone who cares and AASK is committed to ensuring every child has a better future.

PROGRAMS:

Foster Care Program

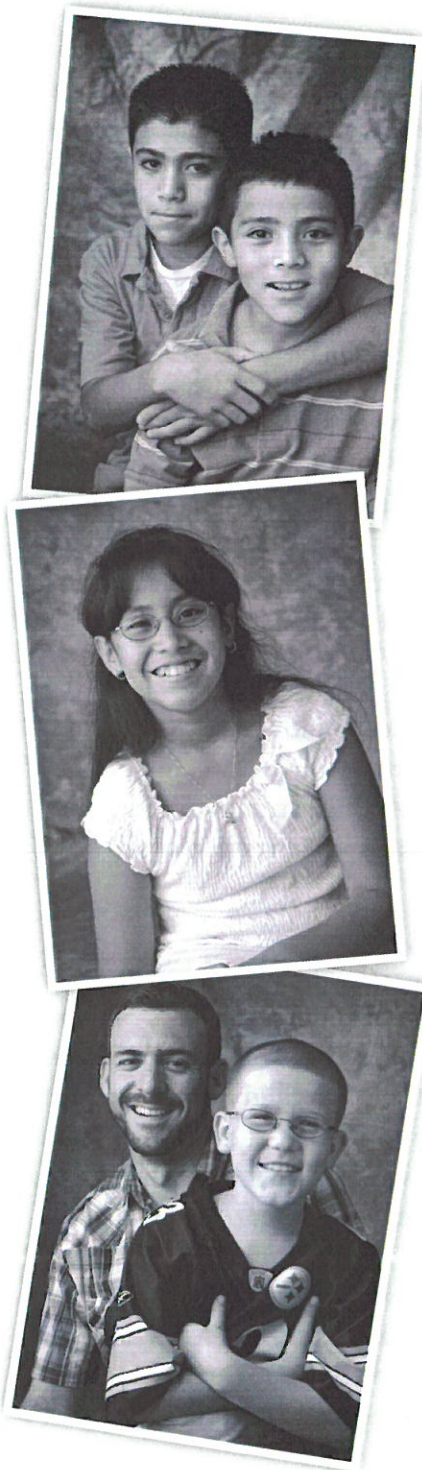
There are an unprecedented number of children in the Arizona foster care system today, and a vital need for more loving foster families to care for them. AASK's foster care program gives families the opportunity to have a positive impact on the lives of children who have come into the state's care. Our foster care services include:

- Child and family matching services
- Post-placement monitoring and advocacy
- Family support services
- Largest licensed kinship program in the state
- Specialized medical program for medically fragile infants and DDD children
- Todos Los Niños Program for Hispanic families

Adoption Program

There are many children in Arizona's foster care system who are available for adoption. AASK's full-service adoption program helps families bring children into their homes and hearts for a lifetime. Our knowledgeable staff provides families with on-going support from the adoption certification process to post-placement advocacy. Our adoption services include:

- Child and family matching services
- Post-placement monitoring and advocacy
- Family support services
- Todos Los Niños program for Hispanic families
- Birth Parent program





*Ensuring every child has
someone who cares...*

PROGRAMS (cont'd):

Mentoring Program

Mentoring a child or teen in foster care helps guarantee them that there is someone who cares. Mentors give children assurances that they are not alone in dealing with day-to-day stresses and worries. Through the AASK mentoring program, volunteers are paired with a child who shares their personal interests and mentoring skills. For the younger youth, a mentor is more of a family to the child, joining them in activities they enjoy. For the older youth, ages 16 to 21, a mentor is a conduit for the youth and their passage into adulthood.

Sibling Connection Program

AASK's Sibling Connection Program preserves and strengthens relationships among siblings separated by foster care. Seventy-five percent of children in care who have a brother or sister are separated from at least one sibling, and there is no guarantee of regular visits. The Siblings Program reunites siblings by coordinating activities for them to share throughout the year, including one week of Sibling Summer Camp. This allows siblings in care to create happy, positive memories together that will last a lifetime. Strong sibling relationships can help a child cope, and camp and other activities help protect relationships among siblings who otherwise might lose each other in foster care.

Wednesday's Child

AASK's partnerships with Channel 12 (KPNX) and The Arizona Republic allow us to profile children available for adoption as part of the weekly *Wednesday's Child* segment. AASK's goal is to raise awareness to the need for adoptive and foster parents as well as showcase the wonderful children who are looking for their forever family.



*Ensuring every child has
someone who cares...*

Contact:

Russ Funk, Director of Recruitment

phone: 602.930.4419 / fax: 602.930.4519

rfunk@aask-az.org



*Ensuring every child has
someone who cares...*

FOSTER CARE & ADOPTION MYTHS & REALITIES:

Myth: You must be a married couple, have a lot of money and own your own home to be a foster parent.

Reality: There are no such requirements. You can be married or single, a homeowner or a renter, as long as you have adequate space and the child has their own bed. The only financial requirement is that you have enough income to support yourself and your family aside from the money you are reimbursed to care for a child living in foster care.

Myth: Single parents and same-sex couples cannot adopt.

Reality: Single parents and same-sex couples can, and do, adopt. In 2008, of the children adopted from foster care, 31 percent were adopted by single parents.

Myth: You can't be a foster parent and work full-time.

Reality: Not true! Many foster parents work outside of the home and you can discuss with your AASK specialist what options may be available to assist with child care costs.

Myth: To be a foster parent you need to have parenting experience.

Reality: False! Many foster parents are childless. They are, however, responsible people who have made a commitment to children and demonstrate an ability to parent or learn.

Myth: Foster children have been abused so much that they're beyond repair.

Reality: Children are amazingly resilient. Foster parents can make a difference by providing a structured, nurturing environment. We need to remember that these children will grow up to be adults in our society. How we respond to their needs now will largely determine what kind of citizens they will be in the future.

Myth: The children in foster care are juvenile delinquents.

Reality: Children enter the foster care system through no fault of their own as a result of abuse, neglect or abandonment, and deserve every effort to have a permanent loving family who can help them grow into responsible and productive adults.

Myth: Foster parents are on their own once they take in a foster child.

Reality: Not true! Children need stability and AASK staff offer foster parents plenty of support to maintain an even keel. For starters, before you even take in your first child, AASK staff works with you to develop a profile of the type of child best suited to the experience and capabilities of your family. There is respite care for those times you need a break.



SYEP

Summer Youth Employment Program 2015



The Summer Youth Employment Program (SYEP) is a City and CDBG Grant program that is specially designed to provide Surprise teen residents the opportunity to participate in a paid internship over the summer with the City of Surprise.

This opportunity not only gives the participant experience within the department or entity they are placed in, but also they are presented the tools for success in the weekly life skills training classes.

The internship is a 10 week program that will run from May 26th to July 31st.

Only (20) participants will be selected to participate from over 100 applicants

Program Points

- Full-time student
- **City of Surprise resident**
- Available to work up to thirty (30) hours/week, for ten (10) weeks
- Everyone is interviewed
- Family income must be at or below 80% of area median income

Life Skills classes offered

Business Communication Differences in Communication across generations
Researching Higher Education, Scholarships, Job Trends
Proper use of Social Media
Personal Finance
Customer Service/Time Stress Management/ Personality Tests and Career Assessments
Interviewing Skills Resume Workshop
City Academy

Participating Departments

Community Development
Court
Council/Grants
Finance-Admin
Finance- Purchasing
Fire- EMS
Public Works
Community Recreation
Senior Center
Engineering
IT
PW - Environmental
Arizona Charter Academy

STEAM@ACA

PURPOSE

EDUCATION AND RECREATION FOR STUDENTS 4TH-12TH GRADE PROVIDING A SAFE AND FUN ENVIRONMENT WHEN SCHOOL IS OUT FOR STUDENTS TO BUILD ATHLETIC SKILLS AND INCREASE ACADEMIC PROFICIENCY.

BENEFITS INCLUDE:

- A DECREASE IN OBESITY, INCREASED HEALTH OF KIDS
- INCREASE PROFICIENCY AND APTITUDE OF MATH, SCIENCE, AND TECHNOLOGY
- FOSTERS A LOVE FOR LEARNING BY EXPOSING STUDENTS TO NEW CONCEPTS, EXPERIMENTS AND CAREERS
- BUILDS ATHLETIC SKILLS
- INCREASED SELF-ESTEEM
- REDUCE CRIME IN THE ORIGINAL TOWNSITE

WHEN

During Fall, Spring and Summer Breaks

HOW IT WORKS

Camps are for one week

- **Monday – Thursday** – ½ program day will be spent for skill building, ½ for STEM related projects
- **Friday** – Sports tournament and presentation of projects



COST

Capacity: 270 students
Cost per student: \$65.67
Lunch provided daily by ACA

PROMOTION

Flyers, press release, social media, banners, and potential news coverage.

BENEFITING

4th -12th grade students focused on those located in the original townsite



Average Daily CASS Occupancy by Month for July, 2008 Through December, 2014

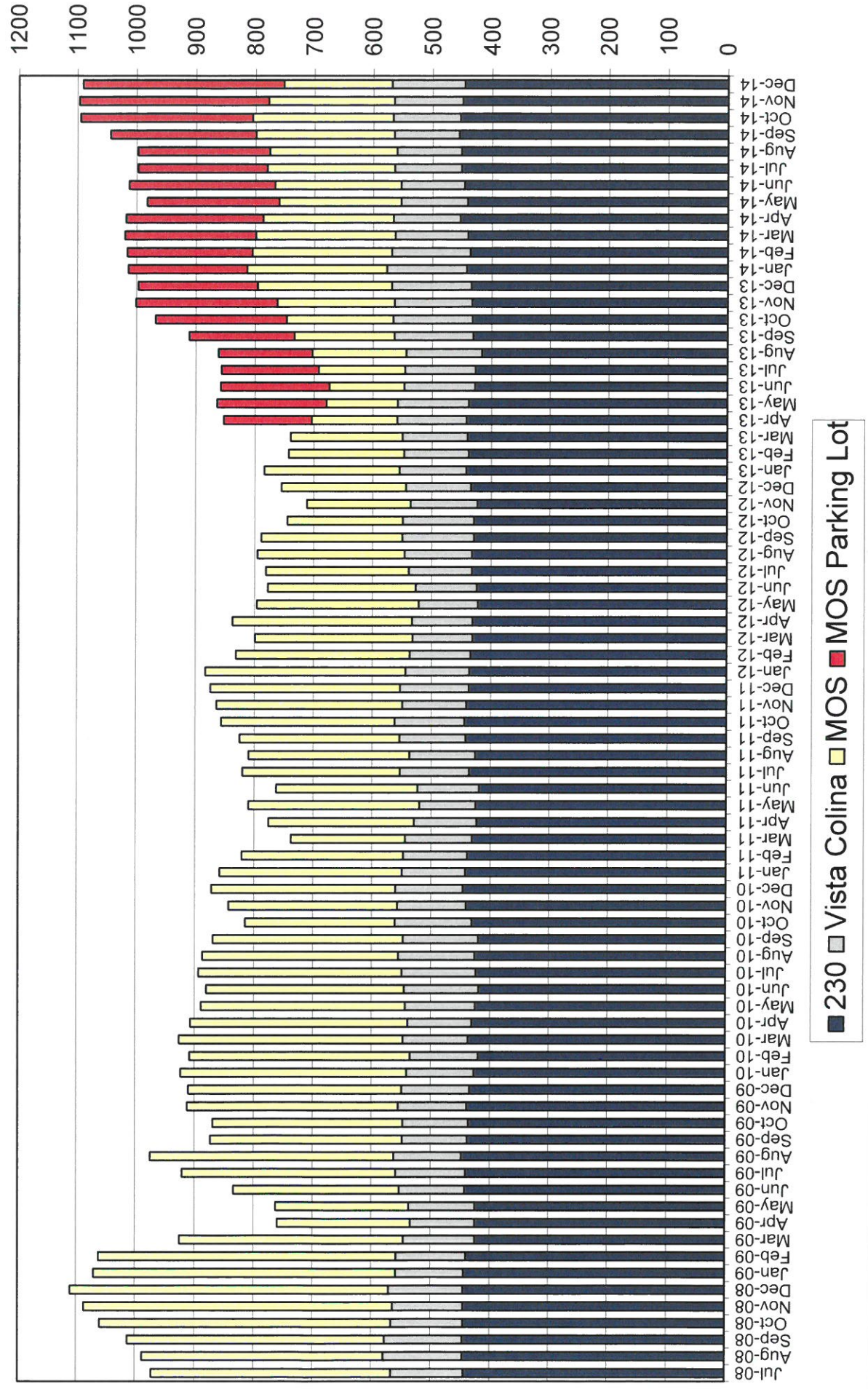


Exhibit "A"

Summary of Proposed Changes

(As recommended by the Planning and Zoning Commission on February 5, 2015, Leg-Edit version)

Amend the Land Use Matrix in SUDC Section 122-43:

[See complete leg-edit revisions to Section 122-43 in attached Exhibit "B"]

Change "Assisted Living Facility" to "Assisted Living Center" and show as a permitted use in RM, RH and MU.

Change "Congregate Care Facility" to "Nursing Care Institution" and show as permitted use in RM, RH, MU, and CR.

Change "Residential Setting Care Facility" to "Assisted Living Home" category and show as a permitted use in RR, RE, RL-2, RL-4, and RL-5.

Housekeeping edits e.g. column headings at page breaks, shading of land use group sub-headings, reduction of cell height, etc.

Amend SUDC Section 122-99:

[See complete leg-edit revisions to Section 122-99 in attached Exhibit "C"]

Sec. 122-99. - ~~Residential setting care facility.~~ ASSISTED LIVING HOME.

~~For the purpose of this section, residential setting care facility shall mean a facility licensed by the Arizona Department of Health Services that provides supervisory care services, personal care services, or directed care services for ten or fewer persons in a residential setting. The limitation of ten or fewer persons does not include the operator of the facility, members of the operator's family, or persons employed as staff, except that the total number of all persons living and working at the facility shall not exceed 12 at any given time. When allowed, a~~ residential setting care facility ASSISTED LIVING HOME shall be subject to the following requirements:

(a) ~~Approvals required. An application shall be required to establish a residential care facility~~ AN ASSISTED LIVING HOME.

(b) THE ASSISTED LIVING HOME THAT IS THE SUBJECT OF THE APPLICATION SHALL BE LICENSED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES PRIOR TO THE FILING OF THE APPLICATION AND SHALL REMAINED SO LICENSED FOR AS LONG AS THE ASSISTED LIVING HOME IS IN OPERATION.

~~(b)~~ A residential setting care facility AN ASSISTED LIVING HOME located within a single-family residential zoning district shall comply with the following location and separation requirements:

(1) ~~A residential setting care facility with five or fewer residents~~ AN ASSISTED LIVING HOME shall not be located on a lot within ~~600-1200~~ feet, measured by a straight line in any direction, from another ~~residential setting care facility~~ ASSISTED LIVING HOME, AS MEASURED FROM PROPERTY LINE TO PROPERTY LINE.

(2) ~~A residential setting care facility with six or more residents shall not be located on a lot within 600 feet, measured by a straight line in any direction, from the lot line of another residential setting care facility; and shall not be closer than 1,200 feet along the street from another residential setting care facility that has six or more residents. The distance~~

~~requirement along the street shall be measured from the street centerline, commencing on the centerline at a point that is determined to be the lot width midpoint of the subject property.~~

~~(32)~~ The separation requirements shall not apply to ~~residential setting care facilities~~ ASSISTED LIVING HOMES separated by arterial roads.

~~(43)~~ The separation requirements shall not apply to ~~residential setting care facilities~~ ASSISTED LIVING HOMES located within multi-family residential zoning districts.

~~(cd)~~ A ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall contain 300 square feet of overall LIVING space for each resident and bedrooms shall be a minimum of 120 square feet with no more than two persons per bedroom.

~~(df)~~ A ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall not be permitted any signage, graphics, display, or other visual forms of identification, other than that permitted for a residential unit.

~~(eg)~~ Any single-family residential unit utilized as a ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall be fully improved and maintained pursuant to state law and in accordance with provisions of the adopted Surprise Municipal Code(s) to ensure the health, safety and welfare of the residents, this shall include the installation of an automatic fire sprinkler system.

~~(fg)~~ In the event that the Arizona Department of Health Services, or any other state agency with such authority, revokes or terminates a person's license to operate a ~~residential setting care facility~~ AN ASSISTED LIVING HOME, then the person operating the ~~residential setting care facility~~ ASSISTED LIVING HOME shall immediately ~~cease operations and~~ inform the city of such revocation or termination of their license.

~~(gh)~~ The provisions of this section are not intended to apply to the following facilities licensed by the Arizona Department of Health Services. These facilities are to be treated as single-family residential units, subject to the provisions of A.R.S. § 36-582.

(1) Residential facility, as defined by A.R.S. § 36-581;

(2) Group home, as defined by A.R.S. § 36-551; and

(3) Adult development home, as defined by A.R.S. § 36-551.

Amend SUDC Section 122-178 as follows:

[See complete leg-edit revisions to Section 122-178 in attached Exhibit "D"]

Add new definition for "Assisted Living Center":

ASSISTED LIVING CENTER. AN ASSISTED LIVING FACILITY THAT PROVIDES RESIDENT ROOMS OR RESIDENTIAL UNITS TO ELEVEN OR MORE RESIDENTS.

Revise definition of “Assisted Living Facility”:

~~Assisted living facility. A special combination of housing, supportive services, personalized assistance and health care licensed and designed to respond to the individual needs of those who need help with activities of daily living. Supportive services may be available 24 hours a day to meet scheduled and unscheduled needs in a way that promotes maximum dignity and independence for each resident. The term does not include a convalescent care facility, nursing home or other special care facility.~~
RESIDENTIAL CARE INSTITUTION, INCLUDING AN ADULT FOSTER CARE HOME, THAT PROVIDES OR CONTRACTS TO PROVIDE SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES ON A CONTINUOUS BASIS.

Add new definition for “Assisted Living Home”:

ASSISTED LIVING HOME. AN ASSISTED LIVING FACILITY THAT PROVIDES RESIDENT ROOMS TO TEN OR FEWER RESIDENTS.

Add new definition for “Directed Care Services”:

DIRECTED CARE SERVICES. PROGRAMS AND SERVICES, INCLUDING SUPERVISORY AND PERSONAL CARE SERVICES, THAT ARE PROVIDED TO PERSONS WHO ARE INCAPABLE OF RECOGNIZING DANGER, SUMMONING ASSISTANCE, EXPRESSING NEED OR MAKING BASIC CARE DECISIONS.

Add new definition for “Health care institution”:

HEALTH CARE INSTITUTION. EVERY PLACE, INSTITUTION, BUILDING OR AGENCY, WHETHER ORGANIZED FOR PROFIT OR NOT, THAT PROVIDES FACILITIES WITH MEDICAL SERVICES, NURSING SERVICES, BEHAVIORAL HEALTH SERVICES, HEALTH SCREENING SERVICES, OTHER HEALTH-RELATED SERVICES, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES AND INCLUDES HOME HEALTH AGENCIES AS DEFINED IN ARS § 36-151, OUTDOOR BEHAVIORAL HEALTH CARE PROGRAMS AND HOSPICE SERVICE AGENCIES.

Add new definition for “Living Space”:

LIVING SPACE. SPACE WITHIN A DWELLING UNIT UTILIZED FOR LIVING, SLEEPING, EATING, COOKING, BATHING AND SANITATION.

Revise definition of “Nursing home”:

~~Nursing home CARE INSTITUTION. A health care facility—INSTITUTION designed to provide lodging, meals, treatment, and skilled nursing care on a long-term basis to individuals who, because of advanced age, chronic illness, or infirmity, are unable to care for themselves.~~
THAT PROVIDES INPATIENT BEDS OR RESIDENT BEDS AND NURSING SERVICES TO PERSONS WHO NEED CONTINUOUS NURSING SERVICES BUT WHO DO NOT REQUIRE HOSPITAL CARE OR DIRECT DAILY CARE FROM A PHYSICIAN.

Add new definition for “Nursing Services”:

NURSING SERVICES. MEANS THOSE SERVICES THAT PERTAIN TO THE CURATIVE, RESTORATIVE AND PREVENTIVE ASPECTS OF NURSING CARE AND THAT ARE PERFORMED AT THE DIRECTION OF A PHYSICIAN BY OR UNDER THE SUPERVISION OF A REGISTERED NURSE LICENSED IN THIS STATE.

Add new definition for “Personal Care Services”:

PERSONAL CARE SERVICES. ASSISTANCE WITH ACTIVITIES OF DAILY LIVING THAT CAN BE PERFORMED BY PERSONS WITHOUT PROFESSIONAL SKILLS OR PROFESSIONAL TRAINING AND INCLUDES THE COORDINATION OR PROVISION OF INTERMITTENT NURSING SERVICES AND THE ADMINISTRATION OF MEDICATIONS AND TREATMENTS BY A NURSE WHO IS LICENSED PURSUANT TO A.R.S. TITLE 32, CHAPTER 15 OR AS OTHERWISE PROVIDED BY LAW.

Add new definition for “Residential Care Institution”:

RESIDENTIAL CARE INSTITUTION. A HEALTH CARE INSTITUTION OTHER THAN A HOSPITAL OR A NURSING CARE INSTITUTION THAT PROVIDES RESIDENT BEDS OR RESIDENTIAL UNITS, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES, BEHAVIORAL HEALTH SERVICES, DIRECTED CARE SERVICES OR HEALTH-RELATED SERVICES FOR PERSONS WHO DO NOT NEED CONTINUOUS NURSING SERVICES.

Add new definition for “Supervisory Care”:

SUPERVISORY CARE SERVICES. GENERAL SUPERVISION, INCLUDING DAILY AWARENESS OF RESIDENT FUNCTIONING AND CONTINUING NEEDS, THE ABILITY TO INTERVENE IN A CRISIS AND ASSISTANCE IN THE SELF-ADMINISTRATION OF PRESCRIBED MEDICATIONS.

Exhibit "B"

Section 122-43 Zoning Use Matrix

(As recommended by the Planning and Zoning Commission on February 5, 2015, Leg-Edit version)

Sec. 122-43. Zoning use matrix.

(a) *Purpose.* The purpose of the zoning use matrix is to classify uses on the basis of common functional characteristics and land use compatibility:

- (1) The matrix describes uses that are allowed in the zoning district. Properties may also be subject to overlay zoning district requirements. Overlay zoning districts address special siting, use and compatibility issues that require use and development regulations in addition to those found in the underlying zoning districts. As a result, an overlay zoning district may not permit all of the uses allowed in the underlying zoning district. If any regulation in an overlay zoning district is more restrictive than one required by the zoning district, the more restrictive standard applies;
- (2) The city manager or designee shall determine if uses not expressly listed in the matrix are significantly similar or dissimilar to particular uses, such as:
 - a. Uses that are found to be similar shall meet the same requirements as the related use listed in the matrix;
 - b. Uses that are found to be dissimilar, yet appropriate, shall require a text amendment.

(b) *Zoning use matrix.*

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
Agricultural, Ranching and Open Space Uses		
Agricultural Related Operations	RR	
Animal Hospitals, Clinic, and Boarding Facilities	CS, CC, CR, IP	RR, RE
Equestrian Center, Stables, and Riding Academies	CS, CC, CR	RR, RC,
Farm and Landscaping Equipment Sales, Service, or Storage	IP	RR
Farm Animal Keeping (Commercial)		RR
Farm Animal Keeping (Non-Commercial)	RR	
Graining, Milling, Drying, Storage	IP, IG	RR
Parks, Recreation, and Open Lands	All Districts	
Soil Crops (Commercial)	RR	
Residential Uses		
Assisted Living Facility <u>CENTER</u>	RM, RH, MU	
<u>ASSISTED LIVING HOME</u>	<u>RE, RR, RL,</u>	
Bed And Breakfast Establishments		RR, RE, RL, RM,
Campground		C-RS
Caretaker, Guest or Granny Flat Dwelling	RR, RE, RL,	

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
Congregate Care Facility	RM, RH, MU	
Group Home	RE, RR, RL,	
High Density Dwellings	RH, RC, MU	
Hotels, Timeshares	MU, CC, CR, C-	
Low Density Dwellings	RR, RE, RL, RC,	
Manufactured Homes	CC	
Medium Density Dwellings	RM, RC, MU	
Model Home Complex	RE, RL, RM,	
<u>NURSING CARE INSTITUTION</u>	<u>RM, RH, MU,</u>	
Recreational Vehicle Park		C-RS
Residential Setting Care Facility	RE, RR, RL,	
Retail and Service Uses		
Alcohol—Bar and/or Tavern, Microbrewery	MU, CN, CC,	
Alcohol—Beverage Retail Sales	MU, CC, CR, C-	
Ambulance Service	CC, CR, IP	
Ammunition and Firearms Sales	CC, CR, IP, IG	
Animal Hotel/Overnight stay	CC, CR	
Banks	CC, CR, MU,	CN
Cemetery—Pets (limited to small animals)		CC, CR, IP
Cemetery or Mausoleum		RE, RL, RM, RH,
Day Care Center—Child and/or Adult Care		RE, RL, RM, RH,
Drive-Through Facilities	CR, IP	CC
Funeral Home, Mortuary	CC, CR	MU
Gunsmith	IP	CR
Home Improvement Center (Typically home, lawn, and	CR, IP, IG	
Landscaping Materials—Sales and Storage	IP, IG, ILM	
Laundry or Dry Cleaning—Bulk Operation	IP, IG	
Linen/Uniform/Diaper Service (Pickup and Supply Only)	MU, CR, IP, IG	

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
Manufactured Home, Oversized Vehicle Sales, Service, or		CR, IP, IG
Massage—Therapeutic	MU, CC, CR, C-	
Medical Clinic or Laboratory	MU, CS, CN,	
Medical Hospital or Outpatient Facility	CR	
Medical Marijuana Dispensary		CC, CR, IP, IG, ILM
Medical Marijuana Dispensary Offsite Cultivation Facility		CC, CR, IP, IG, ILM
Medical Office	MU, CS, CN,	
Mobile Vending	CC, CR, BP, IP,	
Moving Company	IP, IG	
Nursery (Growing, display, or sale of plant stock, seeds, or	CC, CR, IP	
Pawn Shop/Resale Stores	CC, CR	
Personal Services Establishment (A facility for the sale of	MU, CC, CR	
Personal Services Establishment (Uses Listed Above)—Less	CS, MU, CN,	
Portable Building Sales	IG	
Restaurant—Sit-down (Principally for the sale and	CS, MU, CN,	
Restaurant, Convenience (Sale and consumption of food	CC, CR, IP	
Retail Shopping Establishment (Typical general merchandise	CC, CR	MU
Retail Shopping Establishment—Less than 5,000 sq. ft. (Uses	CS, MU, CN,	
Stone Monument—Retail and Wholesale	IP, IG, ILM	
Tattoo and/or Body Piercing Establishment	CR	CC
Taxi/Limo Service—Parking and Dispatch	IP, IG	
Taxidermist	IP, IG	
Truck and Heavy Equipment—Auction	IG	IP
Truck Stop—Full Service and Repair Permitted	IG	IP
Vehicle Auction	IP, IG	
Vehicle Fueling Stations	CC, CR, IP, IG,	CS, MU
Vehicle Service—Major Repair	IP, IG	CR
Vehicle Service—Minor Repair	IP	CC, CR

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
Vehicle Washing Facilities	CR, IP, IG	CN, CC
Vehicle Sales—Less than 15 (Facility for the display, service,		IP
Vehicle Sales—Large Scale (Uses Listed Above in Vehicle		CR, IP
Vehicle Storage for Recreational Vehicles		CR, IP, IG
Wholesale Shopping Establishment (Uses Listed Above in	CR	
Wireless Communication Systems		RE, RL, RM, RH,
Wrecker Service		IP, IG
Office Uses		
Call Center	MU, CR, BP	
Laboratory—Research and Testing	BP, IP, IG	
Office	CS, MU, CN,	
Office/Warehouse—(Front Office Flex Space)	CR, BP, IP, IG,	
Public/Quasi-Public Facility Uses		
Animal Shelter		RR, CS, CC, CR,
Clubhouse, Private including Lodges	CS, MU, CC, CR	
Community Facilities or Public Meeting Hall	RE, RL, RM,	
Convention Facilities	CR, C-RS, PF	
Correction Institution		ILM
Fairground and/or Stadium		CR, C-RS, IP, PF
Library	RL, RM, RH,	
Post Office	CS, MU, CN,	
Sanitary Landfill, Solid Waste Facility		ILM
State Vehicle Inspection Station	CC, CR, IP, IG,	
Utility Equipment Infrastructure	All Districts	
Education, Religious, and Assembly Uses		
Places of Worship	RL, RM, RH,	
Places of Worship (less than 5,000 sq. ft.)	RR, RE, RL,	
School—University or College		MU, CN, CC, CR,

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
School—Pre-K through 12		RC, RE, RL, RM,
School—Specialty or Trade		CC, CR, IP, IG
Recreational and Amusement Uses		
Amusement and/or Theme Park, Circus (permanent)		CR, C-RS
Archery Range—Indoor	IG, CR, IP	
Archery Range—Outdoor		IP, IG, ILM
Athletic or Fitness Club, Commercial Recreation Facilities	RH, MU, CC,	
Athletic or Fitness Club, Commercial Recreation Facilities	RL, RM, RH,	
Athletic Fields—Non-commercial	RL, RM, RH,	
Bingo Parlor	CC, CR	
Bowling Alley, Dance Hall, Pool Hall	MU, CC, CR, C-	
Galleries, Auditoriums, Museums	MU, CC, CR, C-	
Golf Course, Driving Range, and Miniature Golf Facilities,	MU, CC, CR, C-	
Racetrack		C-RS, IP, IG
Rifle and Pistol Range—Indoor Only	CR, IP, IG	
Sexually Oriented Businesses		IG, ILM
Skateboard Track—Outdoor Commercial, Go-Cart Track,	IP	CC, CR
Skating Rink—Ice or Roller Skating	CC, CR, IP	
Theater—Indoor including Dinner Theatres	MU, CC, CR, C-	
Theater—Outdoor including Drive-In and Amphitheaters	IP	CR, C-RS
Video Games—Commercial	MU, CN, CC,	
Zoos, Exotic Animal Keeping		RR, OS, PF, CR, IP
Transportation Uses		
Airport—Private		RR, IP, IG
Bus Terminal	CR, IP, IG	
Freight Depot	IG	
General Aviation Airstrips		IP, IG
Heliport		CR, IP

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
Parking and/or Storage—Long Term	IP, IG	
Passenger Depot	IP, IG	CR
Mixed Use Buildings		
Retail—Office	CS, MU, CC,	
Retail—Industrial (Retail 10% or less of Gross Floor Area)		BP
Retail—Industrial (Retail 20% or less of Gross Floor Area)		IP, IG
Retail—Residential/Office—Residential/Retail—Office—	RH, CS, MU	CN, CC, CR
Live-Work/Work-Live	RH, CS, MU	CN, CC, CR
Manufacturing and Process Uses		
Batch Plant, Paving Material Mixing Plant		ILM
Biotechnical—Manufacturing, Processing	IG	BP, IP
Brick, Clay, Concrete, or Similar Product—Manufacturing	IG, ILM	
Cabinet or Carpenter Shop, Millwork and Wood Products	BP, IP, IG	
Computer and Electronic—Manufacturing	BP, IP, IG	
Contractor Facility, including Storage	BP, IP, IG	
Grain—Milling, Drying, Storage	IP, IG	
Inside Manufacturing (All processing, fabricating, assembly,	BP, IP, IG	
Junkyard or Salvage Yard		ILM
Machine Shop	BP, IP, IG	
Metal Products—Manufacturing and Fabrication	BP, IP, IG	
Mining and Mineral Extraction		ILM
Paper Products—Manufacturing	BP, IG	
Mining and Mineral Extraction		ILM
Potentially Incompatible Use (Processes include, but are not		IG, ILM
Printer—Large Scale	BP, IP, IG	
Recycling—Indoor Collection Facility	IP, IG, ILM, PF	CR
Recycling—Outdoor Collection Facility	IP, IG, ILM, PF	
Recycling—Reverse Vending Machines	CC, CR, PF	

LAND USE GROUP	ZONING DISTRICTS	
	Permitted Use	Conditional Use
Recycling—Processing Facility	IG, ILM, PF	
Sand and Gravel Operation	ILM	
Stone Curing, Monument—Manufacturing	IG, ILM	
Tile, Roofing, and Waterproofing Products—Manufacturing	IG	
Warehousing	IP, IG	
Warehousing—Mini		BP, IP, IG, CR
Welding Shop	IP, IG	

Exhibit "C"

Section 122-199 Assisted Living Home

(As recommended by the Planning and Zoning Commission on February 5, 2015, Leg-Edit version)

Sec. 122-99. - Residential setting care facility.

~~For the purpose of this section, residential setting care facility shall mean a facility licensed by the Arizona Department of Health Services that provides supervisory care services, personal care services, or directed care services for ten or fewer persons in a residential setting. The limitation of ten or fewer persons does not include the operator of the facility, members of the operator's family, or persons employed as staff, except that the total number of all persons living and working at the facility shall not exceed 12 at any given time. When allowed, a~~ residential setting care facility ASSISTED LIVING HOME shall be subject to the following requirements:

(a) Approvals required. An application shall be required to establish ~~a residential care facility~~ AN ASSISTED LIVING HOME.

(b) THE ASSISTED LIVING HOME THAT IS THE SUBJECT OF THE APPLICATION SHALL BE LICENSED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES PRIOR TO THE FILING OF THE APPLICATION AND SHALL REMAINED SO LICENSED FOR AS LONG AS THE ASSISTED LIVING HOME IS IN OPERATION.

~~(b)~~ A residential setting care facility AN ASSISTED LIVING HOME located within a single-family residential zoning district shall comply with the following location and separation requirements:

(1) ~~A residential setting care facility with five or fewer residents~~ AN ASSISTED LIVING HOME shall not be located on a lot within ~~600-1200~~ feet, measured by a straight line in any direction, from another ~~residential setting care facility~~ ASSISTED LIVING HOME, AS MEASURED FROM PROPERTY LINE TO PROPERTY LINE.

(2) ~~A residential setting care facility with six or more residents shall not be located on a lot within 600 feet, measured by a straight line in any direction, from the lot line of another residential setting care facility; and shall not be closer than 1,200 feet along the street from another residential setting care facility that has six or more residents. The distance requirement along the street shall be measured from the street centerline, commencing on the centerline at a point that is determined to be the lot width midpoint of the subject property.~~

~~(3)~~ The separation requirements shall not apply to residential setting care facilities ASSISTED LIVING HOMES separated by arterial roads.

~~(4)~~ The separation requirements shall not apply to residential setting care facilities located within multi-family residential zoning districts.

~~(c)~~ A residential setting care facility AN ASSISTED LIVING HOME shall contain 300 square feet of overall LIVING space for each resident and bedrooms shall be a minimum of 120 square feet with no more than two persons per bedroom.

~~(d)~~ A residential setting care facility AN ASSISTED LIVING HOME shall not be permitted any signage, graphics, display, or other visual forms of identification, other than that permitted for a residential unit.

(ef) Any single-family residential unit utilized as a ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall be fully improved and maintained pursuant to state law and in accordance with provisions of the adopted Surprise Municipal Code(s) to ensure the health, safety and welfare of the residents, this shall include the installation of an automatic fire sprinkler system.

(fg) In the event that the Arizona Department of Health Services, or any other state agency with such authority, revokes or terminates a person's license to operate a ~~residential setting care facility~~ AN ASSISTED LIVING HOME, then the person operating the ~~residential setting care facility~~ ASSISTED LIVING HOME shall immediately ~~cease operations and~~ inform the city of such revocation or termination of their license.

(gh) The provisions of this section are not intended to apply to the following facilities licensed by the Arizona Department of Health Services. These facilities are to be treated as single-family residential units, subject to the provisions of A.R.S. § 36-582.

- (1) Residential facility, as defined by A.R.S. § 36-581;
- (2) Group home, as defined by A.R.S. § 36-551; and
- (3) Adult development home, as defined by A.R.S. § 36-551.

Exhibit “D”

Section 122-178 Definitions

(As recommended by the Planning and Zoning Commission on February 5, 2015, Leg-Edit version)

Sec. 122-178. Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Amusement park. An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

Abandoned. The discontinuation of use for more than 90 days.

Abut. To border with or physically share a common property. This term shall not include parcels that are across a public way from each other.

Access. A way or means of vehicular or non-vehicular entry to or exit from a property.

Accessory building/structure. A subordinate structure or portion of the principal structure located on the same lot as the principal structure that is customarily incidental and subordinate to the principal structure. Where part of an accessory structure is connected to part of the principal structure in a substantial manner such as by a roof, the accessory structure shall be counted as part of the principal structure. Individual public utility installations aboveground are considered accessory structures.

Accessory use. A use of land or of a structure or portion thereof that is customarily incidental and subordinate to the principal use of the land or structure and that is located on the same lot as the principal use.

Acre. Forty-three thousand five hundred sixty square feet of land area.

Adjacent. Nearby, but not necessarily touching or abutting.

Adjoining. The condition of two or more land parcels having a common property line.

Agricultural oriented operations. Agriculturally oriented operations and facilities shall include as but are not limited to cotton gins, other than those gins that manufacture or process by-products; the storage, mixing and/or blending, sale and distribution of agricultural chemicals, but not the manufacture thereof; custom meat processing plants including slaughtering, butchering and temporary storage of products, but not including rendering or refining of by-products, storage of offal, tanning or storage of hides, wholesale or retail sales; storage and maintenance of specialized machinery and equipment used specifically in agriculture or rural areas;

Agricultural/ranching. The cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms "farming" and "ranching" shall be interchangeable for purposes of this title.

Alley. A permanent public thoroughfare providing a secondary means of access to abutting lands.

Alter. To change or rearrange the structural elements or other features of a building.

Ambient light level. A general level of light or background light emitted from a light source in a given environment.

Amenity. A natural or created feature that enhances the aesthetic quality, visual appeal, activity, or attractiveness of an area.

Appurtenance. Any accessory or ancillary building, object or structure, fence, street furniture, fixture, vending machine, fountain, public artwork, bicycle rack or other such Fixture located on public property or in the public right-of-way.

Ancillary use. A use that is incidental to and customary associated with the principal use is located on the same lot or parcel as the principal use.

Apartment. One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing more than five or more dwelling units.

Apartment building. A building, other than a hotel or motel, containing five or more dwelling units that have primary entrances from common hallways.

Applicant. The owner of land proposed to be subdivided, or his/her representative.

Arcade (architectural). A covered passageway located on the exterior, or around the periphery of a structure.

Archaeological feature. Any material remains of past human life or activities that are of historic or pre-historic significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, skeletal remains, or any piece of any of the foregoing items.

Architectural feature. A decorative element intended to enhance the building or structure and lend to the overall exterior form, context and appearance of the building or structure. Architectural features may include, but are not limited to balconies, canopies, columns, doors, eaves, porches, wing walls, or similar three-dimensional exterior element of a building or structure.

Area of shallow flooding. A designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

ASSISTED LIVING CENTER. AN ASSISTED LIVING FACILITY THAT PROVIDES RESIDENT ROOMS OR RESIDENTIAL UNITS TO ELEVEN OR MORE RESIDENTS.

~~Assisted living facility. A special combination of housing, supportive services, personalized assistance and health care licensed and designed to respond to the individual needs of those who need help with activities of daily living. Supportive services may be available 24 hours a day to meet scheduled and unscheduled needs in a way that promotes maximum dignity and independence for each resident. The term does not include a convalescent care facility, nursing home or other special care facility.~~ RESIDENTIAL CARE INSTITUTION, INCLUDING AN ADULT FOSTER CARE HOME, THAT PROVIDES OR CONTRACTS TO PROVIDE SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES ON A CONTINUOUS BASIS.

ASSISTED LIVING HOME. AN ASSISTED LIVING FACILITY THAT PROVIDES RESIDENT ROOMS TO TEN OR FEWER RESIDENTS.

Auto reduction yard. A lot or yard where three or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

Auto salvage yard. A junkyard primarily containing inoperable vehicles. (See "junkyard")

Automated teller machine (ATM). A facility to provide banking and other electronic services that are operated by the customer.

Automobile service center, major. A facility where the following types of services are performed: engine or drive train rebuilding or major reconditioning, and collision service, including body, frame or fender straightening or repair and/or painting of vehicles.

Automobile service center, minor. A facility where the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles are performed, but not including any operation specified under "Automobile Service Center, Major."

Automobile service station. An establishment with the primary business function of the retail sale of gasoline for passenger car use with or without minor service and repair work incidental to the operation of passenger automobiles.

Automobile washing establishment. A building that has its primary purpose as washing automobiles. Such facilities shall be considered incidental to automobile service stations if no more than one auto may be washed at one time and if the service station is clearly the principal use.

Baseflood, one hundred-year. The flood having a one percent chance of being equaled or exceeded in any given year.

Basement. A portion of a building located partly underground but having not less than one-half its floor-to-ceiling height below the average grade of the adjoining ground.

Berm. A mound of earth, usually three to six feet high, that is used to shield, screen and buffer undesirable views, separate incompatible land uses, and provide visual and landscape interest, decrease noise, control the direction of water flow and act as dams.

Bicycle circulation system. A system composed of bicycle paths and lanes which combine to provide a comprehensive means by which bicycles can travel within and through the City of Surprise.

"Big box" building. A large single, stand-alone building (50,000 square feet or larger) normally having a rectangular shape and a single use.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or boundary lines of municipalities.

Block frontage. All property fronting on one side of a street bounded between two streets or other natural or physical features.

Board. The Board of Adjustment of the City of Surprise.

Bollard. A thick, low, architecturally, designed vertical post, or a series of vertical posts, that are placed to help define, or border, pedestrian and/or bicycle paths.

Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the city council and meeting the requirements expressed elsewhere in the Surprise Municipal Code.

Buffering. The technique of providing landscape improvements on land set aside in a buffer area.

Building. Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes, recreational vehicles and mobile offices. Building includes "structure". Also building can be any structure built for support, shelter or

enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

Building area. The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: that area of a lot that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.

Building, attached. A building having one or more party walls in common with another building when the principal use of each building is independent of the other and when no interior access exists from one building to another.

Building, detached. A building having no party wall in common or structural connection with another building.

Building elevation. The front-on view of any building or other structure from any side showing the relationship of the site grade to floor level, and such features as design, construction materials, height, dimensions, windows and doors.

Building envelope. That area of a lot lying between the front, rear and side yard setback lines and between ground level and the maximum allowable building height, amounting to a three-dimensional area available for potential building construction.

Building, front line of. The line of the face of a building nearest the front lot line.

Building frontage. The part of a building where the primary entry fronts a public street.

Building height. The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

Building line, front. The line nearest to the front and across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.

Building line, rear. The line nearest to the rear and across a lot establishing the minimum space to be provided between the rear line of a building and the rear lot line.

Building, nonconforming. A legally existing building which fails to comply with the regulations set forth in this title applicable to the zone in which the building is located.

Building, principal. A building in which is conducted the main, or principal, use of the lot on which said building is situated.

Building, public. A building, supported by government funds, to be used in an official capacity on behalf of the entire community.

Bus/transit shelter. A roofed structure having at least three walls that is located on or adjacent to the right-of-way of a street, and which is designed and used for the protection and convenience of waiting bus passengers.

Business. Engaging in of the purchase, sale, barter or exchange of goods, wares, merchandise or service; the maintenance or operation of offices or recreational or amusement enterprises.

Campground. Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, recreational vehicles or other camping outfits.

Capital improvements program. A proposed schedule of all future municipal improvement projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Construction plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City of Surprise as a condition of the approval of the plat.

Carport. A structure, open on at least two sides, consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels. Said structure shall be considered as an accessory building when detached from the principal building and as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

Cemetery. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

City. The City of Surprise, Arizona.

City council. The Governing Body of the City of Surprise.

City engineer. The professional engineer engaged by the City of Surprise.

Clinic. An establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a "professional office" for general consultation purposes. The term does not include a hospital or facility in which patients are cared for or stay overnight.

Club, private (nonprofit). A nonprofit association of persons who are bona fide members paying annual dues which owns, hires or leases a building, or a portion thereof, the use of such premises being restricted to members and their guests.

Cluster development. A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Commission. The planning and zoning commission of the city. Also referred to as planning and zoning commission.

Common area open space. Intimately-scaled open space areas such as terraces, courtyards, atriums, arcades, plazas, etc. that are normally associated with building entries and/or interior open spaces of office, commercial and multi-family residential developments.

Community character. The image by which the community is distinguished from other communities and viewed by those living in and passing through the community as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, use of color and materials, streetscape, infrastructure and the type and quality of public facilities and services.

Community circulation system. The community's systems, structures and physical improvements that combine to move people, goods, water, air, sewage and power by such means as streets, highways, bicycle paths and lanes, pedestrian ways, railways, waterways, towers, airways, pipelines and conduits

Community correctional facility. A facility where lodging, meals, counseling, treatment, rehabilitation, and educational instruction or training is provided to adjudicated delinquents, parolees, and individuals in pre-release (transitional) or diversionary programs from, or in lieu of confinement in, correctional institutions.

Community design. The design of buildings, streets, open space, landscaping, signs, lighting, neighborhoods, and all other physical elements of the community that when combined, provide a unique identification and consistent character throughout the community.

Community development director. The individual charged by the governing body to administer this title.

Community open space system. The community's parks, playgrounds, active and passive recreational areas, natural features, and environmentally sensitive land areas that collectively provide a continuous and integrated system of open space.

Comprehensive development guide. The document (Surprise Comprehensive Development Guide), or part thereof, officially adopted by the Surprise City Council which provides for the development of the city and which indicates the general locations recommended for major roadways, parks, public utilities and buildings, and land uses.

Connectivity. The measure describing the level to which streets, streetscapes, pedestrian/bicycle paths, community open space and other similar uses link with one another.

Convenience food restaurant. An establishment whose principal business is the sale of foods, frozen desserts or beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carry-out with consumption either on or off the premises and whose design or principal method of operation include both of the following characteristics:

- (1) Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- (2) The customer is not served food at his/her table by an employee but receives it at a counter, window or similar facility for carrying to another location for consumption either on or off the premises.

Conditional use permits. Legal authorization to undertake a conditional use as defined by this title.

Construction plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City of Surprise as a condition of the approval of the plat.

Council. The City Council of the City of Surprise. Also referred to as the governing body.

Cul-de-sac. A local street with only one outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

Corporate counsel. The attorney of the city or any assistant or special counsel of said city.

Curb bulb. Generally rounded extensions of a curb located at a street intersection that narrow the street by widening the sidewalk and/or the landscaped parking strip in order to make pedestrian street crossings shorter and easier, and to provide a visual narrowing along the roadway to help increase driver awareness and slow the movement of traffic in heavy pedestrian areas.

Curb-separated sidewalk. A sidewalk that is separated from the street by a landscaped area that is measured from the back of the street curb and runs continuously along the length of the street.

Day care center. A use where care is provided for pay for three or more unrelated children subject to the requirements of the State of Arizona.

Deep root barrier. A mechanical barrier that redirects tree root growth downward, eliminating the surface rooting that damages such expensive hardscapes as sidewalks, driveways, and street paving.

Density, gross. The number of residential dwelling units per unit of land.

Density, net residential. The number of residential dwelling units per unit of land, excluding any land used or to be used as arterial street rights-of-way or private nonresidential uses except parks, open space and recreational areas. For calculating net residential density, the following formula shall apply:

$$du / D = A - (c + i + s + a)$$

Where:

D = Residential density

du = Total number of dwelling units in project

A = Total site area (acres)

c = Total commercial land area (acres)

i = Total industrial land area (acres)

s = Reserved but undedicated school sites (acres)

a = arterial rights-of-way (acres)

Development. Any man-made change to improve or alter real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Developer. The owner of land proposed to be subdivided, or his/her representative.

DIRECTED CARE SERVICES. PROGRAMS AND SERVICES, INCLUDING SUPERVISORY AND PERSONAL CARE SERVICES, THAT ARE PROVIDED TO PERSONS WHO ARE INCAPABLE OF RECOGNIZING DANGER, SUMMONING ASSISTANCE, EXPRESSING NEED OR MAKING BASIC CARE DECISIONS.

Drive access. The area between the curb of a street, or edge of the travelled portion of a street when no curb exists, and the right-of-way/property line over which the city will permit vehicular travel from the traveled portion of a street to an individual property, or off-street parking space(s).

Drive-in business. Any business in which people are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. Such businesses include, but are not limited to, the following: drive-in theater, drive-in bank, drive-in laundry or dry cleaning pickup station, drive-in restaurant and any business offering "take-home" food services.

Duplex. See dwelling, two-family.

Dwelling. A building or portion thereof, used primarily for residential occupancy, including single-family, two-family, multiple-family dwellings and group homes, but not including hotels, motels or tourist homes.

Dwelling, single-family. A building used for residential occupancy by one family.

Dwelling, two-family. A building, or portion thereof, used for occupancy by two families living independently of each other with the units completely separated by a common wall, floor and/or ceiling. Also referred to as "duplex."

Dwelling, multifamily. A building, or portion thereof, used for occupancy by three or more families living independently of each other, with the units completely separated by a common wall, floor and/or ceiling.

Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

Escrow. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

Façade. The exterior wall(s) of a building that is exposed to public view.

Family. One or more persons related by blood, marriage or adoption or not more than three unrelated persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity, sorority, lodging house or nursing home.

Fence. A barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.

Final plat. The map or plan or record of a subdivision and any accompanying material, as described in these regulations.

Flood insurance rate map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. The official report in which the Federal Insurance Administration has provided flood profiles as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain. That area encompassing the floodway area and the floodway fringe.

Floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures and contents of buildings.

Floodway, one hundred-year. The channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of one hundred-year magnitude without substantial increases in flood height.

Floodway encroachment lines. The lines marking the limits of floodways on the zoning map.

Floodway fringe, one hundred-year. The area between the floodway and the one hundred-year flood boundary.

Frontage. That side of a lot abutting on a street or way and ordinarily regarded, as the front of the lot.

Garage, private. A detached accessory building, or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles per family housed in the building to which such garage is accessory and not more than one-third of the total number of vehicles stored in such garage shall be commercial vehicles.

Garage, public. Any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles; or where such vehicles are equipped for operation, repaired, or kept for rental, hire or sale.

Gateway. A designated major or minor thoroughfare entry to the City of Surprise that has been especially designed using unique and/or special landscape, architectural, sign and lighting treatments to project the city's image and inform visitors that they have arrived in Surprise.

General Plan. The City of Surprise 2020 General Plan.

Governmental use. Any use by the state or any political subdivision of the state for a governmental purpose, including but not exclusively, parks, schools, administrative offices, police or fire departmental use, water storage, pumping or recharge, sewage collection and treatment, maintenance yards, court facilities, libraries, community centers, youth centers, or recreational facilities.

Grade. The slope of a road, street or other public way, specified in percentage terms.

Gross floor area. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Ground floor area. The square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways and secondary stairways.

Group home. A single, residential structure having common kitchen facilities occupied by persons having physical, mental, emotional or social problems and living together for the purpose of training, observation and/or common support.

Habitable floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

Hardscape. Any hardened and/or paved surface, such as a street, sidewalk, plaza or other similar surface, where the surface materials have been used to create unique patterns of color, design and texture for purposes of creating visual interest.

Hardware store. A business that sells goods or merchandise directly to the consumer that includes, but is not limited to, electrical components, plumbing components, mechanical components, lighting fixtures, exterior finishes, interior and exterior doors, windows, roofing material, lumber, interior decorating material, flooring, bathroom and kitchen fixtures, garden equipment/supplies and material, plants and flowers, fencing material, professional services as related to home improvements, and minor educational services.

HEALTH CARE INSTITUTION. EVERY PLACE, INSTITUTION, BUILDING OR AGENCY, WHETHER ORGANIZED FOR PROFIT OR NOT, THAT PROVIDES FACILITIES WITH MEDICAL SERVICES, NURSING SERVICES, BEHAVIORAL HEALTH SERVICES, HEALTH SCREENING SERVICES, OTHER HEALTH-RELATED SERVICES, SUPERVISORY CARE

SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES AND INCLUDES HOME HEALTH AGENCIES AS DEFINED IN ARS § 36-151, OUTDOOR BEHAVIORAL HEALTH CARE PROGRAMS AND HOSPICE SERVICE AGENCIES.

High pressure sodium light. A light source commonly used in street lighting that emits an amber color.

Home occupation or profession. Any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this title.

Hospital. An institution for the diagnosis, treatment or other care of human ailments and includes sanitarium or clinic, provides such institution is operated by, or treatment is given, under direct supervision of a physician licensed to practice by the State of Arizona.

Hotel or motel. A building or portion thereof, or a group of buildings, in which lodging is provided and offered to transient guests for compensation; "hotel" or "motel" shall not include a lodging house.

Infill development. New development which is placed within an existing and already developed site or area.

Industry, heavy. Those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise or vibration which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.

Industry, light. Those industries whose processing of products results in none of the conditions described for heavy industry.

Junkyard. Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles, and similar property, which are used, owned or possessed for the purpose of wrecking or salvaging parts there from.

Kennel. Any lot or premises on which three or more dogs, cats or small domesticated animals of a single species over the age of eight weeks are kept; except that, in an R1-43 zone, a kennel shall not be considered to exist unless the number of such animals kept on a lot or premises is five or more per acre. Notwithstanding the foregoing sentence, the keeping of not more than four dogs, cats or small domesticated animals of a single species, for a noncommercial purpose such as hunting, tracking or exhibiting, shall not be considered the maintenance or operation of a kennel for the purposes of this title.

Land use compatibility. The avoidance of placing physical impact land uses such as power plants, airports, trash disposal sites, manufacturing facilities and/or any other uses that generate odors, noise, dust, excessive light and glare, adjacent to, or in close proximity of, more sensitive land uses already located in an area.

Light trespass. Excessive light that spills onto adjacent property, typically produced by stray light emanating from street lighting fixtures, illuminated signage and other outdoor lighting sources.

LIVING SPACE. SPACE WITHIN A DWELLING UNIT UTILIZED FOR LIVING, SLEEPING, EATING, COOKING, BATHING AND SANITATION.

Loading and unloading bays. The off-street area required for the receipt of or distribution by vehicles of material or merchandise.

Lodging house. A building with more than two but not more than ten guest rooms where lodging with or without meals is provided for compensation.

Lot. A piece, parcel, plot, tract or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this title, and having its principal lot frontage on a street.

Lot, corner. A lot at a junction of and fronting on two or more intersecting streets.

Lot improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property.

Lot, interior. A lot other than a corner or through lot.

Lot, through. A lot having frontage on two parallel or approximately parallel streets.

Lot coverage. The percentage of the lot area covered by buildings.

Lot depth. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and the rear lot line of a lot.

Lot ground level. For buildings having walls fronting on only one street, the elevation at the front lot line at the center of a wall fronting on the street; for buildings having walls fronting on more than one street, the average of the elevation of the front lot line at the center of all walls fronting on the streets; for buildings having no walls fronting on the street, the average level of the ground adjacent to the exterior walls of the building.

Lot line, front. In the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.

Lot line, rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side. Any lot boundary line not a front lot line or a rear lot line.

Lot width. The distance as measured in a straight line, between side lot lines at the points of intersection with the building line.

Manufactured home. A structure built after June 15, 1976, in accordance with the U.S. Department of Housing and Urban Development and the State of Arizona Building and Fire Safety Department specifications.

Manufactured housing subdivision. A subdivision, of not less than ten acres, designed and intended for the sale of lots for residential occupancy in manufactured or modular homes.

Manufacturing. The creation of products either with machinery or by hand according to an organized plan and with the division of labor.

Master site circulation plan. A plan that depicts all on-site streets, pedestrian ways and bicycle paths proposed for development, including site entries and exits, designated fire lanes, street lighting, loading and unloading areas for any commercial, office and industrial sites, pavement treatment and markings and directional signage; as well as the relationship of the on-site circulation system to surrounding streets serving the development and any adjoining projects.

Medical marijuana. All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical marijuana cultivation. The process by which a person grows a marijuana plant.

Medical marijuana designated caregiver cultivation location. An enclosed, locked facility, such as a closet, room, greenhouse, or other enclosed area equipped with locks, that does not exceed 50 square feet of cultivation space where a designated caregiver, as defined by A.R.S. § 36-2801(5), cultivates marijuana.

Medical marijuana dispensary. A not-for-profit entity defined in A.R.S. § 36-2801(11), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, dispenses, or otherwise provides medical marijuana or related supplies and educational materials to cardholders as defined in A.R.S. § 36-2801(2).

Medical marijuana dispensary offsite cultivation facility. An enclosed, locked facility where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

Medical marijuana infusion facility. A facility that incorporates medical marijuana into consumable/edible goods by the means of cooking or blending.

Medical marijuana qualifying patient. A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801(13).

Medical marijuana qualifying patient cultivation location. An enclosed, locked facility, such as a closet, room, greenhouse, or other enclosed area equipped with locks, that does not exceed 50 square feet of cultivation space where a qualifying patient, as defined by A.R.S. § 36-2801(13), cultivates marijuana.

Metal halide light. A light source commonly used for street lighting that emits a good quality white light.

Mining. The extraction of sand, gravel or other material from the land in the amount of 400 cubic yards or more and the removal thereof from the site without processing.

Mixed-use development. A single building containing more than one type of land use; or a single development project having more than one building and land use in which the different land uses are located in close proximity to one another, the project is planned and designed as a unified total project, and the development is functionally integrated to enable the use of shared vehicular and pedestrian access and parking areas.

Mobile home. A structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling unit when connected to on-site utilities, except recreational vehicles and factory-built buildings.

Mobile home park. A parcel of land not less than ten acres, licensed and designed in whole or part, with or without charge, for the accommodations of mobile and/or manufactured homes.

Mobile home space. A plot of ground within a mobile home park designed for the accommodation of one mobile home.

Mobile home stand. That portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.

Mobile office. A factory-assembled structure or structures exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an office without a permanent foundation, whether or not said running gear has been removed.

Modular or sectional home. A multi-sectional unit built to the Uniform Building Code standards, not to exceed two stories in height, that when joined together forms a residence (dwelling unit) for human occupancy that measures not less than 24 feet in width and 40 feet or longer in length and placed on a permanent foundation, as defined in the State of Arizona Manufactured Housing Standards. The space between the floor line and the grade must be enclosed to resemble a permanent wall. The roof shall have a pitch of not less than two inches vertical rise to each 12 inches of horizontal run. Roofing, siding and elevations shall be similar in appearance and kind to those used in conventional homes.

Model home. A dwelling unit used initially for display purposes which typifies the units that will be constructed in the subdivision.

Multi-modal. One or more means of traveling within or through a community to include automobiles, buses, trolley, rail, bicycles and any other means of moving persons and goods by a surface, overhead or underground means of transportation.

Municipality. The City of Surprise, as incorporated by state law.

New construction. Structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

Nonresidential subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial.

Noxious matter or material. Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

~~*Nursing-home CARE INSTITUTION.* A health care facility—INSTITUTION designed to provide lodging, meals, treatment, and skilled nursing care on a long-term basis to individuals who, because of advanced age, chronic illness, or infirmity, are unable to care for themselves. THAT PROVIDES INPATIENT BEDS OR RESIDENT BEDS AND NURSING SERVICES TO PERSONS WHO NEED CONTINUOUS NURSING SERVICES BUT WHO DO NOT REQUIRE HOSPITAL CARE OR DIRECT DAILY CARE FROM A PHYSICIAN.~~

NURSING SERVICES. MEANS THOSE SERVICES THAT PERTAIN TO THE CURATIVE, RESTORATIVE AND PREVENTIVE ASPECTS OF NURSING CARE AND THAT ARE PERFORMED AT THE DIRECTION OF A PHYSICIAN BY OR UNDER THE SUPERVISION OF A REGISTERED NURSE LICENSED IN THIS STATE.

Office. Structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold or repaired. These include: banks; general and professional offices; governmental offices; insurance offices; real estate offices; taxicab offices, but not taxi stands; travel agency or transportation ticket offices; telephone exchange; utility offices; radio broadcasting and similar uses.

Off-site. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

One hundred-year flood. The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a one percent change of occurring each year).

Open sales (or rental) lot. Any land used or occupied for the purpose of buying, selling or renting for use away from the premises, any goods, materials or merchandise, and for the exterior storing of same prior to sale or rental.

Open space. Land and water areas intended to provide light and air, and which have been retained and designed, depending upon the specific situation, for environmental, scenic, conservation and/or active and passive recreational purposes.

Open space, active. Land and water areas specifically designed as an activity-based recreational area to include boating, water sports, sports fields, local and community parks having picnic, playground, recreational and support components, golf courses and pedestrian, hiking, bicycle and equestrian trails.

Open space, passive. Land and water areas that are either partially improved, undeveloped or in a natural state that are intended for scenic, environmental, conservation, and/or resource protection; and include such resource-based activities as nature study, nature trails, and any other activities requiring a natural condition that cannot easily be duplicated by human actions.

Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Overlay zone. A zone superimposed upon an underlying zone and which establishes special requirements in addition to those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

Out parcel. A separate, leased or owned, land parcel that is part of a larger planned commercial, office or industrial center that has been set aside, usually along street frontage, for purposes of developing a freestanding restaurant, bank, gasoline service station, drug store or other support service use to supplement the primary uses in the center.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Parapet wall. A low wall generally running around the perimeter of a flat roof building at the roofline.

Parking area, public. An open area, other than a street or alley designated for use, or used, as temporary parking of four or more vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers.

Parking bay. A paved parking area used for on-street parking on local residential streets that is placed on alternating sides of the street within a modified street right-of-way, and designed to accommodate three to four cars.

Parking cluster. The smallest parking increment of a larger off-street parking lot, designed as a heavily tree-shaded parking area to accommodate 50 or less cars and separated from other parking clusters by pedestrian walkways.

Parking space, off-street. A space designated for the temporary parking of a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

Park strip. The landscaped area between sidewalk and curb along a public street.

Party wall. Any wall of a building or structure which is common to two or more buildings.

Paved parking space or surface. An area covered by an impervious dust-free surface of asphalt or concrete designed to specifications of the city engineer.

Paving enhancement. A material and/or color used in the pavement design of a street or parking area to provide visual interest.

Pedestrian friendly. An environment in which conflict between the automobile and pedestrian is minimized or eliminated through the provision of a comprehensive means of vehicular-separated pedestrian travel that is fast, attractive and comfortable for a wide range of age and abilities groups; and by the design of buildings and other uses in a manner that is sensitive to the needs of the pedestrian.

Perimeter street. Any existing street to which the parcel of land to be subdivided abuts on only one side.

PERSONAL CARE SERVICES. ASSISTANCE WITH ACTIVITIES OF DAILY LIVING THAT CAN BE PERFORMED BY PERSONS WITHOUT PROFESSIONAL SKILLS OR PROFESSIONAL TRAINING AND INCLUDES THE COORDINATION OR PROVISION OF INTERMITTENT NURSING SERVICES AND THE ADMINISTRATION OF MEDICATIONS AND TREATMENTS BY A NURSE WHO IS LICENSED PURSUANT TO A.R.S. TITLE 32, CHAPTER 15 OR AS OTHERWISE PROVIDED BY LAW.

Personal and convenience services. Businesses offering services such as barber shops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations (but excluding actual laundry operations), and similar uses.

Persons. Includes any individual or group of individuals, corporations, partnerships, associations, or any other organized group of persons, including state and local governments and agencies thereof.

Plant nursery, wholesale. A facility where live plants are grown or propagated for sale to retail operators.

Plat. A map, chart, survey, plan or replat certified by a licensed, registered land surveyor containing a description of the subdivided land with ties to permanent monuments.

Plaza. A large, paved, pedestrian entry setting for a building containing seating areas, fountains, sculpture works, trees, and landscaping that is generally open to the public and used for relaxation and contemplative thought.

Preliminary plat. The preliminary drawing or drawings, described in this title, indicating the proposed manner of layout of the subdivision.

Property, personal property. Other than real property, consisting of things temporal and movable.

Property, real. Property consisting of buildings and/or land.

Public improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the City of Surprise may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement where the responsibility rests with the City of Surprise.

Qualifying commercial and/or industrial developments. New or expanding developments that will be:

- Legal and conforming upon project completion;
- In possession of all required development approvals pursuant to city process, procedures and policies;
- Occupying vacant property or replacing dilapidated buildings, or if expanding will comply with the criteria for expanding existing businesses.

Recreational facility, outdoor. A long-term facility providing outdoor amusement and entertainment, including, but not limited to miniature golf, skateboard park, amusement park, go-cart race track, and batting cages.

Recreational vehicle. A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven, primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recreational vehicle park. A plot of ground upon which two or more sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, education or vacation purposes.

Recycling—Indoor collection facility. An indoor facility where the public may donate, redeem, or sell recyclable materials with limited processing activities.

Recycling—Outdoor collection facility. A facility where the public may donate, redeem, or sell recyclable materials with limited processing activities.

Recycling—Processing. Baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, re-manufacturing, shredding, and/or preparation for shipment of recyclable materials.

Recycling—Processing facility. A structure or enclosed space used for the collection and processing of recyclable materials for shipment.

Recycling—Reverse vending machines. An automated mechanical device which accepts at least one or more type of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip.

RESIDENTIAL CARE INSTITUTION. A HEALTH CARE INSTITUTION OTHER THAN A HOSPITAL OR A NURSING CARE INSTITUTION THAT PROVIDES RESIDENT BEDS OR RESIDENTIAL UNITS, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES, BEHAVIORAL HEALTH SERVICES, DIRECTED CARE SERVICES OR HEALTH-RELATED SERVICES FOR PERSONS WHO DO NOT NEED CONTINUOUS NURSING SERVICES.

Registered architect. An architect licensed and registered in the State of Arizona.

Registered engineer. An engineer licensed and registered in the State of Arizona.

Restaurant. Any restaurant (except a drive-in restaurant or a convenience food restaurant as defined in this section), coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, drugstore and soda fountain serving food, and all other eating or drinking establishments provided that at least one-half of the total sales are derived from the sale of food.

Re-subdivision. A change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions

Retail membership store. A retail store that sells goods or merchandise directly to the consumer via special membership retirement of the store, other than for resale.

Retail store. A business that sells goods or merchandise directly to the consumer, other than for resale.

Retention area. An area into which urban storm water runoff is collected and temporarily stored until it gradually infiltrates into the soil surrounding the area.

Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, trees, or for another special use.

Roadway. That portion of a street right-of-way intended for driving or parking.

Sale or lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, intestate succession, or other written instrument.

Sanitary landfill, solid waste facility. Sanitary landfills, waste tire collection sites, composting, and other uses approved by the state environmental agency.

School. Any pre-primary, primary or grammar, public, parochial or private school, high school; preparatory school or academy, public or founded, or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.

Screening. A solid or nearly solid barrier (i.e., wall, fence, plantings) constructed or installed for the purpose of visual separation.

Sensitive land areas. Land that encompasses wildlife habitats, wash corridors that replenish local groundwater, archaeological sites, unique plant environments, and scenic vistas.

Setback. The minimum horizontal distance between a building line and the street or lot line.

Sewer, public. Any sanitary sewer line owned and maintained by the city, whether or not installed by the city.

Sewer system, community. Any sanitary sewer system, whether treatment plant, septic tank or lagoon, designed with a sewer collection system to be used by a legally constituted association of property owners. The system may or may not be a public system.

Shared living. A dwelling unit designed to promote and allow for the independent living or no more than six related or unrelated 55 year old or older individuals. Residents have private bedrooms, but share the kitchen, dining and living rooms. No separate in-room kitchen facility for use by occupants is permitted. Shared living residences do not include any or all of the following: permanent live-in resident staff personnel; permanent supportive care services; or permanent personal nursing care on an around-the-clock basis.

Shared parking. When two or more users (such as a retail store, office, restaurant, or other similar user) share the same parking spaces rather than each having their own dedicated parking area.

Shelter care facility. A facility where short-term residential care services, including, but not limited to, temporary lodging, meals, and counseling, are provided to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children, and runaways, for a time typically less than 30 days.

Shopping center. Any grouping of two or more principal retail uses, whether on a single lot or on abutting lots under multiple or single ownership and whether contained in one building or multiple buildings.

Sign. Any device providing identification, advertising or directional information for a specific business, service, product, person, organization, place or building. Included in this definition are graphic devices such as logos, attention attracting media such as banners or logo sculpture and obtrusive colored fascia or architectural elements.

Sign, freestanding. Any nonmovable sign not affixed to a building.

Sign, non-accessory. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign, wall. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 12 inches from such building or structure.

Single-family residential area. An area developed solely for the construction of one-family homes.

Site plan. A drawing to a scale not less than one inch equals 100 feet showing the accurate location of all structures, streets, alleys and parking areas existing and proposed on subject property or any other information as may be required by this title.

For purposes of this chapter, site plans may be classified as major or minor site plans. All developments within the city except individual single-family and duplex residential units shall be subject to this chapter. A major site plan involves one or more of the following:

- a. Forty or more dwelling units in a multiple-family structure;
- b. Fifteen thousand or more square feet of office space, retail commercial space, service commercial space or industrial space;
- c. One or more buildings on one site for office use, retail commercial use, service commercial use or industrial use;
- d. Twenty thousand or more square feet of exterior storage of materials or goods;
- e. Parking for more than 80 vehicles.

Sketch plat. A sketch preparatory to the preparation of the preliminary plat (or final plat when deemed appropriate) to enable the subdivider to save time and expense in reaching general agreement with the planning and zoning commission as to the form of the plat and the objectives of these regulations.

Stable, private. Any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot but shall not exceed 6,000 square feet in area.

Stable, public. A stable where horses are kept for remuneration, hire or sale.

Start of construction.

1. "Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.
2. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.
3. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Street.

- (1) A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.
- (2) A general term used to describe a paved right-of-way, municipally or privately owned, serving as a means of vehicular travel. Streets are classified by function as follows:
 - a. *Local street.* A street intended to serve and provide access exclusively to the properties abutting thereon, and not connecting with other streets in such a manner as to encourage through traffic.
 - b. *Collector street.* A street connecting local residential streets to each other, to community facilities and to principal or minor arterial streets.
 - c. *Principal, major and minor arterial streets.* Streets designed to carry large amounts of traffic across or through the city and designated as such by the comprehensive development guide.
 - d. *Service street.* A street running parallel to a freeway, expressway or other roadway, and serving abutting properties. Also called frontage road.

Street, dead-end. A street or a portion of a street with only one vehicular-traffic outlet.

Street frontage. Any property line separating a lot from a street.

Street, private. Any street that is not dedicated to the public and is to be maintained by a private entity.

Street, public. Any street which has been dedicated or is otherwise publicly owned by the city.

Streetscape. The general appearance of a block or group of blocks with respect to the structures, setbacks from public-rights-of-way, open space, landscaping, public art, lighting, signage, paving materials, street furnishings and other elements that contribute to the overall character and image of a city block.

Street furnishings. All items that are placed within the public right-of-way for both an aesthetic and functional purpose, including, but not necessarily be limited to, benches, bus shelters, trash receptacles, plant containers, kiosk signs, lighting fixtures, tree grates and guards, bicycle racks, bollards, fountains and public art.

Strip mall. A collection of several commercial buildings constructed as a single development, usually in a linear manner, with buildings placed at the rear of the development parcel and large fields of parking placed in front between the building and the thoroughfare

Structure. Anything constructed or erected which requires location above or below ground.

Structural alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Substantial improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred.
- (3) For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not alteration affects the external dimensions of the structure. The term does not, however, include either:
 - (4) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - (5) Any alteration of a structure listed on the National Register of Historic Places.

Subdivide. The act of dividing land into two or more parts by platting, or by metes and bounds description, into tracts of less than 36 acres for the purpose of: (1) sale for building purposes, (2) laying out of municipality or any part thereof, (3) adding to a municipality, (4) laying out suburban lots, or (5) resubdivision.

Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision, or who (2) directly or indirectly, sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot parcel site, unit, or plat in a subdivision, or who (3) engaging directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

Subdivision. Any land, vacant or improved, which is divided or proposed to be divided into four or more lots, parcels, sites, units, plots or interests or, if a new street is involved, any such property which is divided into two or more lots, tracts, or parcels of land or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into two or more parts, for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

Subdivision agent. Any person who represents or acts for or on behalf of a subdivider.

Subdivision plat. The final map or drawings, described herein, on which the subdivider's plan of subdivision is presented to the planning and zoning commission and city council for approval and which, if approved, may be submitted to the county recorder for filing.

SUPERVISORY CARE SERVICES. GENERAL SUPERVISION, INCLUDING DAILY AWARENESS OF RESIDENT FUNCTIONING AND CONTINUING NEEDS, THE ABILITY TO INTERVENE IN A CRISIS AND ASSISTANCE IN THE SELF-ADMINISTRATION OF PRESCRIBED MEDICATIONS.

Temporary improvement. Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond

Terrace. A private or public, single or multi-level, hard surface building extension for outdoor use.

Tourist home (bed and breakfast). A building in which more than one, but not more than five, guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.

Townhouse. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent building and/or buildings by party walls, or are located immediately adjacent thereto without any visible separation between walls or roof; all of which dwellings may be located on individual separate lots, if individually owned, or upon a single lot, if under common ownership.

Townhouse cluster. A building consisting of three or more noncommunicating, attached one-family units placed side by side and/or back to back having a common wall between each two adjacent dwelling units.

Traffic calming. A technique or method of reducing traffic speeds and/or neighborhood cut-through traffic volumes that utilizes changes in street alignment, installation of barriers, and other physical measures such as speed humps, traffic circles, curb extensions and raised crosswalks to enhance street safety and livability and create a pedestrian-friendly environment.

Truck. A vehicle having a one ton chassis and capacity of no more than 10,000 pounds gross vehicle weight rating (GVWR).

Use. The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

Use, conditional. Either a public or private use as listed herein which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted, with or without time limits, pursuant to the requirements of this title. A conditional use may be a principal use or an accessory use.

Use, nonconforming. An existing use of land or building which was legal prior to the effective date of the ordinance codified in this title but which fails to comply with the requirements set forth in this title applicable to the zone in which such use is located.

Use, permitted. A use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations and performance standards of such district. A permitted use may be a principal use or an accessory use.

Use, principal. A use or structure which determines the predominant or major use of the lot on which it is located. A principal use may be either a permitted or a conditional use.

Variance. A modification or variation of the provisions of this title as applied to a specific piece of property. Dimensional variances only may be allowed; no variance regarding use of property shall be permitted; no variance decreasing lot area requirements shall be allowed. Variance may be permitted only by the board of adjustment.

Variance, dimensional. A departure from the terms of the zoning regulations pertaining to height or width of structures and size of yard and open spaces where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the action of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

View corridor. The area or areas along a street, pedestrian path, hiking trail or other such openings that allow for a clear and unobstructed view of or frames, highlights or accentuates, a prominent building, object, site, structure, scene, or panorama, patterns or rhythms of buildings, objects, sites or structures.

View-type fence. A fence that is constructed in a manner that allows for a clear view of an area beyond the fence from any angle.

Visibility triangle. The area at the intersection of streets in which a motorist's view must remain free of any visual obstruction.

Warehouse. An enclosed building designed and used primarily for the storage of goods and materials.

Warehouse, residential storage (mini-warehouse). Residential storage warehouse (mini-warehouse)" means a building or group of buildings in a controlled access and fenced or screened compound that contains relatively small storage spaces of varying sizes and/or spaces for recreational vehicles or boats, having individual, compartmentalized and controlled access for the dead storage of excess personal property of an individual or family generally stored in the residential accessory structures, when such building or group of buildings are not located on the lot of the residence.

Wrecking yard. A place, lot or area where the primary function is that of dismantling, storage, abandonment or sale of goods and materials as parts or scraps.

Yard. On the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, and unobstructed by structures, except as otherwise provided in this title.

Yard, corner side. A yard on a corner lot the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along said side lot line to a point intersecting the rear lot line, then along said rear lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

Yard, front. A yard extending across the full width of the lot between two side lot lines the depth of which is the least distance between the street right-of-way and the building line.

Yard, rear. A yard extending across the full width of the lot between two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building and the depth of which is the least distance between the rear lot line and the parallel line.

Yard, side. A yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.

From: Donald Buhr <donalddj313@gmail.com>
Sent: Thursday, February 05, 2015 8:28 AM
To: Robert Kuhfuss; Dawn Talley; Donald Buhr
Subject: Assisted Living Centers

Hi Robert,

I can't make the hearing tonight, but as a resident in our Town and HOA community, I feel like my rights as a homeowner are violated, and jeopardized by the current law. I have spoken to Dawn at Greer Ranch HOA, written to her, and am not satisfied at all with the response and resolution. All I got was that the federal law supersedes HOA bylaws.

I sent this message below, and was pretty much told I could contact the 'homeowner'(actually a business owner) directly to try to work it out, and I could try to contact the city also to see what the rules were for wall height and try to force the issue through them. Isn't that the JOB/ROLE of a representative of the HOA??? I pay a great deal of money for the services, which I know are in large part upkeep of the community, but shouldn't there be some customer service done also? They should contact both homeowners and work this out. In the paragraph below, I highlighted my biggest concerns in red from the message I sent to the HOA(Dawn).

<<I left a message last week with your office, but never heard back from you. I know we spoke once before about my concerns with a commercial business approval of the property directly behind my residence, sharing a common wall. Since there is nothing we can do about that, as you said, we are not comfortable with the wall height between the 2 properties and would like it either raised 3 blocks, or some kind of fence added to the top on their side, extending the wall 30 inches or so. We feel that a commercial business, it's employees, and paying customers should not have a direct line of sight & easy view into our residence, and especially our kitchen while we eat dinner or breakfast in sleepwear. We feel this is a violation of our privacy as homeowners in this residential community. I would also ask that their business accept the burden of financing such an addition to the wall between the 2 properties.>>

I have since spoken to the 'homeowner' directly, and we agreed to split the cost of raising the wall 2 blocks, I had 1 quote for \$600, and he was going to get 2 other bids, expecting \$500 max. We have not proceeded further. And I have not heard back from him.

Now that this 'business' is up and running, it is very invasive to have their customers, and visitors, looking at us from their commercial property while we eat dinner, breakfast or do anything in our 'private' residence.

Regardless, the city should have, or pursue, options to protect our privacy as citizens and taxpayers, from sharing a common wall with a previous residence, and having no rights whatsoever when it comes later to changing that residence to a commercial business!!! At the very least, the wall should be raised, or an addition to the inside of their wall should be added. I can't move, and I love my home, and chose it for the reasons to be in a private 'residential' neighborhood.

I don't know if you can help with this, with the HOA or the business owner, but this is my position about the matter.

Thank you.

Donald Buhr

(818)518-4479 

15754 Mescal St., Surprise, 85379

Greer Ranch Community

Robert Kuhfuss

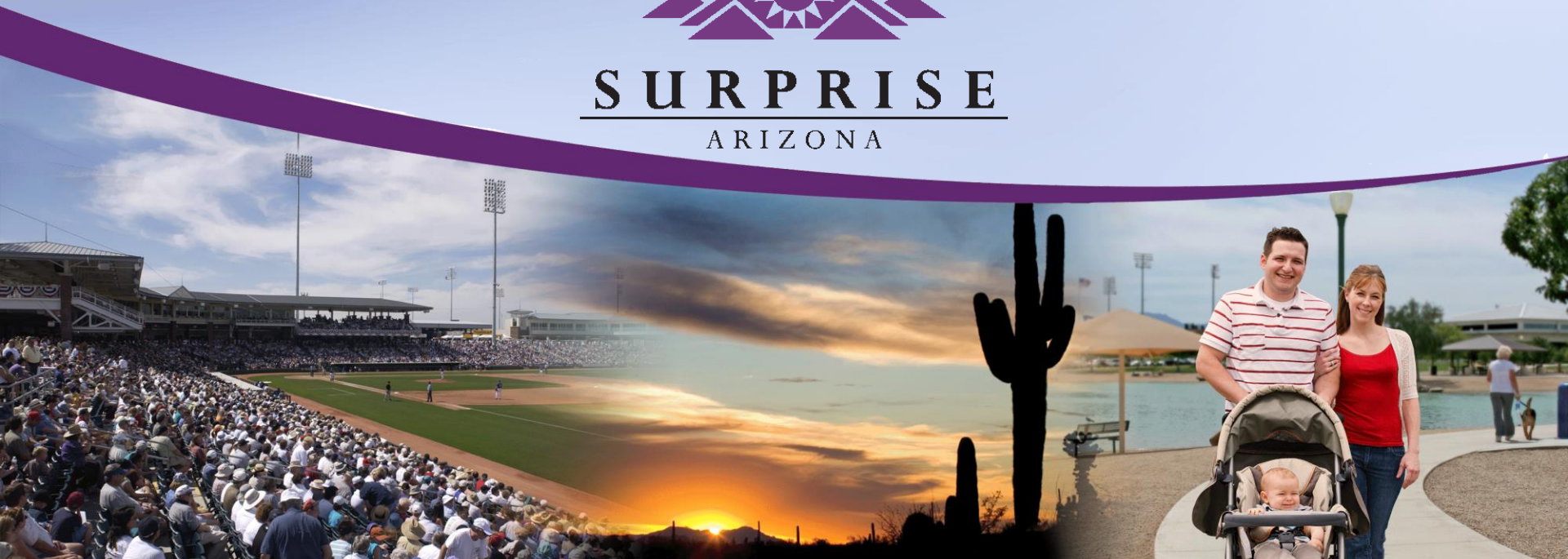
From: brlane1@cox.net
Sent: Tuesday, January 27, 2015 1:30 PM
To: Robert Kuhfuss
Subject: Assisted Living Facilities

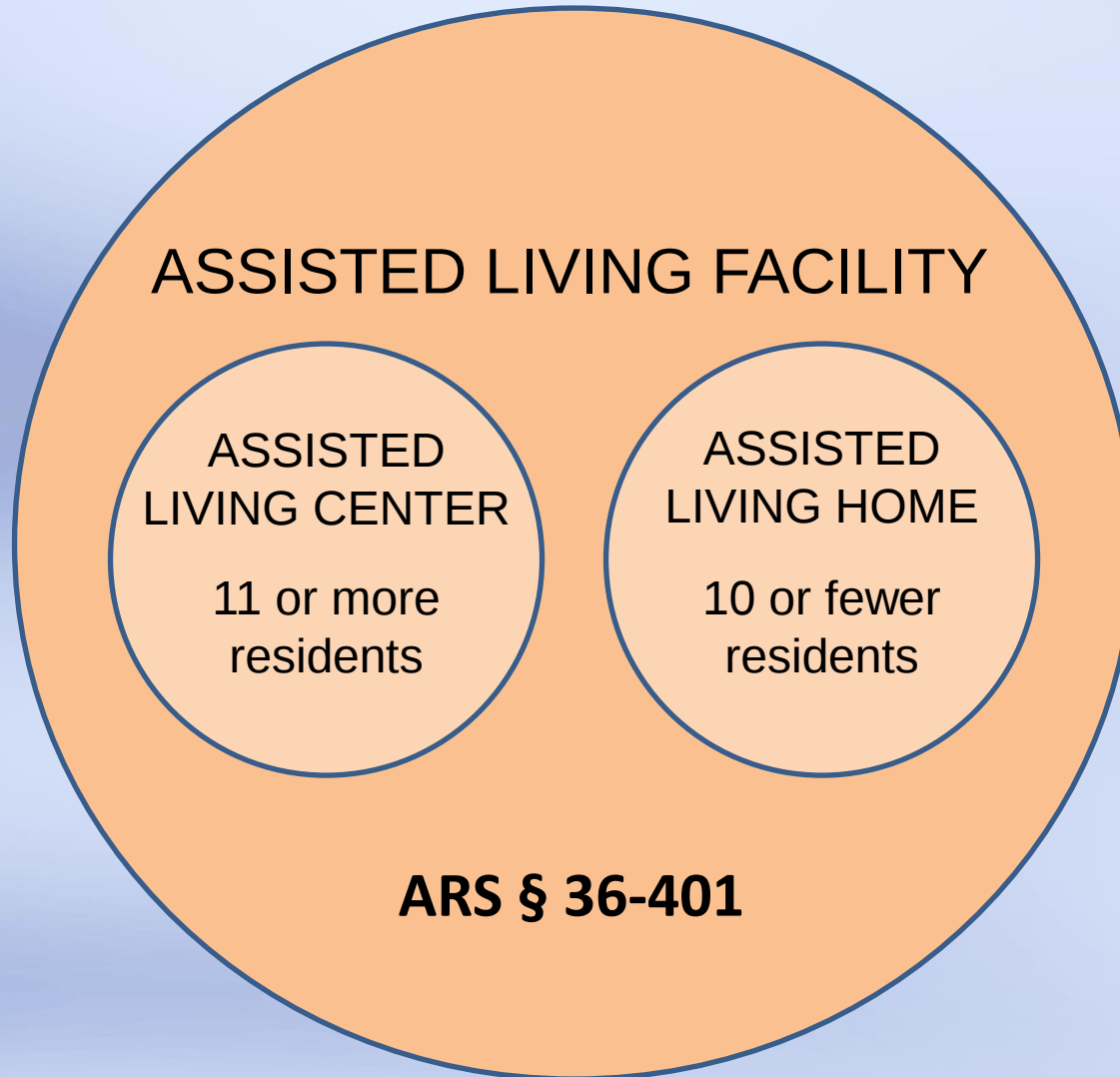
Robert,

I am writing to let you know of my disapproval of Commercial Assisted Living Facilities being placed in HOA controlled residential areas. I am not apposed to a family who wishes to take in one or two individuals into their home and care for them. This is a means of families making extra money and provides a service to someone who needs assistance. However when an individual buys a home and has it converted to house multiple people (not related) and the owner does not live in the home, then it is a business and should be in a commercially zoned area not in a residential area.
William A. Lane

Text Amendment to SUDC regarding Assisted Living City Council Regular Session

April 7, 2015





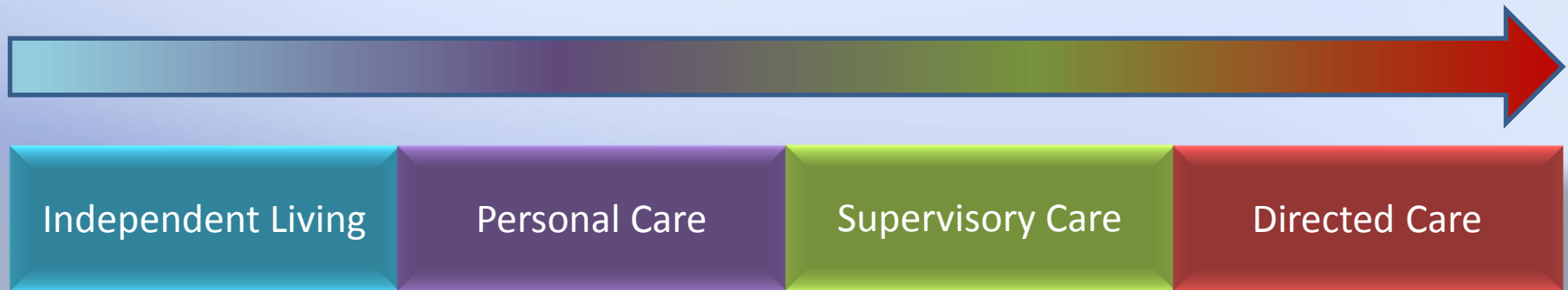
What this Text Amendment is about:

- Removing ambiguity
- Streamlining Process
- Consistency with State Statute

What this Text Amendment is ***NOT*** about:

- Evaluating senior housing policy

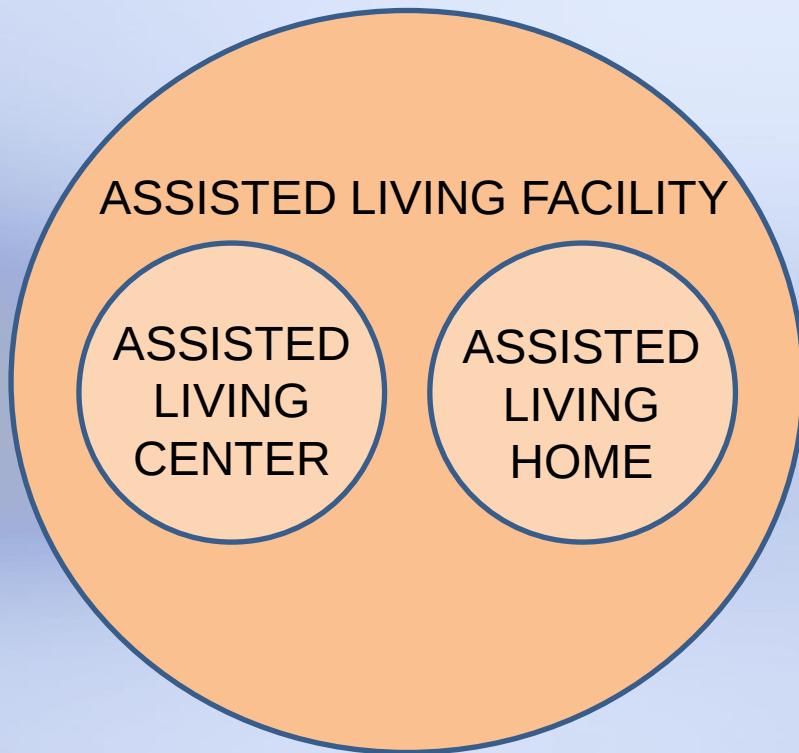
Continuum of Care



Most of the Assisted Living Facilities in Surprise are licensed by DHS to provide Directed Care Services.

Directed Care

ASSISTED LIVING TEXT AMENDMENT



Assisted Living is
NOT
a Group Home

Progress to-date

- Citizen Review Meeting – January 5, 2015
- P&Z Commission Discussion Item – January 8, 2015
- 2nd Citizen Review Meeting – January 29, 2015
- P&Z Commission Public Hearing – February 5, 2015
- City Council Work Session – March 17, 2015
- **City Council Regular Session – April 7, 2015**

Citizen Review – Representation

Homeowners' Associations

Assisted Living Industry

Citizen Review – Concerns

Homeowners' Association:

- Reversion of assisted living homes back to original configuration upon closure of the facility
- City coordination with HOAs prior to city approval of assisted living home
- HOA's ability to enforce CC&Rs against assisted living operators
- Fire bell requirement

Citizen Review – Concerns

Industry:

- Fire bell requirement
- Ability to petition for relief from separation requirements:
 - Variance
 - Use Permit
- 120-Day Rule

Citizen Review – Concerns

Opposition:

- Two items (emails) of opposition
 - Business use in a residential area
 - Privacy
 - Role of the HOA

Planning Commission Recommendation

Update

SUDC – Section 122-99(f)

(fg) In the event that the Arizona Department of Health Services, or any other state agency with such authority, revokes or terminates a person's license to operate a residential setting care facility AN ASSISTED LIVING HOME, then the person operating the residential setting care facility ASSISTED LIVING HOME shall immediately ~~cease operations and~~ inform the city of such revocation or termination of their license. ~~IF THE STATE AGENCY HAVING THE AUTHORITY TO REVOKE OR TERMINATE THE LICENSE DOES NOT REINSTATE THAT LICENSE OR ISSUE A NEW LICENSE GRANTING AUTHORITY TO OPERATE ON THE PROPERTY WITHIN A PERIOD OF 120 DAYS FROM THE DATE OF REVOCATION OR TERMINATION, THE FACILITY SHALL IMMEDIATELY CEASE OPERATIONS AND ANY LEGAL NON-CONFORMING STATUS RELATING TO THE PROPERTY WITH REPSECT TO ASSISTED LIVING SHALL BE NULL AND VOID.~~

Council Work Session

Concerns:

- Reversion of assisted living homes back to original configuration upon closure of the facility
- Routine inspections by Fire and DHS
- State licensure requirements
- Business use in residential areas
- Partnerships with HOAs

Reservation Process

- Effective immediately, Department will no longer accept reservations for Assisted Living Homes
- Will honor any reservation that is in place through the effective date of the ordinance
- Any person holding a valid reservation that has not resulted in the issuance of a Business License for Assisted Living Home as of the effective date of the ordinance may request a refund

Progress to-date

- Citizen Review Meeting – January 5, 2015
- P&Z Commission Discussion Item – January 8, 2015
- 2nd Citizen Review Meeting – January 29, 2015
- P&Z Commission Public Hearing – February 5, 2015
- City Council Work Session – March 17, 2015
- **City Council Regular Session – April 7, 2015**
- Effective Date – May 7, 2015

Questions or Comments?

ORDINANCE 2015-07

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A TEXT AMENDMENT TO THE SURPRISE UNIFIED DEVELOPMENT CODE AS IT RELATES TO ASSISTED LIVING FACILITIES, AMENDING SUDC SECTIONS 122- 43, 99 AND 178 .

WHEREAS, this Ordinance was properly noticed for public hearing and the necessary hearings and opportunity for public input were completed;

WHEREAS, the existing language in the Surprise Uniform Development Code (SUDC) is obsolete and inconsistent with State Statute with respect to Assisted Living Facilities;

WHEREAS, certain stakeholders in the City believe that the current regulations encourage a proliferation of such facilities within the City of Surprise; and

WHEREAS, on February 5, 2015, 2015, the Planning and Zoning Commission recommended approval of the proposed Text Amendment.

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

Section 1. Section 122-43, Zoning Use Matrix, of the Surprise Uniform Development Code is hereby amended to read as Exhibit 1, attached hereto and incorporated by this reference.

Section 2. Section 122-99, Assisted Living Home, of the Surprise Uniform Development Code is hereby amended to read as Exhibit 2, attached hereto and incorporated by this reference.

Section 3. Section 122-178, Definitions, of the Surprise Uniform Development Code is hereby amended to read as Exhibit 3, attached hereto and incorporated by this reference.

Section 4. Repeal. All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, upon the effective date of this Ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 6. Grandfathred site. Any individual or company that meets all of the following conditions is hereby grandfathered, and may operate an assisted living facility on a reserved site even if it is located closer to another assisted living facility than is permitted in this ordinance:

1. The individual or company has purchased a location reservation from the City of Surprise prior to the date this ordinance is adopted and such has not expired;
2. The individual or company has made a substantial expenditure of money in good faith reliance on that reservation before the reservation expires; and
3. The individual or company has a property or contractual interest in the reserved site.

Section 7. Effective Date. This ordinance shall become effective at the time and in the manner prescribed by law.

APPROVED AND ADOPTED this _____ day of _____ 2015.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Misty Leslie, City Attorney

ORDINANCE 2015-07
Exhibit 1

Sec. 122-43. Zoning use matrix.

(a) *Purpose.* The purpose of the zoning use matrix is to classify uses on the basis of common functional characteristics and land use compatibility:

- (1) The matrix describes uses that are allowed in the zoning district. Properties may also be subject to overlay zoning district requirements. Overlay zoning districts address special siting, use and compatibility issues that require use and development regulations in addition to those found in the underlying zoning districts. As a result, an overlay zoning district may not permit all of the uses allowed in the underlying zoning district. If any regulation in an overlay zoning district is more restrictive than one required by the zoning district, the more restrictive standard applies;
- (2) The city manager or designee shall determine if uses not expressly listed in the matrix are significantly similar or dissimilar to particular uses, such as:
 - a. Uses that are found to be similar shall meet the same requirements as the related use listed in the matrix;
 - b. Uses that are found to be dissimilar, yet appropriate, shall require a text amendment.

(b) *Zoning use matrix.*

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
Agricultural, Ranching and Open Space Uses		
Agricultural Related Operations	RR	
Animal Hospitals, Clinic, and Boarding Facilities	CS, CC, CR,	RR, RE
Equestrian Center, Stables, and Riding Academies	CS, CC, CR	RR, RC,
Farm and Landscaping Equipment Sales, Service,	IP	RR
Farm Animal Keeping (Commercial)		RR
Farm Animal Keeping (Non-Commercial)	RR	
Graining, Milling, Drying, Storage	IP, IG	RR
Parks, Recreation, and Open Lands	All Districts	
Soil Crops (Commercial)	RR	
Residential Uses		
Assisted Living Facility CENTER	RM, RH, MU	
<u>ASSISTED LIVING HOME</u>	<u>RE, RR, RL,</u>	
Bed And Breakfast Establishments		RR, RE, RL, RM,

ORDINANCE 2015-07
Exhibit 1

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
Campground		C-RS
Caretaker, Guest or Granny Flat Dwelling	RR, RE, RL,	
Congregate Care Facility	RM, RH, MU	
Group Home	RE, RR, RL,	
High Density Dwellings	RH, RC, MU	
Hotels, Timeshares	MU, CC, CR,	
Low Density Dwellings	RR, RE, RL,	
Manufactured Homes	CC	
Medium Density Dwellings	RM, RC, MU	
Model Home Complex	RE, RL, RM,	
<u>NURSING CARE INSTITUTION</u>	<u>RM, RH, MU,</u>	
Recreational Vehicle Park		C-RS
Residential Setting Care Facility	RE, RR, RL,	
Retail and Service Uses		
Alcohol—Bar and/or Tavern, Microbrewery	MU, CN, CC,	
Alcohol—Beverage Retail Sales	MU, CC, CR,	
Ambulance Service	CC, CR, IP	
Ammunition and Firearms Sales	CC, CR, IP, IG	
Animal Hotel/Overnight stay	CC, CR	
Banks	CC, CR, MU,	CN
Cemetery—Pets (limited to small animals)		CC, CR, IP
Cemetery or Mausoleum		RE, RL, RM, RH,
Day Care Center—Child and/or Adult Care		RE, RL, RM, RH,
Drive-Through Facilities	CR, IP	CC
Funeral Home, Mortuary	CC, CR	MU
Gunsmith	IP	CR
Home Improvement Center (Typically home, lawn,	CR, IP, IG	
Landscaping Materials—Sales and Storage	IP, IG, ILM	

ORDINANCE 2015-07
Exhibit 1

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
Laundry or Dry Cleaning—Bulk Operation	IP, IG	
Linen/Uniform/Diaper Service (Pickup and Supply	MU, CR, IP, IG	
Manufactured Home, Oversized Vehicle Sales,		CR, IP, IG
Massage—Therapeutic	MU, CC, CR,	
Medical Clinic or Laboratory	MU, CS, CN,	
Medical Hospital or Outpatient Facility	CR	
Medical Marijuana Dispensary		CC, CR, IP, IG,
Medical Marijuana Dispensary Offsite Cultivation		CC, CR, IP, IG,
Medical Office	MU, CS, CN,	
Mobile Vending	CC, CR, BP,	
Moving Company	IP, IG	
Nursery (Growing, display, or sale of plant stock,	CC, CR, IP	
Pawn Shop/Resale Stores	CC, CR	
Personal Services Establishment (A facility for the	MU, CC, CR	
Personal Services Establishment (Uses Listed	CS, MU, CN,	
Portable Building Sales	IG	
Restaurant—Sit-down (Principally for the sale and	CS, MU, CN,	
Restaurant, Convenience (Sale and consumption of	CC, CR, IP	
Retail Shopping Establishment (Typical general	CC, CR	MU
Retail Shopping Establishment—Less than 5,000	CS, MU, CN,	
Stone Monument—Retail and Wholesale	IP, IG, ILM	
Tattoo and/or Body Piercing Establishment	CR	CC
Taxi/Limo Service—Parking and Dispatch	IP, IG	
Taxidermist	IP, IG	
Truck and Heavy Equipment—Auction	IG	IP
Truck Stop—Full Service and Repair Permitted	IG	IP
Vehicle Auction	IP, IG	
Vehicle Fueling Stations	CC, CR, IP,	CS, MU

ORDINANCE 2015-07
Exhibit 1

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
Vehicle Service—Major Repair	IP, IG	CR
Vehicle Service—Minor Repair	IP	CC, CR
Vehicle Washing Facilities	CR, IP, IG	CN, CC
Vehicle Sales—Less than 15 (Facility for the		IP
Vehicle Sales—Large Scale (Uses Listed Above in		CR, IP
Vehicle Storage for Recreational Vehicles		CR, IP, IG
Wholesale Shopping Establishment (Uses Listed	CR	
Wireless Communication Systems		RE, RL, RM, RH,
Wrecker Service		IP, IG
Office Uses		
Call Center	MU, CR, BP	
Laboratory—Research and Testing	BP, IP, IG	
Office	CS, MU, CN,	
Office/Warehouse—(Front Office Flex Space)	CR, BP, IP,	
Public/Quasi-Public Facility Uses		
Animal Shelter		RR, CS, CC, CR,
Clubhouse, Private including Lodges	CS, MU, CC,	
Community Facilities or Public Meeting Hall	RE, RL, RM,	
Convention Facilities	CR, C-RS, PF	
Correction Institution		ILM
Fairground and/or Stadium		CR, C-RS, IP, PF
Library	RL, RM, RH,	
Post Office	CS, MU, CN,	
Sanitary Landfill, Solid Waste Facility		ILM
State Vehicle Inspection Station	CC, CR, IP,	
Utility Equipment Infrastructure	All Districts	
Education, Religious, and Assembly Uses		
Places of Worship	RL, RM, RH,	

ORDINANCE 2015-07
Exhibit 1

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
Places of Worship (less than 5,000 sq. ft.)	RR, RE, RL,	
School—University or College		MU, CN, CC, CR,
School—Pre-K through 12		RC, RE, RL, RM,
School—Specialty or Trade		CC, CR, IP, IG
Recreational and Amusement Uses		
Amusement and/or Theme Park, Circus		CR, C-RS
Archery Range—Indoor	IG, CR, IP	
Archery Range—Outdoor		IP, IG, ILM
Athletic or Fitness Club, Commercial Recreation	RH, MU, CC,	
Athletic or Fitness Club, Commercial Recreation	RL, RM, RH,	
Athletic Fields—Non-commercial	RL, RM, RH,	
Bingo Parlor	CC, CR	
Bowling Alley, Dance Hall, Pool Hall	MU, CC, CR,	
Galleries, Auditoriums, Museums	MU, CC, CR,	
Golf Course, Driving Range, and Miniature Golf	MU, CC, CR,	
Racetrack		C-RS, IP, IG
Rifle and Pistol Range—Indoor Only	CR, IP, IG	
Sexually Oriented Businesses		IG, ILM
Skateboard Track—Outdoor Commercial, Go-Cart	IP	CC, CR
Skating Rink—Ice or Roller Skating	CC, CR, IP	
Theater—Indoor including Dinner Theatres	MU, CC, CR,	
Theater—Outdoor including Drive-In and	IP	CR, C-RS
Video Games—Commercial	MU, CN, CC,	
Zoos, Exotic Animal Keeping		RR, OS, PF, CR,
Transportation Uses		
Airport—Private		RR, IP, IG
Bus Terminal	CR, IP, IG	
Freight Depot	IG	

ORDINANCE 2015-07
Exhibit 1

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
General Aviation Airstrips		IP, IG
Heliport		CR, IP
Parking and/or Storage—Long Term	IP, IG	
Passenger Depot	IP, IG	CR
Mixed Use Buildings		
Retail—Office	CS, MU, CC,	
Retail—Industrial (Retail 10% or less of Gross Floor		BP
Retail—Industrial (Retail 20% or less of Gross Floor		IP, IG
Retail—Residential/Office—Residential/Retail—	RH, CS, MU	CN, CC, CR
Live-Work/Work-Live	RH, CS, MU	CN, CC, CR
Manufacturing and Process Uses		
Batch Plant, Paving Material Mixing Plant		ILM
Biotechnical—Manufacturing, Processing	IG	BP, IP
Brick, Clay, Concrete, or Similar Product—	IG, ILM	
Cabinet or Carpenter Shop, Millwork and Wood	BP, IP, IG	
Computer and Electronic—Manufacturing	BP, IP, IG	
Contractor Facility, including Storage	BP, IP, IG	
Grain—Milling, Drying, Storage	IP, IG	
Inside Manufacturing (All processing, fabricating,	BP, IP, IG	
Junkyard or Salvage Yard		ILM
Machine Shop	BP, IP, IG	
Metal Products—Manufacturing and Fabrication	BP, IP, IG	
Mining and Mineral Extraction		ILM
Paper Products—Manufacturing	BP, IG	
Mining and Mineral Extraction		ILM
Potentially Incompatible Use (Processes include,		IG, ILM
Printer—Large Scale	BP, IP, IG	
Recycling—Indoor Collection Facility	IP, IG, ILM, PF	CR

ORDINANCE 2015-07
Exhibit 1

LAND USE GROUP	ZONING DISTRICTS	
	Permitted	Conditional Use
Recycling—Outdoor Collection Facility	IP, IG, ILM, PF	
Recycling—Reverse Vending Machines	CC, CR, PF	
Recycling—Processing Facility	IG, ILM, PF	
Sand and Gravel Operation	ILM	
Stone Curing, Monument—Manufacturing	IG, ILM	
Tile, Roofing, and Waterproofing Products—	IG	
Warehousing	IP, IG	
Warehousing—Mini		BP, IP, IG, CR
Welding Shop	IP, IG	

ORDINANCE 2015-07

Exhibit 2

Sec. 122-99. - Residential setting care facility.

~~For the purpose of this section, residential setting care facility shall mean a facility licensed by the Arizona Department of Health Services that provides supervisory care services, personal care services, or directed care services for ten or fewer persons in a residential setting. The limitation of ten or fewer persons does not include the operator of the facility, members of the operator's family, or persons employed as staff, except that the total number of all persons living and working at the facility shall not exceed 12 at any given time. When allowed, a~~N residential setting care facility ASSISTED LIVING HOME shall be subject to the following requirements:

(a) Approvals required. An application shall be required to establish ~~a residential care facility~~ AN ASSISTED LIVING HOME.

(b) THE ASSISTED LIVING HOME THAT IS THE SUBJECT OF THE APPLICATION SHALL BE LICENSED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES PRIOR TO THE FILING OF THE APPLICATION AND SHALL REMAINED SO LICENSED FOR AS LONG AS THE ASSISTED LIVING HOME IS IN OPERATION.

~~(b)~~c A residential setting care facility AN ASSISTED LIVING HOME located within a single-family residential zoning district shall comply with the following location and separation requirements:

(1) ~~A residential setting care facility with five or fewer residents~~ AN ASSISTED LIVING HOME shall not be located on a lot within ~~600-1200~~ feet, measured by a straight line in any direction, from another ~~residential setting care facility~~ ASSISTED LIVING HOME, AS MEASURED FROM PROPERTY LINE TO PROPERTY LINE.

(2) ~~A residential setting care facility with six or more residents shall not be located on a lot within 600 feet, measured by a straight line in any direction, from the lot line of another residential setting care facility; and shall not be closer than 1,200 feet along the street from another residential setting care facility that has six or more residents. The distance requirement along the street shall be measured from the street centerline, commencing on the centerline at a point that is determined to be the lot width midpoint of the subject property.~~

(32) The separation requirements shall not apply to ~~residential setting care facilities~~ ASSISTED LIVING HOMES separated by arterial roads.

~~(43)~~ The separation requirements shall not apply to ~~residential setting care facilities located within multi-family residential zoning districts.~~

ORDINANCE 2015-07

Exhibit 2

- (~~ed~~) A ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall contain 300 square feet of overall LIVING space for each resident ~~and bedrooms shall be a minimum of 120 square feet with no more than two persons per bedroom.~~
- (~~de~~) A ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall not be permitted any signage, graphics, display, or other visual forms of identification, other than that permitted for a residential unit.
- (~~ef~~) Any single-family residential unit utilized as a ~~residential setting care facility~~ AN ASSISTED LIVING HOME shall be fully improved and maintained pursuant to state law and in accordance with provisions of the adopted Surprise Municipal Code(s) to ensure the health, safety and welfare of the residents, this shall include the installation of an automatic fire sprinkler system.
- (~~fg~~) In the event that the Arizona Department of Health Services, or any other state agency with such authority, revokes or terminates a person's license to operate a ~~residential setting care facility~~ AN ASSISTED LIVING HOME, then the person operating the ~~residential setting care facility~~ ASSISTED LIVING HOME shall immediately ~~cease operations and~~ inform the city of such revocation or termination of their license.
- (~~gh~~) The provisions of this section are not intended to apply to the following facilities licensed by the Arizona Department of Health Services. These facilities are to be treated as single-family residential units, subject to the provisions of A.R.S. § 36-582.
- (1) Residential facility, as defined by A.R.S. § 36-581;
 - (2) Group home, as defined by A.R.S. § 36-551; and
 - (3) Adult development home, as defined by A.R.S. § 36-551.

ORDINANCE 2015-07

Exhibit 3

Sec. 122-178. Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Amusement park. An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

Abandoned. The discontinuation of use for more than 90 days.

Abut. To border with or physically share a common property. This term shall not include parcels that are across a public way from each other.

Access. A way or means of vehicular or non-vehicular entry to or exit from a property.

Accessory building/structure. A subordinate structure or portion of the principal structure located on the same lot as the principal structure that is customarily incidental and subordinate to the principal structure. Where part of an accessory structure is connected to part of the principal structure in a substantial manner such as by a roof, the accessory structure shall be counted as part of the principal structure. Individual public utility installations aboveground are considered accessory structures.

Accessory use. A use of land or of a structure or portion thereof that is customarily incidental and subordinate to the principal use of the land or structure and that is located on the same lot as the principal use.

Acre. Forty-three thousand five hundred sixty square feet of land area.

Adjacent. Nearby, but not necessarily touching or abutting.

Adjoining. The condition of two or more land parcels having a common property line.

Agricultural oriented operations. Agriculturally oriented operations and facilities shall include as but are not limited to cotton gins, other than those gins that manufacture or process by-products; the storage, mixing and/or blending, sale and distribution of agricultural chemicals, but not the manufacture thereof; custom meat processing plants including slaughtering, butchering and temporary storage of products, but not including rendering or refining of by-products, storage of offal, tanning or storage of hides, wholesale or retail sales; storage and maintenance of specialized machinery and equipment used specifically in agriculture or rural areas;

Agricultural/ranching. The cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms "farming" and "ranching" shall be interchangeable for purposes of this title.

Alley. A permanent public thoroughfare providing a secondary means of access to abutting lands.

Alter. To change or rearrange the structural elements or other features of a building.

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Ambient light level. A general level of light or background light emitted from a light source in a given environment.

Amenity. A natural or created feature that enhances the aesthetic quality, visual appeal, activity, or attractiveness of an area.

Appurtenance. Any accessory or ancillary building, object or structure, fence, street furniture, fixture, vending machine, fountain, public artwork, bicycle rack or other such Fixture located on public property or in the public right-of-way.

Ancillary use. A use that is incidental to and customary associated with the principal use is located on the same lot or parcel as the principal use.

Apartment. One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing more than five or more dwelling units.

Apartment building. A building, other than a hotel or motel, containing five or more dwelling units that have primary entrances from common hallways.

Applicant. The owner of land proposed to be subdivided, or his/her representative.

Arcade (architectural). A covered passageway located on the exterior, or around the periphery of a structure.

Archaeological feature. Any material remains of past human life or activities that are of historic or pre-historic significance. Such material includes, but is not limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, skeletal remains, or any piece of any of the foregoing items.

Architectural feature. A decorative element intended to enhance the building or structure and lend to the overall exterior form, context and appearance of the building or structure. Architectural features may include, but are not limited to balconies, canopies, columns, doors, eaves, porches, wing walls, or similar three-dimensional exterior element of a building or structure.

Area of shallow flooding. A designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

ASSISTED LIVING CENTER. AN ASSISTED LIVING FACILITY THAT PROVIDES RESIDENT ROOMS OR RESIDENTIAL UNITS TO ELEVEN OR MORE RESIDENTS.

~~Assisted living facility. A special combination of housing, supportive services, personalized assistance and health care licensed and designed to respond to the individual needs of those who need help with activities of daily living. Supportive services may be available 24 hours a day to meet scheduled and unscheduled needs in a way that promotes maximum dignity and independence for each resident. The term does not include a convalescent care facility, nursing home or other special care facility.~~
RESIDENTIAL CARE INSTITUTION, INCLUDING AN ADULT FOSTER CARE HOME,

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THAT PROVIDES OR CONTRACTS TO PROVIDE SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES ON A CONTINUOUS BASIS.

ASSISTED LIVING HOME. AN ASSISTED LIVING FACILITY THAT PROVIDES RESIDENT ROOMS TO TEN OR FEWER RESIDENTS.

Auto reduction yard. A lot or yard where three or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

Auto salvage yard. A junkyard primarily containing inoperable vehicles. (See "junkyard")

Automated teller machine (ATM). A facility to provide banking and other electronic services that are operated by the customer.

Automobile service center, major. A facility where the following types of services are performed: engine or drive train rebuilding or major reconditioning, and collision service, including body, frame or fender straightening or repair and/or painting of vehicles.

Automobile service center, minor. A facility where the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles are performed, but not including any operation specified under "Automobile Service Center, Major."

Automobile service station. An establishment with the primary business function of the retail sale of gasoline for passenger car use with or without minor service and repair work incidental to the operation of passenger automobiles.

Automobile washing establishment. A building that has its primary purpose as washing automobiles. Such facilities shall be considered incidental to automobile service stations if no more than one auto may be washed at one time and if the service station is clearly the principal use.

Baseflood, one hundred-year. The flood having a one percent chance of being equaled or exceeded in any given year.

Basement. A portion of a building located partly underground but having not less than one-half its floor-to-ceiling height below the average grade of the adjoining ground.

Berm. A mound of earth, usually three to six feet high, that is used to shield, screen and buffer undesirable views, separate incompatible land uses, and provide visual and landscape interest, decrease noise, control the direction of water flow and act as dams.

Bicycle circulation system. A system composed of bicycle paths and lanes which combine to provide a comprehensive means by which bicycles can travel within and through the City of Surprise.

"Big box" building. A large single, stand-alone building (50,000 square feet or larger) normally having a rectangular shape and a single use.

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Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or boundary lines of municipalities.

Block frontage. All property fronting on one side of a street bounded between two streets or other natural or physical features.

Board. The Board of Adjustment of the City of Surprise.

Bollard. A thick, low, architecturally, designed vertical post, or a series of vertical posts, that are placed to help define, or border, pedestrian and/or bicycle paths.

Bond. Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the city council and meeting the requirements expressed elsewhere in the Surprise Municipal Code.

Buffering. The technique of providing landscape improvements on land set aside in a buffer area.

Building. Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes, recreational vehicles and mobile offices. Building includes "structure". Also building can be any structure built for support, shelter or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

Building area. The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: that area of a lot that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.

Building, attached. A building having one or more party walls in common with another building when the principal use of each building is independent of the other and when no interior access exists from one building to another.

Building, detached. A building having no party wall in common or structural connection with another building.

Building elevation. The front-on view of any building or other structure from any side showing the relationship of the site grade to floor level, and such features as design, construction materials, height, dimensions, windows and doors.

Building envelope. That area of a lot lying between the front, rear and side yard setback lines and between ground level and the maximum allowable building height, amounting to a three-dimensional area available for potential building construction.

Building, front line of. The line of the face of a building nearest the front lot line.

Building frontage. The part of a building where the primary entry fronts a public street.

Building height. The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck

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line of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

Building line, front. The line nearest to the front and across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.

Building line, rear. The line nearest to the rear and across a lot establishing the minimum space to be provided between the rear line of a building and the rear lot line.

Building, nonconforming. A legally existing building which fails to comply with the regulations set forth in this title applicable to the zone in which the building is located.

Building, principal. A building in which is conducted the main, or principal, use of the lot on which said building is situated.

Building, public. A building, supported by government funds, to be used in an official capacity on behalf of the entire community.

Bus/transit shelter. A roofed structure having at least three walls that is located on or adjacent to the right-of-way of a street, and which is designed and used for the protection and convenience of waiting bus passengers.

Business. Engaging in of the purchase, sale, barter or exchange of goods, wares, merchandise or service; the maintenance or operation of offices or recreational or amusement enterprises.

Campground. Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, recreational vehicles or other camping outfits.

Capital improvements program. A proposed schedule of all future municipal improvement projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Construction plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City of Surprise as a condition of the approval of the plat.

Carport. A structure, open on at least two sides, consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels. Said structure shall be considered as an accessory building when detached from the principal building and as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

Cemetery. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

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City. The City of Surprise, Arizona.

City council. The Governing Body of the City of Surprise.

City engineer. The professional engineer engaged by the City of Surprise.

Clinic. An establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a "professional office" for general consultation purposes. The term does not include a hospital or facility in which patients are cared for or stay overnight.

Club, private (nonprofit). A nonprofit association of persons who are bona fide members paying annual dues which owns, hires or leases a building, or a portion thereof, the use of such premises being restricted to members and their guests.

Cluster development. A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Commission. The planning and zoning commission of the city. Also referred to as planning and zoning commission.

Common area open space. Intimately-scaled open space areas such as terraces, courtyards, atriums, arcades, plazas, etc. that are normally associated with building entries and/or interior open spaces of office, commercial and multi-family residential developments.

Community character. The image by which the community is distinguished from other communities and viewed by those living in and passing through the community as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, use of color and materials, streetscape, infrastructure and the type and quality of public facilities and services.

Community circulation system. The community's systems, structures and physical improvements that combine to move people, goods, water, air, sewage and power by such means as streets, highways, bicycle paths and lanes, pedestrian ways, railways, waterways, towers, airways, pipelines and conduits

Community correctional facility. A facility where lodging, meals, counseling, treatment, rehabilitation, and educational instruction or training is provided to adjudicated delinquents, parolees, and individuals in pre-release (transitional) or diversionary programs from, or in lieu of confinement in, correctional institutions.

Community design. The design of buildings, streets, open space, landscaping, signs, lighting, neighborhoods, and all other physical elements of the community that when combined, provide a unique identification and consistent character throughout the community.

Community development director. The individual charged by the governing body to administer this title.

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Community open space system. The community's parks, playgrounds, active and passive recreational areas, natural features, and environmentally sensitive land areas that collectively provide a continuous and integrated system of open space.

Comprehensive development guide. The document (Surprise Comprehensive Development Guide), or part thereof, officially adopted by the Surprise City Council which provides for the development of the city and which indicates the general locations recommended for major roadways, parks, public utilities and buildings, and land uses.

Connectivity. The measure describing the level to which streets, streetscapes, pedestrian/bicycle paths, community open space and other similar uses link with one another.

Convenience food restaurant. An establishment whose principal business is the sale of foods, frozen desserts or beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carry-out with consumption either on or off the premises and whose design or principal method of operation include both of the following characteristics:

- (1) Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- (2) The customer is not served food at his/her table by an employee but receives it at a counter, window or similar facility for carrying to another location for consumption either on or off the premises.

Conditional use permits. Legal authorization to undertake a conditional use as defined by this title.

Construction plan. The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the City of Surprise as a condition of the approval of the plat.

Council. The City Council of the City of Surprise. Also referred to as the governing body.

Cul-de-sac. A local street with only one outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

Corporate counsel. The attorney of the city or any assistant or special counsel of said city.

Curb bulb. Generally rounded extensions of a curb located at a street intersection that narrow the street by widening the sidewalk and/or the landscaped parking strip in order to make pedestrian street crossings shorter and easier, and to provide a visual narrowing along the roadway to help increase driver awareness and slow the movement of traffic in heavy pedestrian areas.

Curb-separated sidewalk. A sidewalk that is separated from the street by a landscaped area that is measured from the back of the street curb and runs continuously along the length of the street.

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Day care center. A use where care is provided for pay for three or more unrelated children subject to the requirements of the State of Arizona.

Deep root barrier. A mechanical barrier that redirects tree root growth downward, eliminating the surface rooting that damages such expensive hardscapes as sidewalks, driveways, and street paving.

Density, gross. The number of residential dwelling units per unit of land.

Density, net residential. The number of residential dwelling units per unit of land, excluding any land used or to be used as arterial street rights-of-way or private nonresidential uses except parks, open space and recreational areas. For calculating net residential density, the following formula shall apply:

$$du / D = A - (c + i + s + a)$$

Where:

D = Residential density

du = Total number of dwelling units in project

A = Total site area (acres)

c = Total commercial land area (acres)

i = Total industrial land area (acres)

s = Reserved but undedicated school sites (acres)

a = arterial rights-of-way (acres)

Development. Any man-made change to improve or alter real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Developer. The owner of land proposed to be subdivided, or his/her representative.

DIRECTED CARE SERVICES. PROGRAMS AND SERVICES, INCLUDING SUPERVISORY AND PERSONAL CARE SERVICES, THAT ARE PROVIDED TO PERSONS WHO ARE INCAPABLE OF RECOGNIZING DANGER, SUMMONING ASSISTANCE, EXPRESSING NEED OR MAKING BASIC CARE DECISIONS.

Drive access. The area between the curb of a street, or edge of the travelled portion of a street when no curb exists, and the right-of-way/property line over which the city will permit vehicular travel from the traveled portion of a street to an individual property, or off-street parking space(s).

Drive-in business. Any business in which people are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. Such businesses include, but are not limited to, the following: drive-in theater, drive-in

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bank, drive-in laundry or dry cleaning pickup station, drive-in restaurant and any business offering "take-home" food services.

Duplex. See dwelling, two-family.

Dwelling. A building or portion thereof, used primarily for residential occupancy, including single-family, two-family, multiple-family dwellings and group homes, but not including hotels, motels or tourist homes.

Dwelling, single-family. A building used for residential occupancy by one family.

Dwelling, two-family. A building, or portion thereof, used for occupancy by two families living independently of each other with the units completely separated by a common wall, floor and/or ceiling. Also referred to as "duplex."

Dwelling, multifamily. A building, or portion thereof, used for occupancy by three or more families living independently of each other, with the units completely separated by a common wall, floor and/or ceiling.

Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

Escrow. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

Façade. The exterior wall(s) of a building that is exposed to public view.

Family. One or more persons related by blood, marriage or adoption or not more than three unrelated persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity, sorority, lodging house or nursing home.

Fence. A barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.

Final plat. The map or plan or record of a subdivision and any accompanying material, as described in these regulations.

Flood insurance rate map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. The official report in which the Federal Insurance Administration has provided flood profiles as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain. That area encompassing the floodway area and the floodway fringe.

Floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures and contents of buildings.

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Floodway, one hundred-year. The channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of one hundred-year magnitude without substantial increases in flood height.

Floodway encroachment lines. The lines marking the limits of floodways on the zoning map.

Floodway fringe, one hundred-year. The area between the floodway and the one hundred-year flood boundary.

Frontage. That side of a lot abutting on a street or way and ordinarily regarded, as the front of the lot.

Garage, private. A detached accessory building, or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles per family housed in the building to which such garage is accessory and not more than one-third of the total number of vehicles stored in such garage shall be commercial vehicles.

Garage, public. Any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles; or where such vehicles are equipped for operation, repaired, or kept for rental, hire or sale.

Gateway. A designated major or minor thoroughfare entry to the City of Surprise that has been especially designed using unique and/or special landscape, architectural, sign and lighting treatments to project the city's image and inform visitors that they have arrived in Surprise.

General Plan. The City of Surprise 2020 General Plan.

Governmental use. Any use by the state or any political subdivision of the state for a governmental purpose, including but not exclusively, parks, schools, administrative offices, police or fire departmental use, water storage, pumping or recharge, sewage collection and treatment, maintenance yards, court facilities, libraries, community centers, youth centers, or recreational facilities.

Grade. The slope of a road, street or other public way, specified in percentage terms.

Gross floor area. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Ground floor area. The square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways and secondary stairways.

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Group home. A single, residential structure having common kitchen facilities occupied by persons having physical, mental, emotional or social problems and living together for the purpose of training, observation and/or common support.

Habitable floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

Hardscape. Any hardened and/or paved surface, such as a street, sidewalk, plaza or other similar surface, where the surface materials have been used to create unique patterns of color, design and texture for purposes of creating visual interest.

Hardware store. A business that sells goods or merchandise directly to the consumer that includes, but is not limited to, electrical components, plumbing components, mechanical components, lighting fixtures, exterior finishes, interior and exterior doors, windows, roofing material, lumber, interior decorating material, flooring, bathroom and kitchen fixtures, garden equipment/supplies and material, plants and flowers, fencing material, professional services as related to home improvements, and minor educational services.

HEALTH CARE INSTITUTION. EVERY PLACE, INSTITUTION, BUILDING OR AGENCY, WHETHER ORGANIZED FOR PROFIT OR NOT, THAT PROVIDES FACILITIES WITH MEDICAL SERVICES, NURSING SERVICES, BEHAVIORAL HEALTH SERVICES, HEALTH SCREENING SERVICES, OTHER HEALTH-RELATED SERVICES, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES OR DIRECTED CARE SERVICES AND INCLUDES HOME HEALTH AGENCIES AS DEFINED IN ARS § 36-151, OUTDOOR BEHAVIORAL HEALTH CARE PROGRAMS AND HOSPICE SERVICE AGENCIES.

High pressure sodium light. A light source commonly used in street lighting that emits an amber color.

Home occupation or profession. Any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this title.

Hospital. An institution for the diagnosis, treatment or other care of human ailments and includes sanitarium or clinic, provides such institution is operated by, or treatment is given, under direct supervision of a physician licensed to practice by the State of Arizona.

Hotel or motel. A building or portion thereof, or a group of buildings, in which lodging is provided and offered to transient guests for compensation; "hotel" or "motel" shall not include a lodging house.

Infill development. New development which is placed within an existing and already developed site or area.

Industry, heavy. Those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise or vibration

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which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.

Industry, light. Those industries whose processing of products results in none of the conditions described for heavy industry.

Junkyard. Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles, and similar property, which are used, owned or possessed for the purpose of wrecking or salvaging parts there from.

Kennel. Any lot or premises on which three or more dogs, cats or small domesticated animals of a single species over the age of eight weeks are kept; except that, in an R1-43 zone, a kennel shall not be considered to exist unless the number of such animals kept on a lot or premises is five or more per acre. Notwithstanding the foregoing sentence, the keeping of not more than four dogs, cats or small domesticated animals of a single species, for a noncommercial purpose such as hunting, tracking or exhibiting, shall not be considered the maintenance or operation of a kennel for the purposes of this title.

Land use compatibility. The avoidance of placing physical impact land uses such as power plants, airports, trash disposal sites, manufacturing facilities and/or any other uses that generate odors, noise, dust, excessive light and glare, adjacent to, or in close proximity of, more sensitive land uses already located in an area.

Light trespass. Excessive light that spills onto adjacent property, typically produced by stray light emanating from street lighting fixtures, illuminated signage and other outdoor lighting sources.

LIVING SPACE. SPACE WITHIN A DWELLING UNIT UTILIZED FOR LIVING, SLEEPING, EATING, COOKING, BATHING AND SANITATION.

Loading and unloading bays. The off-street area required for the receipt of or distribution by vehicles of material or merchandise.

Lodging house. A building with more than two but not more than ten guest rooms where lodging with or without meals is provided for compensation.

Lot. A piece, parcel, plot, tract or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this title, and having its principal lot frontage on a street.

Lot, corner. A lot at a junction of and fronting on two or more intersecting streets.

Lot improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property.

Lot, interior. A lot other than a corner or through lot.

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Lot, through. A lot having frontage on two parallel or approximately parallel streets.

Lot coverage. The percentage of the lot area covered by buildings.

Lot depth. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and the rear lot line of a lot.

Lot ground level. For buildings having walls fronting on only one street, the elevation at the front lot line at the center of a wall fronting on the street; for buildings having walls fronting on more than one street, the average of the elevation of the front lot line at the center of all walls fronting on the streets; for buildings having no walls fronting on the street, the average level of the ground adjacent to the exterior walls of the building.

Lot line, front. In the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.

Lot line, rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side. Any lot boundary line not a front lot line or a rear lot line.

Lot width. The distance as measured in a straight line, between side lot lines at the points of intersection with the building line.

Manufactured home. A structure built after June 15, 1976, in accordance with the U.S. Department of Housing and Urban Development and the State of Arizona Building and Fire Safety Department specifications.

Manufactured housing subdivision. A subdivision, of not less than ten acres, designed and intended for the sale of lots for residential occupancy in manufactured or modular homes.

Manufacturing. The creation of products either with machinery or by hand according to an organized plan and with the division of labor.

Master site circulation plan. A plan that depicts all on-site streets, pedestrian ways and bicycle paths proposed for development, including site entries and exits, designated fire lanes, street lighting, loading and unloading areas for any commercial, office and industrial sites, pavement treatment and markings and directional signage; as well as the relationship of the on-site circulation system to surrounding streets serving the development and any adjoining projects.

Medical marijuana. All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Medical marijuana cultivation. The process by which a person grows a marijuana plant.

Medical marijuana designated caregiver cultivation location. An enclosed, locked facility, such as a closet, room, greenhouse, or other enclosed area equipped with

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locks, that does not exceed 50 square feet of cultivation space where a designated caregiver, as defined by A.R.S. § 36-2801(5), cultivates marijuana.

Medical marijuana dispensary. A not-for-profit entity defined in A.R.S. § 36-2801(11), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, dispenses, or otherwise provides medical marijuana or related supplies and educational materials to cardholders as defined in A.R.S. § 36-2801(2).

Medical marijuana dispensary offsite cultivation facility. An enclosed, locked facility where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

Medical marijuana infusion facility. A facility that incorporates medical marijuana into consumable/edible goods by the means of cooking or blending.

Medical marijuana qualifying patient. A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801(13).

Medical marijuana qualifying patient cultivation location. An enclosed, locked facility, such as a closet, room, greenhouse, or other enclosed area equipped with locks, that does not exceed 50 square feet of cultivation space where a qualifying patient, as defined by A.R.S. § 36-2801(13), cultivates marijuana.

Metal halide light. A light source commonly used for street lighting that emits a good quality white light.

Mining. The extraction of sand, gravel or other material from the land in the amount of 400 cubic yards or more and the removal thereof from the site without processing.

Mixed-use development. A single building containing more than one type of land use; or a single development project having more than one building and land use in which the different land uses are located in close proximity to one another, the project is planned and designed as a unified total project, and the development is functionally integrated to enable the use of shared vehicular and pedestrian access and parking areas.

Mobile home. A structure built prior to June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling unit when connected to on-site utilities, except recreational vehicles and factory-built buildings.

Mobile home park. A parcel of land not less than ten acres, licensed and designed in whole or part, with or without charge, for the accommodations of mobile and/or manufactured homes.

Mobile home space. A plot of ground within a mobile home park designed for the accommodation of one mobile home.

Mobile home stand. That portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.

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Mobile office. A factory-assembled structure or structures exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an office without a permanent foundation, whether or not said running gear has been removed.

Modular or sectional home. A multi-sectional unit built to the Uniform Building Code standards, not to exceed two stories in height, that when joined together forms a residence (dwelling unit) for human occupancy that measures not less than 24 feet in width and 40 feet or longer in length and placed on a permanent foundation, as defined in the State of Arizona Manufactured Housing Standards. The space between the floor line and the grade must be enclosed to resemble a permanent wall. The roof shall have a pitch of not less than two inches vertical rise to each 12 inches of horizontal run. Roofing, siding and elevations shall be similar in appearance and kind to those used in conventional homes.

Model home. A dwelling unit used initially for display purposes which typifies the units that will be constructed in the subdivision.

Multi-modal. One or more means of traveling within or through a community to include automobiles, buses, trolley, rail, bicycles and any other means of moving persons and goods by a surface, overhead or underground means of transportation.

Municipality. The City of Surprise, as incorporated by state law.

New construction. Structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

Nonresidential subdivision. A subdivision whose intended use is other than residential, such as commercial or industrial.

Noxious matter or material. Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

~~*Nursing-home*~~ CARE INSTITUTION. A health care facility ~~designed to provide lodging, meals, treatment, and skilled nursing care on a long-term basis to individuals who, because of advanced age, chronic illness, or infirmity, are unable to care for themselves.~~ THAT PROVIDES INPATIENT BEDS OR RESIDENT BEDS AND NURSING SERVICES TO PERSONS WHO NEED CONTINUOUS NURSING SERVICES BUT WHO DO NOT REQUIRE HOSPITAL CARE OR DIRECT DAILY CARE FROM A PHYSICIAN.

NURSING SERVICES. MEANS THOSE SERVICES THAT PERTAIN TO THE CURATIVE, RESTORATIVE AND PREVENTIVE ASPECTS OF NURSING CARE AND THAT ARE PERFORMED AT THE DIRECTION OF A PHYSICIAN BY OR UNDER THE SUPERVISION OF A REGISTERED NURSE LICENSED IN THIS STATE.

Office. Structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold or repaired. These include: banks;

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general and professional offices; governmental offices; insurance offices; real estate offices; taxicab offices, but not taxi stands; travel agency or transportation ticket offices; telephone exchange; utility offices; radio broadcasting and similar uses.

Off-site. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

One hundred-year flood. The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a one percent change of occurring each year).

Open sales (or rental) lot. Any land used or occupied for the purpose of buying, selling or renting for use away from the premises, any goods, materials or merchandise, and for the exterior storing of same prior to sale or rental.

Open space. Land and water areas intended to provide light and air, and which have been retained and designed, depending upon the specific situation, for environmental, scenic, conservation and/or active and passive recreational purposes.

Open space, active. Land and water areas specifically designed as an activity-based recreational area to include boating, water sports, sports fields, local and community parks having picnic, playground, recreational and support components, golf courses and pedestrian, hiking, bicycle and equestrian trails.

Open space, passive. Land and water areas that are either partially improved, undeveloped or in a natural state that are intended for scenic, environmental, conservation, and/or resource protection; and include such resource-based activities as nature study, nature trails, and any other activities requiring a natural condition that cannot easily be duplicated by human actions.

Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Overlay zone. A zone superimposed upon an underlying zone and which establishes special requirements in addition to those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

Out parcel. A separate, leased or owned, land parcel that is part of a larger planned commercial, office or industrial center that has been set aside, usually along street frontage, for purposes of developing a freestanding restaurant, bank, gasoline service station, drug store or other support service use to supplement the primary uses in the center.

Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Parapet wall. A low wall generally running around the perimeter of a flat roof building at the roofline.

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Parking area, public. An open area, other than a street or alley designated for use, or used, as temporary parking of four or more vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers.

Parking bay. A paved parking area used for on-street parking on local residential streets that is placed on alternating sides of the street within a modified street right-of-way, and designed to accommodate three to four cars.

Parking cluster. The smallest parking increment of a larger off-street parking lot, designed as a heavily tree-shaded parking area to accommodate 50 or less cars and separated from other parking clusters by pedestrian walkways.

Parking space, off-street. A space designated for the temporary parking of a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

Park strip. The landscaped area between sidewalk and curb along a public street.

Party wall. Any wall of a building or structure which is common to two or more buildings.

Paved parking space or surface. An area covered by an impervious dust-free surface of asphalt or concrete designed to specifications of the city engineer.

Paving enhancement. A material and/or color used in the pavement design of a street or parking area to provide visual interest.

Pedestrian friendly. An environment in which conflict between the automobile and pedestrian is minimized or eliminated through the provision of a comprehensive means of vehicular-separated pedestrian travel that is fast, attractive and comfortable for a wide range of age and abilities groups; and by the design of buildings and other uses in a manner that is sensitive to the needs of the pedestrian.

Perimeter street. Any existing street to which the parcel of land to be subdivided abuts on only one side.

PERSONAL CARE SERVICES. ASSISTANCE WITH ACTIVITIES OF DAILY LIVING THAT CAN BE PERFORMED BY PERSONS WITHOUT PROFESSIONAL SKILLS OR PROFESSIONAL TRAINING AND INCLUDES THE COORDINATION OR PROVISION OF INTERMITTENT NURSING SERVICES AND THE ADMINISTRATION OF MEDICATIONS AND TREATMENTS BY A NURSE WHO IS LICENSED PURSUANT TO A.R.S. TITLE 32, CHAPTER 15 OR AS OTHERWISE PROVIDED BY LAW.

Personal and convenience services. Businesses offering services such as barber shops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations (but excluding actual laundry operations), and similar uses.

Persons. Includes any individual or group of individuals, corporations, partnerships, associations, or any other organized group of persons, including state and local governments and agencies thereof.

Plant nursery, wholesale. A facility where live plants are grown or propagated for sale to retail operators.

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Plat. A map, chart, survey, plan or replat certified by a licensed, registered land surveyor containing a description of the subdivided land with ties to permanent monuments.

Plaza. A large, paved, pedestrian entry setting for a building containing seating areas, fountains, sculpture works, trees, and landscaping that is generally open to the public and used for relaxation and contemplative thought.

Preliminary plat. The preliminary drawing or drawings, described in this title, indicating the proposed manner of layout of the subdivision.

Property, personal property. Other than real property, consisting of things temporal and movable.

Property, real. Property consisting of buildings and/or land.

Public improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the City of Surprise may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement where the responsibility rests with the City of Surprise.

Qualifying commercial and/or industrial developments. New or expanding developments that will be:

- Legal and conforming upon project completion;
- In possession of all required development approvals pursuant to city process, procedures and policies;
- Occupying vacant property or replacing dilapidated buildings, or if expanding will comply with the criteria for expanding existing businesses.

Recreational facility, outdoor. A long-term facility providing outdoor amusement and entertainment, including, but not limited to miniature golf, skateboard park, amusement park, go-cart race track, and batting cages.

Recreational vehicle. A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven, primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recreational vehicle park. A plot of ground upon which two or more sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, education or vacation purposes.

Recycling—Indoor collection facility. An indoor facility where the public may donate, redeem, or sell recyclable materials with limited processing activities.

Recycling—Outdoor collection facility. A facility where the public may donate, redeem, or sell recyclable materials with limited processing activities.

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Recycling—Processing. Baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, re-manufacturing, shredding, and/or preparation for shipment of recyclable materials.

Recycling—Processing facility. A structure or enclosed space used for the collection and processing of recyclable materials for shipment.

Recycling—Reverse vending machines. An automated mechanical device which accepts at least one or more type of empty beverage containers including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip.

RESIDENTIAL CARE INSTITUTION. A HEALTH CARE INSTITUTION OTHER THAN A HOSPITAL OR A NURSING CARE INSTITUTION THAT PROVIDES RESIDENT BEDS OR RESIDENTIAL UNITS, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICES, BEHAVIORAL HEALTH SERVICES, DIRECTED CARE SERVICES OR HEALTH-RELATED SERVICES FOR PERSONS WHO DO NOT NEED CONTINUOUS NURSING SERVICES.

Registered architect. An architect licensed and registered in the State of Arizona.

Registered engineer. An engineer licensed and registered in the State of Arizona.

Restaurant. Any restaurant (except a drive-in restaurant or a convenience food restaurant as defined in this section), coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, drugstore and soda fountain serving food, and all other eating or drinking establishments provided that at least one-half of the total sales are derived from the sale of food.

Re-subdivision. A change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions

Retail membership store. A retail store that sells goods or merchandise directly to the consumer via special membership retirement of the store, other than for resale.

Retail store. A business that sells goods or merchandise directly to the consumer, other than for resale.

Retention area. An area into which urban storm water runoff is collected and temporarily stored until it gradually infiltrates into the soil surrounding the area.

Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, trees, or for another special use.

Roadway. That portion of a street right-of-way intended for driving or parking.

Sale or lease. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, intestate succession, or other written instrument.

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Sanitary landfill, solid waste facility. Sanitary landfills, waste tire collection sites, composting, and other uses approved by the state environmental agency.

School. Any pre-primary, primary or grammar, public, parochial or private school, high school; preparatory school or academy, public or founded, or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.

Screening. A solid or nearly solid barrier (i.e., wall, fence, plantings) constructed or installed for the purpose of visual separation.

Sensitive land areas. Land that encompasses wildlife habitats, wash corridors that replenish local groundwater, archaeological sites, unique plant environments, and scenic vistas.

Setback. The minimum horizontal distance between a building line and the street or lot line.

Sewer, public. Any sanitary sewer line owned and maintained by the city, whether or not installed by the city.

Sewer system, community. Any sanitary sewer system, whether treatment plant, septic tank or lagoon, designed with a sewer collection system to be used by a legally constituted association of property owners. The system may or may not be a public system.

Shared living. A dwelling unit designed to promote and allow for the independent living or no more than six related or unrelated 55 year old or older individuals. Residents have private bedrooms, but share the kitchen, dining and living rooms. No separate in-room kitchen facility for use by occupants is permitted. Shared living residences do not include any or all of the following: permanent live-in resident staff personnel; permanent supportive care services; or permanent personal nursing care on an around-the-clock basis.

Shared parking. When two or more users (such as a retail store, office, restaurant, or other similar user) share the same parking spaces rather than each having their own dedicated parking area.

Shelter care facility. A facility where short-term residential care services, including, but not limited to, temporary lodging, meals, and counseling, are provided to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children, and runaways, for a time typically less than 30 days.

Shopping center. Any grouping of two or more principal retail uses, whether on a single lot or on abutting lots under multiple or single ownership and whether contained in one building or multiple buildings.

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Sign. Any device providing identification, advertising or directional information for a specific business, service, product, person, organization, place or building. Included in this definition are graphic devices such as logos, attention attracting media such as banners or logo sculpture and obtrusive colored fascia or architectural elements.

Sign, freestanding. Any nonmovable sign not affixed to a building.

Sign, non-accessory. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign, wall. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 12 inches from such building or structure.

Single-family residential area. An area developed solely for the construction of one-family homes.

Site plan. A drawing to a scale not less than one inch equals 100 feet showing the accurate location of all structures, streets, alleys and parking areas existing and proposed on subject property or any other information as may be required by this title.

For purposes of this chapter, site plans may be classified as major or minor site plans. All developments within the city except individual single-family and duplex residential units shall be subject to this chapter. A major site plan involves one or more of the following:

- a. Forty or more dwelling units in a multiple-family structure;
- b. Fifteen thousand or more square feet of office space, retail commercial space, service commercial space or industrial space;
- c. One or more buildings on one site for office use, retail commercial use, service commercial use or industrial use;
- d. Twenty thousand or more square feet of exterior storage of materials or goods;
- e. Parking for more than 80 vehicles.

Sketch plat. A sketch preparatory to the preparation of the preliminary plat (or final plat when deemed appropriate) to enable the subdivider to save time and expense in reaching general agreement with the planning and zoning commission as to the form of the plat and the objectives of these regulations.

Stable, private. Any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot but shall not exceed 6,000 square feet in area.

Stable, public. A stable where horses are kept for remuneration, hire or sale.

Start of construction.

1. "Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction

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does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

2. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.
3. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Street.

- (1) A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.
- (2) A general term used to describe a paved right-of-way, municipally or privately owned, serving as a means of vehicular travel. Streets are classified by function as follows:
 - a. *Local street.* A street intended to serve and provide access exclusively to the properties abutting thereon, and not connecting with other streets in such a manner as to encourage through traffic.
 - b. *Collector street.* A street connecting local residential streets to each other, to community facilities and to principal or minor arterial streets.
 - c. *Principal, major and minor arterial streets.* Streets designed to carry large amounts of traffic across or through the city and designated as such by the comprehensive development guide.
 - d. *Service street.* A street running parallel to a freeway, expressway or other roadway, and serving abutting properties. Also called frontage road.

Street, dead-end. A street or a portion of a street with only one vehicular-traffic outlet.

Street frontage. Any property line separating a lot from a street.

Street, private. Any street that is not dedicated to the public and is to be maintained by a private entity.

Street, public. Any street which has been dedicated or is otherwise publicly owned by the city.

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Streetscape. The general appearance of a block or group of blocks with respect to the structures, setbacks from public-rights-of-way, open space, landscaping, public art, lighting, signage, paving materials, street furnishings and other elements that contribute to the overall character and image of a city block.

Street furnishings. All items that are placed within the public right-of-way for both an aesthetic and functional purpose, including, but not necessarily be limited to, benches, bus shelters, trash receptacles, plant containers, kiosk signs, lighting fixtures, tree grates and guards, bicycle racks, bollards, fountains and public art.

Strip mall. A collection of several commercial buildings constructed as a single development, usually in a linear manner, with buildings placed at the rear of the development parcel and large fields of parking placed in front between the building and the thoroughfare

Structure. Anything constructed or erected which requires location above or below ground.

Structural alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Substantial improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred.
- (3) For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not alteration affects the external dimensions of the structure. The term does not, however, include either:
- (4) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (5) Any alteration of a structure listed on the National Register of Historic Places.

Subdivide. The act of dividing land into two or more parts by platting, or by metes and bounds description, into tracts of less than 36 acres for the purpose of: (1) sale for building purposes, (2) laying out of municipality or any part thereof, (3) adding to a municipality, (4) laying out suburban lots, or (5) resubdivision.

Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision, or who (2) directly or indirectly, sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot parcel site, unit, or plat in a subdivision, or who (3) engaging directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, or

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plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

Subdivision. Any land, vacant or improved, which is divided or proposed to be divided into four or more lots, parcels, sites, units, plots or interests or, if a new street is involved, any such property which is divided into two or more lots, tracts, or parcels of land or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into two or more parts, for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

Subdivision agent. Any person who represents or acts for or on behalf of a subdivider.

Subdivision plat. The final map or drawings, described herein, on which the subdivider's plan of subdivision is presented to the planning and zoning commission and city council for approval and which, if approved, may be submitted to the county recorder for filing.

SUPERVISORY CARE SERVICES. GENERAL SUPERVISION, INCLUDING DAILY AWARENESS OF RESIDENT FUNCTIONING AND CONTINUING NEEDS, THE ABILITY TO INTERVENE IN A CRISIS AND ASSISTANCE IN THE SELF-ADMINISTRATION OF PRESCRIBED MEDICATIONS.

Temporary improvement. Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond

Terrace. A private or public, single or multi-level, hard surface building extension for outdoor use.

Tourist home (bed and breakfast). A building in which more than one, but not more than five, guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.

Townhouse. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent building and/or buildings by party walls, or are located immediately adjacent thereto without any visible separation between walls or roof; all of which dwellings may be located on individual separate lots, if individually owned, or upon a single lot, if under common ownership.

Townhouse cluster. A building consisting of three or more noncommunicating, attached one-family units placed side by side and/or back to back having a common wall between each two adjacent dwelling units.

Traffic calming. A technique or method of reducing traffic speeds and/or neighborhood cut-through traffic volumes that utilizes changes in street alignment, installation of barriers, and other physical measures such as speed humps, traffic circles, curb extensions and raised crosswalks to enhance street safety and livability and create a pedestrian-friendly environment.

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Truck. A vehicle having a one ton chassis and capacity of no more than 10,000 pounds gross vehicle weight rating (GVWR).

Use. The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

Use, conditional. Either a public or private use as listed herein which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted, with or without time limits, pursuant to the requirements of this title. A conditional use may be a principal use or an accessory use.

Use, nonconforming. An existing use of land or building which was legal prior to the effective date of the ordinance codified in this title but which fails to comply with the requirements set forth in this title applicable to the zone in which such use is located.

Use, permitted. A use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations and performance standards of such district. A permitted use may be a principal use or an accessory use.

Use, principal. A use or structure which determines the predominant or major use of the lot on which it is located. A principal use may be either a permitted or a conditional use.

Variance. A modification or variation of the provisions of this title as applied to a specific piece of property. Dimensional variances only may be allowed; no variance regarding use of property shall be permitted; no variance decreasing lot area requirements shall be allowed. Variance may be permitted only by the board of adjustment.

Variance, dimensional. A departure from the terms of the zoning regulations pertaining to height or width of structures and size of yard and open spaces where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the action of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

View corridor. The area or areas along a street, pedestrian path, hiking trail or other such openings that allow for a clear and unobstructed view of or frames, highlights or accentuates, a prominent building, object, site, structure, scene, or panorama, patterns or rhythms of buildings, objects, sites or structures.

View-type fence. A fence that is constructed in a manner that allows for a clear view of an area beyond the fence from any angle.

Visibility triangle. The area at the intersection of streets in which a motorist's view must remain free of any visual obstruction.

Warehouse. An enclosed building designed and used primarily for the storage of goods and materials.

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Warehouse, residential storage (mini-warehouse). Residential storage warehouse (mini-warehouse)" means a building or group of buildings in a controlled access and fenced or screened compound that contains relatively small storage spaces of varying sizes and/or spaces for recreational vehicles or boats, having individual, compartmentalized and controlled access for the dead storage of excess personal property of an individual or family generally stored in the residential accessory structures, when such building or group of buildings are not located on the lot of the residence.

Wrecking yard. A place, lot or area where the primary function is that of dismantling, storage, abandonment or sale of goods and materials as parts or scraps.

Yard. On the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, and unobstructed by structures, except as otherwise provided in this title.

Yard, corner side. A yard on a corner lot the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along said side lot line to a point intersecting the rear lot line, then along said rear lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

Yard, front. A yard extending across the full width of the lot between two side lot lines the depth of which is the least distance between the street right-of-way and the building line.

Yard, rear. A yard extending across the full width of the lot between two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building and the depth of which is the least distance between the rear lot line and the parallel line.

Yard, side. A yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.



CITY OF SURPRISE
Regular City Council Meeting

April 7, 2015 @ 6:00:00 PM

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Council Meeting Date: April 7, 2015

Contact Person: Misty Leslie, City Attorney

Submitting Department:

District: Citywide

Staff Recommendations: No Action

Consent

Regular

Public Hearing

Report/Discussion

Agenda Wording:

Discussion and consultation with the City Attorney for legal advice; and to consider its position and instruct its attorneys regarding its position pertaining to contracts that are the subject of negotiations related to the Surprise baseball complex use and expansion; Ariz. Rev. Stat. Section 38-431.03(A)(1)(3) & (4).

Motion:

I move to recess into executive session.

Background:

Financial Impact Statement:

ATTACHMENTS:

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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
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April 7, 2015 @ 6:00:00 PM

[Back](#) [Print](#)

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Report/Discussion

Agenda Wording:

Discussion and consultation with the City Attorney for legal advice; to consider its position and instruct its attorneys regarding its position in possible litigation and pending litigation involving the City; Ariz. Rev. Stat. Section 38-431.03(A)(1)(3) & (4).

Motion:

I move to recess into executive session.

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