



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

Tuesday, May 15, 2018 @ 6:00 PM
COUNCIL CHAMBERS

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A. Call To Order

B. Roll Call

C. Pledge of Allegiance

D. PROCLAMATION AND COMMUNITY ACKNOWLEDGEMENTS

District Citywide [Proclamation acknowledging National Lupus Awareness Month.](#)

None
Mayor
Wolcott

E. City Manager Report:

District Citywide [Recognition of the City Court Explorer Program.](#)

None
Lord
Garcillano,
Youth
Services
Coordinator

F. City Attorney Report:

G. City Clerk Report:

District Citywide [The City Clerk will give an update on the May 15th Special Election for Circle City Water.](#)

None
Sherry Ann
Aguilar,
City Clerk

H. Call To The Public:

INSTRUCTIONS: In order to address the City Council, you will need to fill out a Call to the Public Form available at the front counter, and then turn it in to the City Clerk before the meeting begins.

[Download the Call to the Public form](#) (PDF download requires [Adobe Acrobat Reader](#))

[Fill out the Call to the Public form online](#) If submitting form electronically, please submit to City Clerk at least one hour before the meeting start time.

The Call to the Public form is also available at the front counter.

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

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

I. Regular City Council Meeting Agenda:

Consent Agenda:

- | | | | |
|----|-------------------|--|---|
| 1. | District Internal | <u>Consideration and action pertaining to approval of an amendment to the FY2018 budget by reallocating appropriations of \$7,800 from contingency within the Grants Fund for acceptance of a grant award change order from the Arizona Governor's Office of Highway Safety, STEP Enforcement Campaign; Resolution #2018-70.</u> | None
James
Jackson,
Commander |
| 2. | District 4 | <u>Consideration and action pertaining to approval of a final plat entitled, "Re-plat of Lot 6e of Bell & Dysart Commerce Center" dated April 3, 2018, to allow for a new Vehicle Service – Major Repair facility for Service King generally located north of Bell Road and east of Dysart Road.</u> | None
Sergio
Angulo -
Community
Development |
| 3. | District 1 | <u>Consideration and action pertaining to approval of the final plat entitled, "Mirano at Desert Oasis" dated April 9, 2018, to modify the lot lines of Parcel L7 and L8 to conform to the zoning land use designations of Parcels L7 and L8 of the Desert Oasis at Surprise PAD located on the Northwest corner of Jomax Road and 171st Avenue.</u> | None
Sergio
Angulo -
Community
Development |
| 4. | District 1 | <u>Consideration and action pertaining to approval of the Right of Way Agreement between the Arizona State Land Department and The City of Surprise; Resolution #2018-72.</u> | None
Eric Fitzer,
Community
Development |
| 5. | District 1 | <u>Consideration and action authorizing funding from the Tourism Fund to support a resort feasibility study in an amount not to exceed \$20,000 as recommended by the Tourism Advisory Commission.</u> | None
Kendra
Pettis, Sports
and Tourism
Director |
| 6. | District Internal | <u>Consideration and action on the minutes of the Regular City Council Work Session and Regular City Council Meeting of May 1, 2018.</u> | None
Sherry Ann
Aguilar, City
Clerk |
| 7. | District 5 | <u>Consideration and action on a renewal license for Turf Paradise Off-track Parimutuel Wagering License for Brookside II Sports Bar & Grille located at 15170 W. Bell Road, Suite 115, Surprise, AZ 85374 for the term of June 1, 2018 through May 31, 2021.</u> | None
Sherry Ann
Aguilar, City
Clerk |
| 8. | District 4 | <u>Consideration and action on a renewal license for Off-track Parimutuel Wagering License for Runner's Sports Bar located at 12751 W. Bell Road, Surprise, AZ 85378 for the term of June 1, 2018 through May 31, 2021.</u> | None
Sherry Ann
Aguilar, City
Clerk |
| 9. | District 2 | <u>Consideration and action on a request by Nicholas Guttilla (Agent)</u> | None |

for an Interim Permit/Person Transfer/Corporation for Safeway #977 (Also known as Albertson's) located at 14551 W. Grand Avenue, Surprise, AZ 85374 (License #09070567).

Sherry Ann
Aguilar, City
Clerk

Regular Agenda Item - Non-Public Hearing:

- | | | |
|----------------|--|---|
| 10. District 1 | <u>Presentation and discussion pertaining to the FY2018 Financial Status Report through February 2018.</u> | None
Lindsey
Duncan,
Finance
Director |
|----------------|--|---|

J. Other Business and Future Agenda Items:

K. Mayor/Council Reports:

L. Executive Session:

- | | | |
|-----------------------|--|---|
| 11. District Internal | <u>Consideration and action to enter into executive session for legal advice and discussion or consultation with the City Attorney pertaining to the Circle City Water acquisition pursuant to A.R.S. 38-431.03(A)(3).</u> | None
Robert
Wingo, 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 council may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

M. Adjournment:

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED:

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

May 15, 2018 @ 6:00:00 PM

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Council Meeting Date:	May 15, 2018	Contact Person:	Mayor Wolcott
Submitting Department:	Government & Community Partnerships	District:	Citywide
Staff Recommendations:	None		

Consent	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Proclamation acknowledging National Lupus Awareness Month.

Motion:

None.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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Council Meeting Date:	May 15, 2018	Contact Person:	Lord Garcillano, Youth Services Coordinator
Submitting Department:	Government & Community Partnerships	District:	Citywide
Staff Recommendations:	None		

Consent	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Recognition of the City Court Explorer Program.

Motion:

None.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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Council Meeting Date: May 15, 2018

Contact Person: Sherry Ann Aguilar, City Clerk

Submitting Department:

District: Citywide

Staff Recommendations: None

Consent

Regular

Public Hearing

Report/Discussion

Agenda Wording:

The City Clerk will give an update on the May 15th Special Election for Circle City Water.

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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Council Meeting Date:	May 15, 2018	Contact Person:	James Jackson, Commander
Submitting Department:	Police	District:	Internal
Staff Recommendations:	None		

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action pertaining to approval of an amendment to the FY2018 budget by reallocating appropriations of \$7,800 from contingency within the Grants Fund for acceptance of a grant award change order from the Arizona Governor's Office of Highway Safety, STEP Enforcement Campaign; Resolution #2018-70.

Motion:

I move to approve Resolution #2018-70.

Background:

The Surprise Police Department applied for and was awarded monies for the purchase of two radar display trailers through the Selective Traffic Enforcement Program (STEP) in the amount of \$36,000. The original grant was approved by Council on November 7, 2017; Resolution 2017-123. The actual cost for two radar trailers is \$43,724.26 and GOHS authorized a change order to provide the additional funding which necessitates a budget amendment to the FY2018 budget.

Objective Analysis:

The change order will provide the additional funding to ensure the two radar trailers meet MUTCD standards for traffic messaging and will assist the Police Department with enforcing traffic laws.

Policy Compliant:

The grant is consistent with the City's past practice of enforcing and enhancing City traffic laws.

Financial Impact:

This change order provides \$7,800 in additional funding for the purchase of two radar trailers that meet MUTCD standards. The actual cost of the trailers is \$43,724.26.

Budget Impact:

Acceptance of this change order will reallocate appropriations in the amount of \$7,800 from

contingency within the Grants Fund to FFY2018 GOHS 2018-PTS-067 STEP Enforcement campaign for the purchase of two radar trailers. This does not represent an actual transfer of funds, but only a transfer of budget authority and does not increase or decrease the total budget.

FTE Impact:

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

ATTACHMENTS:

Click to download

- ☐ [GOHS 2018-PTS-067 Change Order 2018-39](#)
 - ☐ [GOHS 2018-PTS-067 Grant](#)
 - ☐ [Resolution 2018-70](#)
-



DOUGLAS A. DUCEY
GOVERNOR

ALBERTO GUTIER
DIRECTOR
GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE

DATE: 04/18/2018

TO: Chief Terry Young
Surprise Police Department
12450 West Statler Plaza
Surprise, AZ 85374

FROM: Alberto Gutier, Director
Governor's Highway Safety Representative
Governor's Office of Highway Safety

TRANSMITTAL: Change Order Number: 2018-39
Effective Date: 04/18/2018
Revision Number: 001
Project Coordinator: Rhonda Melancon
Contract Number: 2018-PTS-067
Program Area: 402-PTS

NARRATIVE:

The purpose of this Change Order is to increase Capital Outlay to upgrade two (2) radar trailers that meet MUTCD standards for traffic messaging.

There is a \$7,724.26 change in Federal funds for because of this Change Order.

Contract Number: 2018-PTS-067
Change Order Number: 2018-39

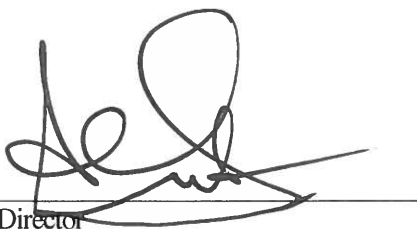
ESTIMATED COSTS:

	<u>From</u>	<u>To</u>
I. Personnel Services (includes overtime)	\$0.00	\$0.00
II. Employee Related Expenses	\$0.00	\$0.00
III. Professional and Outside Services	\$0.00	\$0.00
IV. Travel In-State	\$0.00	\$0.00
V. Travel Out-of-State	\$0.00	\$0.00
VI. Materials and Supplies	\$0.00	\$0.00
VII. Capital Outlay	\$36,000.00	\$43,724.26
TOTAL ESTIMATED COSTS	<u>\$36,000.00</u>	<u>\$43,724.26</u>

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of 40 percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that Surprise Police Department shall absorb any and all expenditures in excess of \$43,984.26.

AGREEMENT AND AUTHORIZATION TO PROCEED

by State Official responsible to the Governor for the
administration of the State Highway Safety Agency.



Alberto Gutier, Director
Governor's Highway Safety Representative
Governor's Office of Highway Safety

4-20-18

Date



DOUGLAS A. DUCEY
GOVERNOR

ALBERTO GUTIER
DIRECTOR
GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE

Chief Terry Young
Surprise Police Department
14250 West Statler Plaza, Suite 103
Surprise, AZ 85374

PROJECT REFERENCE:

Contract Number: 2018-PTS-067
Total Estimated Costs: \$36,000.00
Purpose of Project: STEP Enforcement Related
Equipment

Dear Chief Young:

Attached are the following documents:

- a) One (1) fully executed original of the above-referenced contract
- b) Project Director's Manual

Please note that any equipment costing \$5,000.00 or more must comply with the Buy America Act as mandated by federal law.

The Report of Costs Incurred (RCI Form) and RCI Instructions are located on the GOHS website at www.azgohs.gov/grant-opportunities/. Refer to the Contract and/or Project Directors Manual for instructions on completion and submission.

Please have your Project Administrator and Fiscal staff review and become familiar with the reporting requirements outlined in this Contract.

You are hereby authorized to proceed under the terms of the Highway Safety Contract, effective on the "Authorization to Proceed Date" (i.e., the date of my signature on the last page of the contract as long as the signature is within the Federal Fiscal Year that this contract applies to) with an obligation of \$36,000.00 in Federal funds.

Sincerely,

Alberto Gutier, Director
Governor's Highway Safety Representative

11-13-17
Date

Enclosures

**GOVERNOR'S OFFICE OF
HIGHWAY SAFETY**

STATE OF ARIZONA

HIGHWAY SAFETY CONTRACT

This page, the Project Director's Manual and attached hereto and incorporated herein by reference, constitute the entire Contract between the parties hereto unless the Governor's Highway Safety Representative authorizes deviation in writing.

FAIN: 69A37518300004020AZ0

CFDA: 20.600

1. APPLICANT AGENCY
Surprise Police Department

GOHS CONTRACT NUMBER:
2018-PTS-067

ADDRESS
14250 West Statler Plaza, Suite 103, Surprise, AZ 85374

PROGRAM AREA:
402-PTS

2. GOVERNMENTAL UNIT
City of Surprise

AGENCY CONTACT:
Michael Robbins

ADDRESS
16000 North Civic Center Drive, Surprise, AZ 85374

3. PROJECT TITLE:
STEP Enforcement Related Equipment

4. GUIDELINES:
402-Police Traffic Services (PTS)

5. BRIEFLY STATE PURPOSE OF PROJECT:
Federal 402 funds will support Capital Outlay: Two (2) Fast 3450 Radar Display Trailers to enhance STEP Enforcement throughout the City of Surprise.

**6. BUDGET
COST CATEGORY**

**Project Period
FFY 2018**

I. Personnel Services

\$0.00

II. Employee Related Expenses

\$0.00

III. Professional and Outside Services

\$0.00

IV. Travel In-State

\$0.00

V. Travel Out-of-State

\$0.00

VI. Materials and Supplies

\$0.00

VII. Capital Outlay

\$36,000.00

TOTAL ESTIMATED COSTS

\$36,000.00

PROJECT PERIOD FROM: Effective Date
(Date of GOHS Director Signature) TO: 09-30-2018

CURRENT GRANT PERIOD FROM: 10-01-2017 TO: 09-30-2018

TOTAL FEDERAL FUNDS OBLIGATED THIS FFY: \$36,000.00

A political subdivision or State agency that is mandated to provide a certified resolution or ordinance authorizing entry into this Contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded Contract.

PROBLEM IDENTIFICATION AND RESOLUTION:**Agency Background:**

Number of sworn officers: 136

Total Population in city/town or county: 127,00

Total Road Mileage: Highway: 39 Local: 857 Total: 896

	2016	2015	2014
Total Crashes	1973	1791	1661
Total Serious Injury Crashes	239	253	238
Total Fatal Crashes	3	0	0
Total Pedestrian-related Crashes	4	3	2
Total Pedestrian-related Serious Injuries	3	2	1
Total Pedestrian-related Fatalities	0	0	0
Total Bicycle-related Crashes	2	5	5
Total Bicycle-related Serious Injuries	1	4	1
Total Bicycle-related Fatalities	0	0	0

The data above represents: County ☐ City/Town ☒

Agency Problem/Attempts to Solve Problem:

As a result of the population increase, the City has seen a consistent increase in the number of traffic collisions occurring every year. The majority of collisions within the City can be attributed to speed and inattention. To bring awareness to this issue and to create a culture of safe driving, Surprise Police Department (Surprise PD) began a "Drive Wise, Surprise" campaign. In addition to street signs, the campaign includes community and media engagement, social media messaging, ads, public service announcements and various other marketing tools. The addition of radar messaging trailers will further advance the mission of GOHS and the City of Surprise to remove aggressive and speeding vehicles from the roadway through compliance with traffic laws.

Agency Funding:

Federal 402 funds will support Capital Outlay: Two (2) Fast 3450 Radar Display Trailers to enhance STEP Enforcement throughout the City of Surprise.

How Agency Will Solve Problem With Funding:

Surprise PD is requesting funding to promote the police traffic services program to encourage speed limit compliance within the City of Surprise. The funding will be used to purchase two radar messaging trailers to be strategically placed throughout the City to encourage compliance. The trailers will not only display the driver's speed to encourage their compliance, but will also promote the "Drive Wise, Surprise" campaign.

PROJECT MEASURES:**Agency Goals:**

To decrease the number of speeding-related crashes 10% from 348 during calendar year 2016 to 313 by December 31, 2018.

To decrease fatalities in speeding-related crashes 100% from 2 in calendar year 2016 to 0 by December 31, 2018.

To decrease serious injuries in speeding-related crashes 10 % from 35 in calendar year 2016 to 31 by December 31, 2018.

Contract Objectives:

To increase the number of speeding and aggressive driving citations 10% from 2,354 during Calendar Year 2016 to 2,590 during FFY 2018.

Conduct targeted speed enforcement efforts a minimum of 1 time per month during FFY 2018.

Additional Contract Objectives:

1. To increase the total contacts (traffic Stops) 10% from 13,717 during calendar year 2016 to 15088 during FFY2018.

2. To increase the number of other citations (except speed) 10% from 3,462 during calendar year 2016 to 3,809 during FFY 2018.

GOALS/OBJECTIVES:

Federal 402 funds will support Capital Outlay: Two (2) Fast 3450 Radar Display Trailers to enhance STEP Enforcement throughout the City of Surprise.

Expenditures of funding pertaining to the PTS/Selective Traffic Enforcement Program including Personnel Services and ERE, Materials and Supplies, Capital Equipment, and/or Travel In and Out-of-State shall comply with the PTS/Selective Traffic Enforcement Program goals provided by the Arizona Governor's Office of Highway Safety. The PTS/Selective Traffic Enforcement Program goal is to reduce the incidences of traffic fatalities and injuries resulting from speeding, aggressive driving, red light running, and other forms of risky driving behavior through enforcement, education, and public awareness throughout the State of Arizona.

MEDIA RELEASE:

To prepare complete press release information for media (television, radio, print, and on-line) during each campaign period including a main press release, schedule of events, departmental plans, and relevant data. The material will emphasize the campaign's purpose, aggressive enforcement, and the high cost of Speeding in terms of money, criminal, and human consequences.

The Surprise Police Department will maintain responsibility for **reporting sustained enforcement** activity in a timely manner. Additionally, it is the responsibility of the Surprise Police Department to report all holiday task force enforcement statistics to GOHS on-line at the GOHS website **no later than 10:00 a.m. the morning following each day of the event.**

The holidays and special events include but not limited to: Super Bowl Sunday, Valentine's Day, President's Day, St. Patrick's Day, Spring Break, Easter, Cinco de Mayo, Prom Night, Memorial Day, Graduation Day, Independence Day, Labor Day, Columbus Day, Halloween, and the Thanksgiving through New Year's details.

PLEASE NOTE: Failure to submit Statistics, Quarterly Reports, and/or Report of Costs Incurred (RCIs) timely and correctly may delay reimbursement for expenditures to your Agency.

METHOD OF PROCEDURE:

The Surprise Police Department will make expenditures, as follows, to meet the outlined Program Goals/Objectives:

Capital Outlay - To purchase/procure the following Capital Outlay for STEP/Speed Enforcement Activities:
Two (2) Fast 3450 Radar Display Trailers

PRESS RELEASE:

Agencies are **required** to develop and distribute a press release announcing this grant award **upon receipt** of the executed Contract. A copy of this press release shall be sent to the GOHS Director for approval prior to being sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

PURSUIT POLICY:

All law enforcement agencies receiving Federal funds are encouraged to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police (IACP) that are currently in effect.

EQUIPMENT:**Two (2) Fast 3450 Radar Display Trailers**

Agencies receiving funding for Capital Outlay (major equipment) such as DUI processing vans, marked and unmarked enforcement sedans, and marked enforcement motorcycles shall schedule a press conference acknowledging the grant award from the Governor's Office of Highway Safety. The purpose of this press conference is for the Agency to present the equipment to their community.

The Surprise Police Department shall immediately notify GOHS if any equipment purchased under this Contract ceases to be used in the manner described in this Contract. In such event, the Surprise Police Department further agrees to dispose of this equipment using the Surprise Police Department's, city, town, or county ordinance, code, or rule regarding disposal of equipment.

In the absence of an ordinance, code, or rule regarding the disposal of the property, the Surprise Police Department may refer to that of the State. The Surprise Police Department shall maintain or cause to be maintained for its useful life, any equipment purchased under this Contract. The Surprise Police Department shall incorporate any equipment purchased under this Contract into its inventory records. The Surprise Police Department shall insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets this requirement.

Administrative and Maintenance Costs:

The Surprise Police Department shall be responsible for all administrative, maintenance, operational costs, and the costs of any damage relating to the Two (2) Fast 3450 Radar Display Trailers.

Decals:

The Governor's Office of Highway Safety shall provide the Surprise Police Department with decals depicting the Governor's Office of Highway Safety logo. These decals shall be affixed to the equipment before being placed in service.

Equipment Purchase:

The equipment purchased under this Contract shall be ordered, received, training completed, and placed in service prior to the end of the project period.

If the Agency cannot meet this requirement, the Agency must submit a letter of explanation signed by the Project Director on the Agency's letterhead via mail or hand delivered to the Director of the Governor's Office of Highway Safety within sixty (60) days before the end of the project period.

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurement procedures conform to applicable Federal and State laws and standards. The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency shall use the State procurement process.

Original Purpose of Equipment:

Pursuant to 23 CFR §1200.21, all equipment purchased under this Contract is to be used for the original purpose intended under this Contract. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes. Neither the State nor the Agency (sub-grantees) or contractors shall encumber the title or interest while such need exists.

The Governor's Office of Highway Safety shall reserve the right to transfer title of equipment acquired under the Section 402 program to the Federal government or to a third party when such third party is otherwise eligible under existing statutes.

Furthermore, 49 CFR §18.32.c.1 states that equipment (acquired under this grant) shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

Insurance:

It is agreed that the Surprise Police Department shall adequately insure all capital equipment purchased under this Contract for repair or replacement.

SPECIFIC REQUIREMENTS:**SPEED DETECTION EQUIPMENT –****Requirements for Speed Monitoring Trailer Systems:**

Speed monitoring trailers are portable, self-contained speed display units. This equipment may be used for enforcement, public information, education, and/or data collection. The Surprise Police Department will maintain a written policy covering usage of the Speed Trailer System, which will be available upon request for review by GOHS.

EQUIPMENT –**Requirements for Equipment:**

The Surprise Police Department shall provide a high-quality color photograph of all equipment purchased under this Contract. The Surprise Police Department shall complete the attached **Capital Outlay Equipment** form for all individual equipment purchases of \$5,000.00 or more. The form is to be attached and submitted with the next quarterly report subsequent to the delivery of the equipment.

METHOD OF PROCUREMENT:

The application of USDOT "Common Rule" and Circular A-102 requires that:

Grantees and sub-grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided the procurement procedures conform to applicable Federal laws and standards.

The most stringent purchasing requirement at each level must be met. If the Agency does not have a procurement process, the Agency may use the State procurement process.

A clear audit trail must be established to determine costs charged against this Contract. Substantiation of costs shall, where possible, be made utilizing the Surprise Police Department documentation consisting of, but not limited to, copies of time sheets, purchase orders, copies of invoices, and proof of payment.

The Agency shall retain copies of all documentation in the project file.

State Contract:

Procurement may be made using an open State contract award. Documents submitted to substantiate purchases using an open State contract must bear the contract number.

PROJECT EVALUATION:

This project shall be administratively evaluated to ensure the objectives have been met.

Quarterly Report

The purpose of the Quarterly Report is to provide information on contracted grant activities conducted at the conclusion of each active quarter. The information provided is used to review progress of the funded project and the successfulness in meeting outlined goals and objectives. The information, photos, highlights, obstacles, and mandatory statistical data provided in this report are analyzed by the assigned Project Coordinator. It is critical the report contains the following information:

- **Original signatures on all Quarterly Reports and RCIs**
 - **All Quarterly Reports and RCIs shall include the signature of the Project Director unless prior authorization for another is on file with GOHS.**

Report Schedule

Reporting Period	Due Date
1st Quarterly Report and RCI (October 1 to December 31, 2017)	January 30, 2018
2nd Quarterly Report and RCI (January 1 to March 31, 2018)	April 20, 2018
3rd Quarterly Report and RCI (April 1 to June 30, 2018)	July 20, 2018
4th Quarterly Report and RCI (July 1 to September 30, 2018)	October 15, 2018
Final Statement of Accomplishments	October 15, 2018

The Quarterly Report **shall be completed on the form available on-line and can be submitted by email** to the Governor's Office of Highway Safety.

NOTE: IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS DUI REPORTING SYSTEM, IN ADDITION TO SUBMITTING THE QUARTERLY ENFORCEMENT REPORT.

Final Statement of Accomplishments

The Project Director shall submit a Final Statement of Accomplishments Report to the GOHS **no later than fifteen (15) days after the conclusion of each Federal Fiscal Year (September 30th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishments Report.

Note: Failure to comply with the outlined GOHS reporting requirements may result in withholding of Federal funds or termination of the Contract.

PROFESSIONAL AND TECHNICAL PERSONNEL:

Terry Young, Chief, Surprise Police Department, shall serve as Project Director.

Michael Robbins, Support Services Sergeant, Surprise Police Department, shall serve as Project Administrator.

Rhonda Melancon, Governor's Office of Highway Safety, shall serve as Project Coordinator.

REPORT OF COSTS INCURRED (RCI):

The Agency shall submit a Report of Costs Incurred (RCI), with supporting documentation attached, to the Governor's Office of Highway Safety on a quarterly basis, for each active quarter, in conjunction with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested.

Accepted supporting documentation to submit with a Report of Cost Incurred (RCI) includes, but is not limited to; scanned copies of timesheets, payroll records, paid invoices/purchase orders, and other account records.

RCIs shall be typed and delivered via mail or hand delivered with appropriate supporting documentation to the Governor's Office of Highway Safety. **Electronically submitted RCIs will not be accepted.** Final RCIs will not be accepted fifteen (15) days after the conclusion of each Federal Fiscal Year (September 30th). **Expenditures submitted after the expiration date may not be reimbursed and the Agency will accept fiscal responsibility.**

PROJECT MONITORING:

Highway safety grant project monitoring is used by GOHS project coordinators to track the progress of project objectives, performance measures, and compliance with applicable procedures, laws, and regulations.

The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information, and provide assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

Project monitoring serves as a management tool for:

- Detecting and preventing problems
- Helping to identify needed changes
- Identifying training or assistance needed
- Obtaining data necessary for planning and evaluation
- Identifying exemplary projects

Types of Monitoring

Monitoring is formal and informal, financial and operational. The most common types of monitoring are:

- Ongoing contact with the contracted grantee through phone calls, e-mails, correspondence, and meetings
- On-Site and/or In-House monitoring reviews of project operations, management, and financial records and systems
- Review of project Quarterly Reports
- Review and approval of Report of Costs Incurred (RCIs)
- Desk review of other documents in the project grant files for timely submission and completeness

Monitoring Schedule	
Total Awarded Amount:	Type of Monitoring:
Under \$50,000	Desk Review/Phone Conference
\$50,000 and over	May have an In-House GOHS Review
\$100,000+	May have an On-Site Review
Capital Outlay Greater than \$25,000 (combined)	May have an On-Site Review
Desk Review and Phone Conference	Internal review of all written documentation related to contractual project including, but not limited to the Contract, Quarterly Reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. A phone conference call conducted during the course of the project which includes the date and time of the call, the person(s) contacted, and the results. It serves as an informational review to determine progress of programmatic/financial activities. Both the designated project administrator and fiscal contact should be present, if possible, during the phone conference. If identified financial or operational problems are present, GOHS reserves the right to bring the grantee in for an in-house meeting at GOHS. Monitoring form written by Project Coordinator, any findings, areas of improvement, concern, or recognition will be provided to the grantee.
In-House Review	Documents performance review results including project activities, reimbursement claims review, equipment purchases, approvals, and other information. Reviews applicable information related to the project(s) including, but not limited to the Contract, Quarterly Reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Completed at GOHS in a meeting with appropriate operational and financial personnel. Monitoring form written by Project Coordinator, any findings, areas of improvement, concern, or recognition will be provided to the grantee.
On-Site Monitoring	Documents performance review results including project activities, reimbursement claims review, equipment purchases, and other information. Reviews applicable information related to the project(s) including, but not limited to the Contract, Quarterly Reports, enforcement data, financial data, e-mails, letters, notes, press releases, photographs, inventories, and other written correspondence. Conducted on-site at the grantee's Agency with monitoring form

	completed on-site by Project Coordinator. Any findings, areas of improvement, concern, or recognition, will be provided to the grantee.
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On-site and/or in-house monitoring for grantees of designated projects with large Capital Outlay purchases, personnel services, and complex projects must be completed within the second or third quarter of the fiscal year. Contracted projects displaying any problems may need on-site monitoring more than once during the fiscal year.

On-site and/or In-house monitoring includes a review and discussion of all issues related to ensure the effective administration of the contracted project. The following are the most important items to review:

- Progress toward meeting goals/objectives and performance measures
- Adherence to the contract specifications, timely submission of complete and correct reports, including required documentation
- Quarterly Reports
- Status of expenditures related to the outlined budget
- Accounting records and RCI's
- Supporting documentation (training documentation, inventory sheets, photographs, press releases, etc.)

In addition, the designated Agency will ensure that any equipment purchased will be available for inspection and is being used for the purpose for which it was bought under the outlined contractual agreement.

Documentation

The Governor's Office of Highway Safety will retain all findings documented on the GOHS Monitoring Form in the Agency's respective Federal file. Findings will be discussed with the designated contract representative (Project Administrator, fiscal specialist) by phone and/or e-mail. All noted deficiencies will be provided to the grantee with guidance for improvement and solutions to problems. Grantees that exhibit significantly poor performance may be placed on a performance plan as outlined by the GOHS Director. Grantee monitoring information will additionally provide documentation for potential funding in subsequent fiscal year grant proposal review.

PROJECT PERIOD:

The project period shall commence on the date the GOHS Director signs the Highway Safety Contract and terminate on September 30th of that or subsequent year as indicated on the Highway Safety Contract.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the Contract and expire at the end of the project period.

If the Agency is unable to expend the funds in the time specified, the Agency will submit notification on the Agency's letterhead and hand deliver or submit via regular mail to the Director of the Governor's Office of Highway Safety a minimum of sixty days (60) prior to the end of the project period.

The Agency shall address all requests to modify the Contract to the Director of the Governor's Office of Highway Safety on Agency's official letterhead and either hand deliver or submit the request via regular mail. All requests for modification must bear the signature of the Project Director.

Failure to comply may result in cancellation of the Contract. Any unexpended funds remaining at the termination of the Contract shall be released back to the Governor's Office of Highway Safety.

ESTIMATED COSTS:

I.	Personnel Services (overtime)	\$0.00
II.	Employee Related Expenses (ERE)	\$0.00
III.	Professional and Outside Services	\$0.00
IV.	Travel In-State	\$0.00
V.	Travel Out-of-State	\$0.00
VI.	Materials and Supplies	\$0.00
VII.	Capital Outlay	\$36,000.00

Two (2) Fast 3450 Radar Display Trailers

TOTAL ESTIMATED COSTS

***\$36,000.00**

*Includes all applicable training, tax, freight, and advertising costs. The GOHS reserves the right to limit reimbursement of Employee Related Expenses from zero (0) to a maximum rate of forty (40) percent. This is the maximum ERE amount to be reimbursed. It is agreed and understood that the Surprise Police Department shall absorb any and all expenditures in excess of \$36,000.00.

**Arizona Governor's Office of Highway Safety
Capital Outlay Equipment Record
Equipment \$5,000.00 or more**

Equipment Description	Make/Model	Serial Number	Date Ordered	Date Received	Cost Per Unit

Note: Photographs of all Capital Outlay Equipment must be submitted with form

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by and between the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, the National Highway Safety Act of 1966, as amended (23 USC §§401-404), provides Federal funds to STATE for approved highway safety projects; and

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE and the United States Department of Transportation (USDOT); and

WHEREAS, AGENCY must comply with the requirements listed herein to be eligible for Federal funds for approved highway safety projects; and

WHEREAS, AGENCY has submitted an application for Federal funds for highway safety projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following Federal and State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of STATE monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit Quarterly Reports (one for each three-month period of the project year) to STATE in the form and manner prescribed by STATE. Notice of the specific requirements for each report will be given in this Contract or at any time thereafter by giving thirty (30) days written notice to AGENCY by ordinary mail at the address listed on the Contract. Failure to comply with Quarterly Report requirements may result in withholding of Federal funds or termination of this Contract.
- C. AGENCY will submit a Final Report/Statement of Accomplishment at completion of the Contract to include all financial, performance, and other reports required as a condition of the grant to STATE within thirty (30) days of the completion of the Contract.
- D. Representatives authorized by STATE and the National Highway Traffic Safety Administration (NHTSA) will have the right to visit the site and inspect the work under this Contract whenever such representatives may determine such inspection is necessary.

II. Reimbursement of Eligible Expenses

- A. AGENCY's Project Director, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under Section XX herein, "Termination and Abandonment".

- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which Federal funds have been claimed and reimbursement received, as may have been determined by a State or Federal audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active highway safety project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of STATE, or unless otherwise provided elsewhere in this Contract.
- C. AGENCY will maintain or cause to be maintained for its useful life, any equipment purchased under this Contract.
- D. AGENCY will incorporate any equipment purchased under this Contract into its inventory records.
- E. AGENCY will insure any equipment purchased under this Contract for the duration of its useful life. Self-insurance meets the requirements of this section.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY's regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply.

The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be subcontracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

IX. Copyrights and Patents

Any copyrightable materials, patentable discovery, or invention produced in the course of this project may be claimed by STATE and a copyright or patent obtained by it at its expense. In the event STATE does not wish to obtain such copyright or patent, AGENCY may do so, but in any event, provision will be made by AGENCY for royalty-free, nonexclusive, nontransferable, and irrevocable licenses to be given the United States Government and STATE and its political subdivisions to use such copyrightable material, patented discoveries, or inventions in any manner they see fit. The STATE reserves the right to impose such other terms and conditions upon the use of such copyrights or patents as may be deemed in the best interest of STATE in the event AGENCY is allowed to obtain a copyright or patent.

X. "Common Rule" and OMB Circular No. A-102 (Revised)

"Common Rule" (49 CFR Part 18): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

OMB Circular No. A-102 (Revised): Grants and Cooperative Agreements with State and Local Governments

The application of USDOT "Common Rule" and Circular A-102 requires that:

AGENCY and sub-grantees will use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law. The most stringent purchasing requirement at each level must be met.

The Arizona Procurement Code (ARS §41-2501, et. seq.) and promulgated rules (A.A.C. Title 2, Chapter 7) are a part of this Contract as if fully set forth herein and AGENCY agrees to fully comply with these requirements for any procurement using grant monies from this Contract.

XI. Non-Discrimination

During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- A. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- B. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR part 21 and herein;
- C. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- D. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including, but not limited to, withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- E. To insert this clause, including paragraphs A through E, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.
- F. If AGENCY fails or refuses to comply with its undertaking as set forth in these provisions, STATE or the USDOT may take any or all of the following actions:
 - 1. Cancel, terminate, or suspend, in whole or in part, the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and
 - 2. Refrain from extending any further Federal financial assistance to AGENCY under the Highway Safety Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from AGENCY.
- G. Pursuant to the requirement of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), AGENCY must operate this Highway Safety Project so that it is accessible and otherwise non-discriminatory to handicapped persons.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*. Executive Order 2009-09 is located in Part II of the Project Director's Manual.

XIII. Application of Hatch Act

The AGENCY will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

XIV. Minority Business Enterprises (MBE) Policy and Obligation

- A. **Policy:** It is the policy of the USDOT that minority business enterprises as defined in 49 CFR Part 23, will have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the minority business enterprises requirements of 49 CFR Part 23 apply to this Contract.
- B. **Obligation:** The recipient or its contractor agrees to ensure that minority business enterprises, as defined in 49 CFR Part 23, have the subcontracts financed in whole or in part with Federal funds provided under this Contract. In this regard, all recipients or contractors will take all necessary and reasonable steps in accordance with 49 CFR, Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors will not discriminate on the basis of race, color, creed, sex, or national origin in the award and performance of USDOT-assigned contracts.

XV. Arbitration Clause, ARS §12-1518

Pursuant to ARS §12-1518, the parties agree to use arbitration, after exhausting applicable administrative reviews, to resolve disputes arising out of this Contract where the provisions of mandatory arbitration apply.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XVII. Appropriation of Funds by U.S. Congress

It is agreed that in no event will this Contract be binding on any party hereto unless and until such time as funds are appropriated and authorized by the U.S. Congress and specifically allocated to the project submitted herein and then only for the fiscal year for which such allocation is made. In the event no funds are appropriated by the U.S. Congress or no funds are allocated for the project proposed herein for subsequent fiscal years, this Contract will be null and void, except as to that portion for which funds have then been appropriated or allocated to this project, and no right of action or damages will accrue to the benefit of the parties hereto as to that portion of the Contract or project that may so become null and void.

XVIII. Continuation of Highway Safety Program

It is the intention of AGENCY to continue the Highway Safety Program identified in this Contract once Federal funding is completed. This intended continuation will be based upon cost effectiveness and an evaluation by AGENCY of the program's impact on highway safety.

XIX. E-Verify

Both parties acknowledge that immigration laws require them to register and participate with the E-Verify Program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this State. Both parties warrant that they have registered with and participate with E-Verify. If either party later determines that the other non-compliant party has not

complied with E-Verify, it will notify the non-compliant party by certified mail of the determination and of the right to appeal the determination.

XX. Termination and Abandonment

- A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.
- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice, AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.
- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated below.

In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract.

The cancellation shall be effective when written notice from the Governor or Chief Executive Officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

AGREEMENT OF UNDERSTANDING AND CERTIFICATION OF COMPLIANCE**Acceptance of Condition**

It is understood and agreed by the undersigned that a grant received as a result of this Contract is subject to the Highway Safety Act of 1966, as amended (23 U.S.C.A. §§401-404), ARS §28-602, and all administrative regulations governing grants established by the USDOT and STATE. It is expressly agreed that this Highway Safety Project constitutes an official part of the STATE's Highway Safety Program and that AGENCY will meet the requirements as set forth in the accompanying Project Director's Manual, which are incorporated herein and made a part of this Contract. All State and Federal Statutes, Rules, Regulations, and Circulars referenced in this Contract are a part of this document as if fully set forth herein. It is also agreed that no work will be performed nor any obligation incurred until AGENCY is notified in writing that this project has been approved by the Governor's Highway Safety Representative.

Certificate of Compliance

This is to certify that AGENCY will comply with all of the State and Federal Statutes, Rules and Regulations identified in this Contract.

Certification of Non-Duplication of Grant Funds Expenditure

This is to certify that AGENCY has no ongoing nor completed projects under contract with other Federal fund sources which duplicate or overlap any work contemplated or described in this Contract. It is further certified that any pending or proposed request for other Federal grant funds which would duplicate or overlap work described in the Contract will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of Federal funds expenditures subsequently determined by audit will be subject to recovery by STATE.

Single Audit Act

If your political subdivision has had an independent audit meeting the requirements of the Single Audit Act of 1984, (31 U.S.C.A. §7501 et. seq.), please forward a copy to GOHS, Attention: Fiscal Services Officer, within thirty (30) days of the effective date of this Contract. If such audit has not been performed, please advise when it is being scheduled.

Buy America Act

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase only steel, iron, and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than twenty-five (25) percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.

Prohibition on Using Grant Funds to Check for Helmet Usage

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

Certification Regarding Debarment and Suspension

- A. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.
- B. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- C. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
- D. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- E. The terms *covered transaction*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of 2 CFR part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- F. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- G. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled Instructions for Lower Tier Certification including the Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction, provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.
- H. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

- I. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- J. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, and Other Responsibility Matter

- A. The prospective primary participant certifies to the best of its knowledge and belief, that its principal:
 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- B. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

- A. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.
- B. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- C. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its

certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- D. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- E. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- F. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.
- G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- I. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

- A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

REIMBURSEMENT INSTRUCTIONS**1. Agency Official preparing the Report of Costs Incurred:**Name: Lisa Alexander-FroslandTitle: Accountant PrincipalTelephone Number: 623-222-1847 Fax Number: 623-222-1801E-mail Address: lisa.alexander@surpriseaz.gov**2. Agency's Fiscal Contact:**Name: Lisa Alexander-FroslandTitle: Accountant PrincipalTelephone Number: 623-222-1847 Fax Number: 623-222-1801E-mail Address: lisa.alexander@surpriseaz.govFederal Identification Number: 86-6007796**3. *REIMBURSEMENT INFORMATION:***

Warrant/Check to be made payable to:

City of Surprise

Warrant/Check to be mailed to:

City of Surprise

(Agency)

16000 N Civic Center Plaza

(Address)

Surprise, AZ 85374

(City, State, Zip Code)

4. *DUNS Number:*021 64 8936

(DUNS #)

16000 N Civic Center Plaza Surprise, AZ 85374

(Registered Address & Zip Code)

Restriction on State Lobbying

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. 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 will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients will certify and disclose accordingly.
- D. 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 USC §1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Project Director:

Terry Young, Chief
Surprise Police Department

Date

Telephone

**Signature of Authorized Official of
Governmental Unit:**

Bob Wingenroth, City Manager
City of Surprise

Date

Telephone

RESOLUTION # 2018-70

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AUTHORIZING THE CITY TO ACCEPT ADDITIONAL GRANT FUNDING FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR THE PURCHASE OF TWO TRAFFIC TRAILERS AND AMENDING THE FISCAL YEAR 2018 BUDGET BY REALLOCATING APPROPRIATIONS OF \$7,800 WITHIN THE GRANTS FUND FOR THE RECEIPT OF GRANT FUNDING.

WHEREAS, the Arizona Governor's Office of Highway Safety (GOHS) annually awards grants to local agencies to focus upon various areas,

WHEREAS, the City of Surprise, through its Police Department, applied for and was awarded monies for the purchase of two radar display trailers through the Selective Traffic Enforcement Program (STEP) in the amount of \$36,000,

WHEREAS, the actual cost for the two radar display trailers is \$44,000 and GOHS has authorized a change order to provide the additional funding,

WHEREAS, the FY2018 budget was adopted by Council Resolution #2017-64 on June 6, 2017;

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 City is hereby authorized to accept additional grant funding in the amount of \$7,724.26 from the Governor's Office of Highway Safety for the City of Surprise Police Department to be able to purchase two radar trailers that meet MUTCD standards for traffic messaging.

Section 2. Bob Wingenroth, City Manager, or his designees, is authorized to conduct all negotiations and to execute and submit all document and other necessary or desirable instruments in connection with said change order and grant award.

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, 2017 through June 30, 2018.

APPROVED AND ADOPTED this ____ day of _____, 2018.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2018-70
Exhibit A

1. Appropriation - The allocations below represent a reallocation of appropriation in the amount of \$7,800 from contingency within the Grants Fund to the FFY 18 GOHS STEP Enforce-Related Equipment project within the Grants Fund to cover the projected expenditures associated with procuring two (2) radar trailers that meet MUTCD standards for traffic messaging. These allocations do not represent an actual transfer of funds, but only a transfer of spending authority.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Grants	Police	#G31280 FFY18 STEP Enforce-Related Equip	E	36,000	7,800	43,800
Grants	Police	#G31280 FFY18 STEP Enforce-Related Equip	R	36,000	7,800	43,800
Grants	General Operations	Contingency	E	7,524,200	(7,800)	7,516,400
Grants	General Operations	Other	R	11,832,100	(7,800)	11,824,300
Expense Total				7,560,200	-	7,560,200
Revenue Total				11,868,100	-	11,868,100



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date:	May 15, 2018	Contact Person:	Sergio Angulo - Community Development
Submitting Department:	CD	District:	4
Staff Recommendations:	None		

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

Agenda Wording:

Consideration and action pertaining to approval of a final plat entitled, "Re-plat of Lot 6e of Bell & Dysart Commerce Center" dated April 3, 2018, to allow for a new Vehicle Service – Major Repair facility for Service King generally located north of Bell Road and east of Dysart Road.

Motion:

I move to approve the Final Plat entitled, "Re-plat of Lot 6e of Bell & Dysart Commerce Center" dated April 3, 2018.

Background:

On December 28, 2017 Beck Consulting Engineers submitted a request for a Final Plat approval to replat Lot 6e of Bell and Dysart Commerce Center to allow for a new Vehicle Service – Major Repair facility for Service King generally located north of Bell Road and east of Dysart Road. An application for a Conditional Use Permit was also submitted (Case FS17-731). The CUP was heard and approved by the Planning and Zoning Commission on May 3, 2018 with a stipulation that this Final Plat must be approved by the Mayor and City Council.

Objective Analysis:

This proposed Final Plat will allow for the development of a new Vehicle Service – Major Repair facility for Service King generally located north of Bell Road and east of Dysart Road.

Policy Compliant:

The proposed project is consistent with City and Council Policy.

Financial Impact:

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

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

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

ATTACHMENTS:

Click to download

- ☐ [00-FS17-731 Service King AZ Final Plat Staff Report](#)
 - ☐ [01 - FS17-731 Service King Arizona Final Plat - Vicinity Map](#)
 - ☐ [02 - FS17-731 Service King Arizona Final Plat](#)
 - ☐ [03 - FS17-731 Service King Arizona Final Plat - Presentation](#)
-

FINAL PLAT

REPORT TO THE CITY COUNCIL

Case: **FS17-731**

Project Name: Service King Arizona

Council District: 4 - MULBERRY

City Council Date: **May 15, 2018**

Planner: Sergio Angulo

Owner: NEC Bell & Dysart LLC

Applicant: Mark Beck with Beck Consulting Engineers

Request: Final Plat to replat Lot 6e of the Bell & Dysart Commerce Center located generally north of Bell Road and east of Dysart Road.

Site Location: Generally north of Bell Road and east of Dysart Road.

Site Size: 4.05 acres (approx.)

Findings:

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the Surprise Municipal Code.

Staff

Recommendation: **Approve** [no stipulations on final plats]

History:

May 23, 1996: The subject parcel was annexed into the City.

November 9, 2017: Staff met with the applicant to discuss the project during a regularly scheduled Concept Review meeting under CR17-544.

December 28, 2017: The applicant filed a request for a Final Plat approval for the Replat of Lot 6e of Bell and Dysart Commerce Center

41 **Additional Information:**

42
43 The applicant is requesting a Final Plat approval to replat Lot 6e of Bell and Dysart
44 Commerce Center to allow for a new Vehicle Service – Major Repair facility for Service
45 King Arizona. The proposed Final Plat will subdivide the subject property into two (2) lots;
46 Lot 6f and Lot 6g. The proposed lot sizes are the following;

- 47 • Lot 6f: 2.935 acres
- 48 • Lot 6g: 1.118 acres

49
50 The proposed vehicle service facility will be located in Lot 6f which fronts on to Bell Road.
51 At time of this report there are no development plans for Lot 6g. This Final Plat will not be
52 dedicating any new right-of-way.

53
54 The related Conditional Use Permit (case FS17-731) for a Vehicle Service – Major Repair
55 facility was heard and approved by the Planning and Zoning Commission on May 3, 2018
56 with a stipulation that prior to final approval of the Conditional Use Permit, this Final Plat
57 must be approved by the Mayor and City Council.

58
59 **Attachments:**

60
61 01 Vicinity Map
62 02 Final Plat

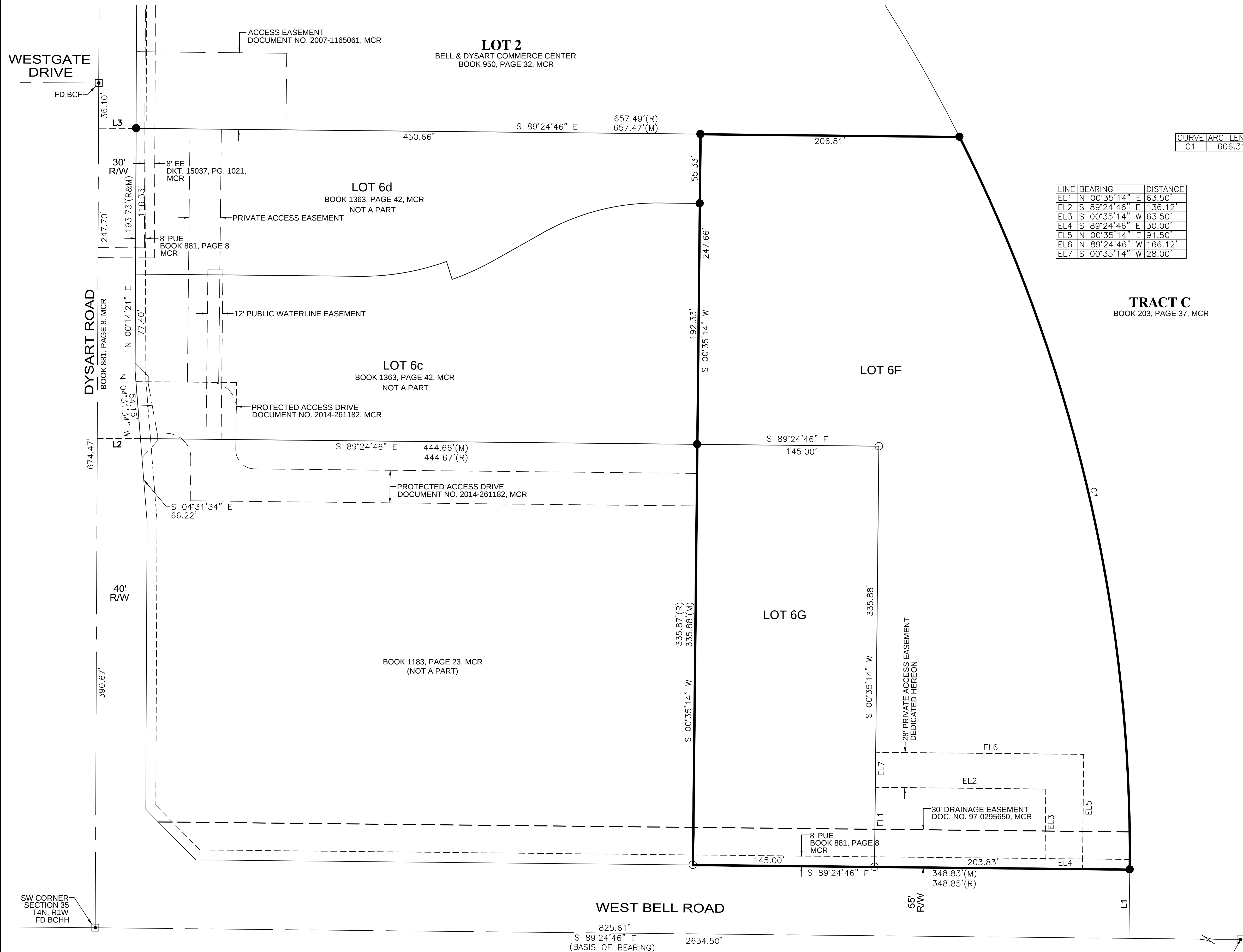
63
64 **Enclosure:**

65
66 Sealed mylars

VICINITY MAP



RE-PLAT OF LOT 6e
BELL & DYSART COMMERCE CENTER



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	606.31'	1270.00'	27°21'14"	N 13°04'46" W	600.57'

LINE	BEARING	DISTANCE
EL1	N 00°35'14" E	63.50'
EL2	S 89°24'46" E	136.12'
EL3	S 00°35'14" W	63.50'
EL4	S 89°24'46" E	30.00'
EL5	N 00°35'14" E	91.50'
EL6	S 89°24'46" W	166.12'
EL7	S 00°35'14" W	28.00'

LINE	BEARING	DISTANCE
L1(M)	N 00°35'55" E	55.00'
L2(M)	S 89°44'58" E	34.50'
L3(M)	S 89°44'58" E	30.00'

TRACT C
BOOK 203, PAGE 37, MCR

LEGEND

MCR	MARICOPA COUNTY RECORDS
R/W	RIGHT-OF-WAY
PUE	PUBLIC UTILITY EASEMENT
DOC.	DOCUMENT
NO.	NUMBER
FD	FOUND
SVE	SIGHT VISIBILITY EASEMENT
BCF	BRASS CAP FLUSH
BCHH	BRASS CAP IN HANDHOLE
EE	ELECTRIC EASEMENT
DKT.	DOCKET
PG.	PAGE
	PROPERTY LINE
	ADJOINER LINE
	CENTER LINE
	EASEMENT LINE AS NOTED
	FOUND 1/2" REBAR
	SET 1/2" REBAR W/CAP "RLS 41896"
	FOUND BRASS CAP IN HANDHOLE UNLESS OTHERWISE NOTED
G.S.R.B. & M.	GILA AND SALT RIVER BASE AND MERIDIAN
(M)	MEASURED DATA
(R)	RECORDED DATA (BOOK 1183, PAGE 23)

PREPARED BY:

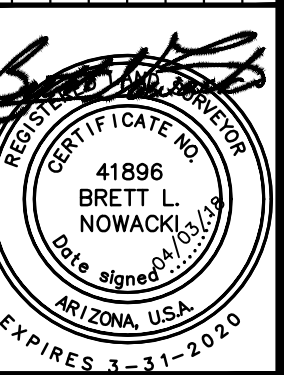


REPLAT OF LOT 6e
OF BELL & DYSART COMMERCE CENTER
SECTION 35, TOWNSHIP 4N, RANGE 1W,
SURPRISE, ARIZONA

SCALE (H): AS SHOWN
SCALE (V): N/A
DESIGNED BY: HCV
DRAWN BY: HCV
CHECKED BY: MWB
DATE: 02/28/2018

beck
consulting engineers

9034 N. 23RD AVENUE
SUITE #5
PHOENIX, AZ 85021
PHONE: (602) 943-6200
FAX: (602) 943-6201

[illegible]

PROJECT NO.
160003



SURPRISE
ARIZONA

FS17-731

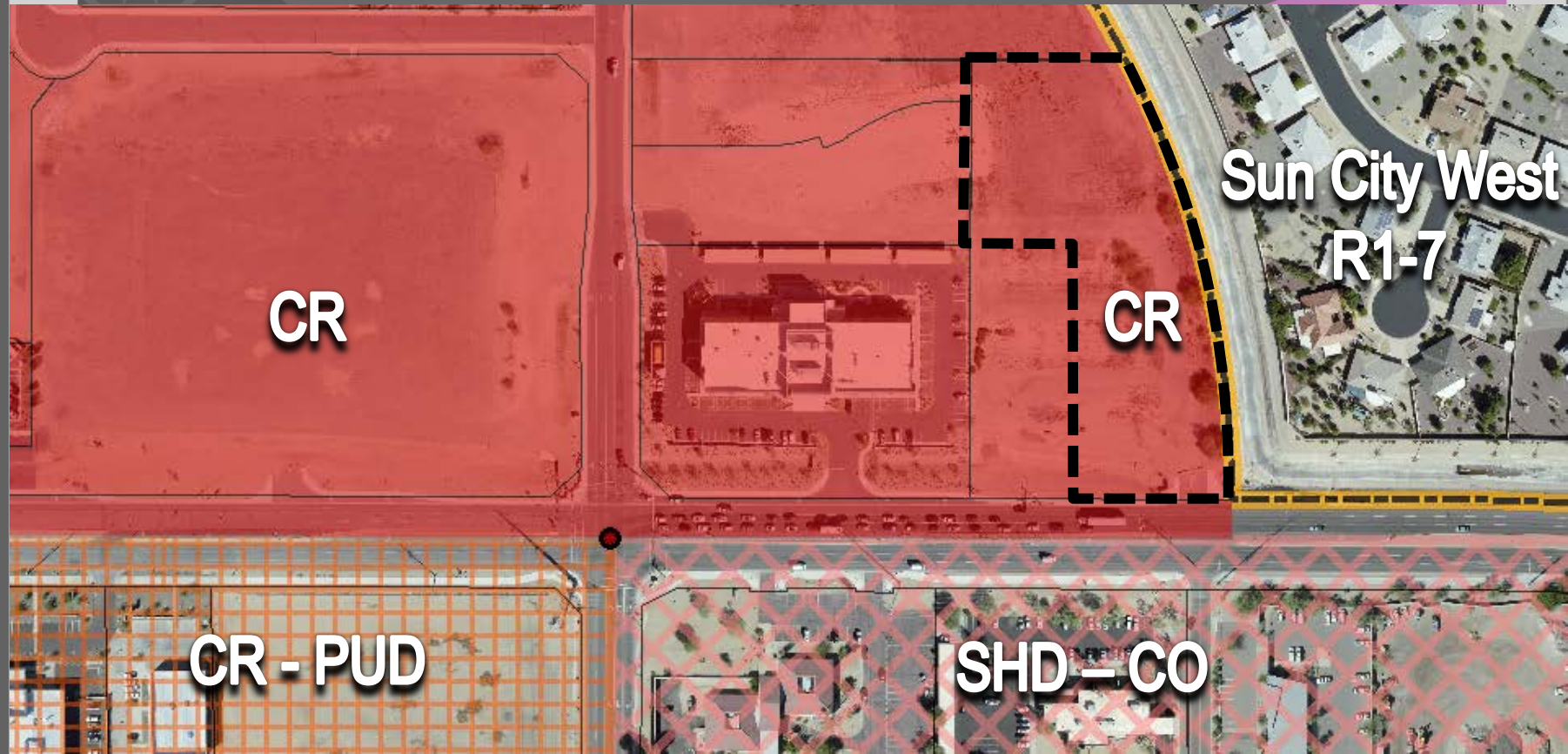
Service King

City Council
May 15, 2018

VICINITY MAP



SURROUNDING ZONING



Z





SURPRISE
ARIZONA

**QUESTIONS OR
COMMENTS?**

Thank You



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date:	May 15, 2018	Contact Person:	Sergio Angulo - Community Development
Submitting Department:	CD	District:	1
Staff Recommendations:	None		

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

Agenda Wording:

Consideration and action pertaining to approval of the final plat entitled, "Mirano at Desert Oasis" dated April 9, 2018, to modify the lot lines of Parcel L7 and L8 to conform to the zoning land use designations of Parcels L7 and L8 of the Desert Oasis at Surprise PAD located on the Northwest corner of Jomax Road and 171st Avenue.

Motion:

I move to approve the final plat entitled, "Mirano at Desert Oasis" dated April 9, 2018.

Background:

On February 7, 2018 EPS Group, Inc. submitted a request for a Final Plat to modify the lot lines of Parcel L7 and L8 to conform to the zoning land use designations of Parcels L7 and L8 of the Desert Oasis at Surprise PAD located on the Northwest corner of Jomax Road and 171st Avenue.

Objective Analysis:

This proposed Final Plat will ensure that these two lots conform to the boundaries of the land uses set in the PAD and will allow for a Dollar General retail store to keep moving forward in their effort to develop in a portion of Lot 2 of the proposed Final Plat.

Policy Compliant:

The proposed project is consistent with City and Council Policy.

Financial Impact:

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

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

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

ATTACHMENTS:

Click to download

- ☐ [00 - FS18-072 - Mirano at Desert Oasis - Final Plat - Staff Report](#)
 - ☐ [01 - FS18-072 - Mirano at Desert Oasis - Final Plat - Vicinity Maps](#)
 - ☐ [02 - FS18-072 - Mirano at Desert Oasis - Final Plat](#)
 - ☐ [03 - FS18-072 - Mirano at Desert Oasis - Final Plat - Presentation](#)
-

FINAL PLAT

REPORT TO THE CITY COUNCIL

Case: **FS18-072**

Project Name: Mirano at Desert Oasis Final Plat

Council District: 1 - ACACIA

City Council Date: **May 15, 2018**

Planner: Sergio Angulo

Owner: DKJ Desert Oasis, LLC

Applicant: EPS Group, Inc.

Request: Final Plat to modify the lot lines of Parcel L7 and L8 to conform to the zoning land use designations of Parcels L7 and L8 of the Desert Oasis at Surprise PAD.

Site Location: Generally north of Jomax Road and west of 171st Avenue

Site Size: 30.32 acres (approx.)

Findings:

.

- The proposed Final Plat is consistent with the Surprise General Plan 2035.
- The proposed Final Plat is consistent with the Surprise Municipal Code.
- The proposed Final Plat is consistent with the Desert Oasis at Surprise PAD.
- The proposed Final Plat is consistent with the approved Preliminary Plat for Mirano at Desert Oasis case FS17-176.

Staff

Recommendation: **Approve** [no stipulations on final plats]

History:

October 12, 2000: the Mayor and City Council approved the annexation of the subject property.

September 14, 2000: the Mayor and City Council approved the Desert Oasis at Surprise Planned Area Development.

December 20, 2016: The Mayor and City Council approved a Major Amendment to the Desert Oasis at Surprise Planned Area Development (PAD) to change the designated land use of approximately eight (8) acres of subject site from Commercial to Medium Density Residential.

December 5, 2017: the Mayor and City Council approved the Preliminary Plat for Mirano at Desert Oasis.

February 7, 2018: the applicant filed a request for a Final Plat approval modify the lot lines of Parcel L7 and L8 to conform to the zoning land use designations of Parcels L7 and L8 of the Desert Oasis at Surprise PAD.

Additional Information:

The applicant is requesting a Final Plat approval that will modify the lot lines on Parcels L7 and L8 of Desert Oasis to conform to the lands use designations of the subject properties as set in the Desert Oasis PAD. The land use designated in the Desert Oasis PAD for Lot 1 of this plat is Medium Density Residential while Lot 2 has been designated as Commercial. Lot 1 is approximately 25.4 acres and Lot 2 is approximately 4.9 acres.

The applicant proposes 106 residential units in Lot 1. The final plat to subdivide the residential lots in Lot 1 will be heard by the Mayor and City Council at a later date. On February 5, 2018 the Planning and Zoning Commission approved a Site Plan for a new Dollar General Retail store in a portion of Lot 2. The Site Plan for the proposed retail store was approved with a stipulation that a final plat shall be approved.

The proposed final plat does not dedicate any new right of way. The proposed Final Plat will ensure that these two lots conform to the boundaries of the land uses set in the PAD and will allow for a Dollar General retail store to keep moving forward in their effort to develop in a portion of Lot 2 of the proposed Final Plat.

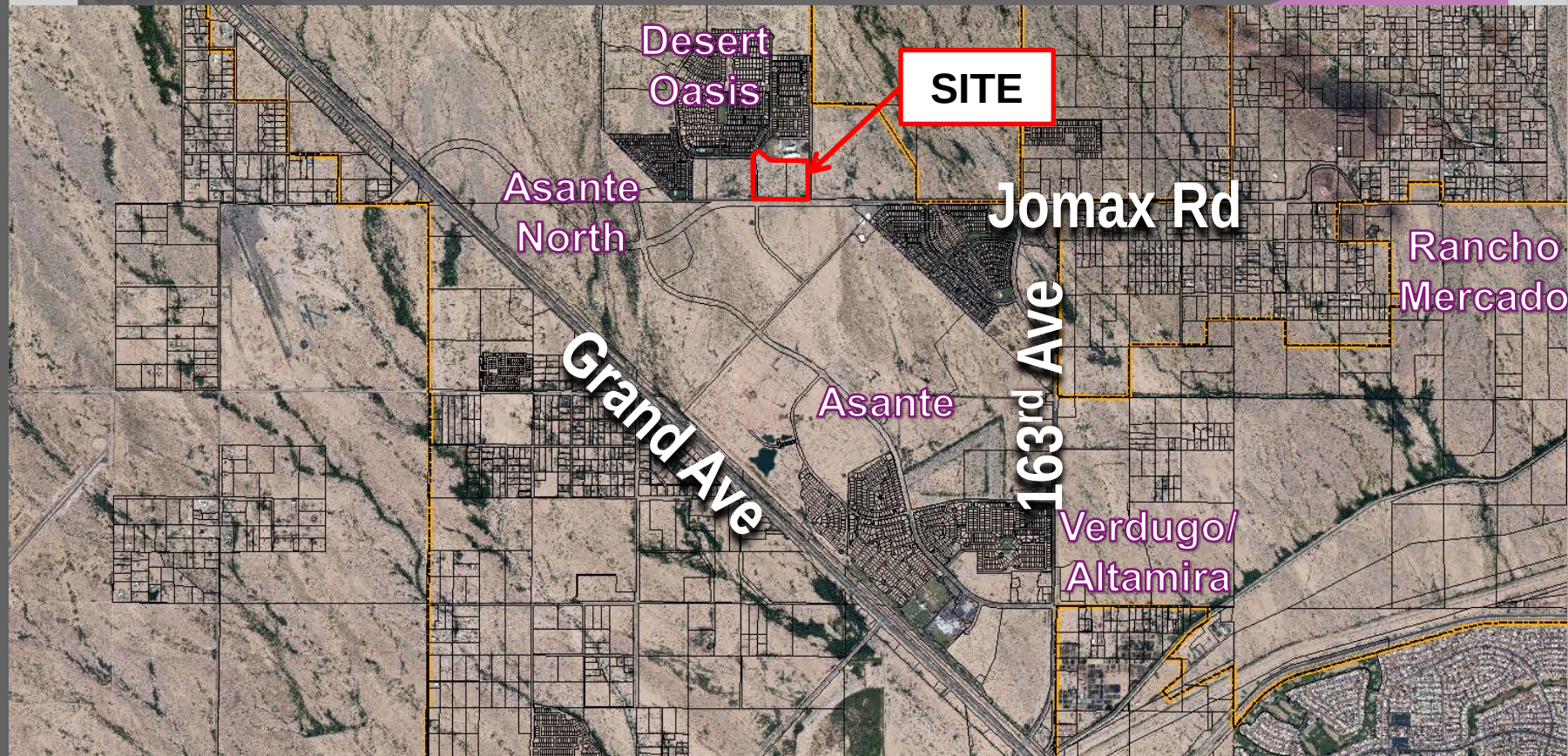
Attachments:

01 Vicinity Map
02 Final Plat

Enclosure:

Sealed mylars

VICINITY MAP

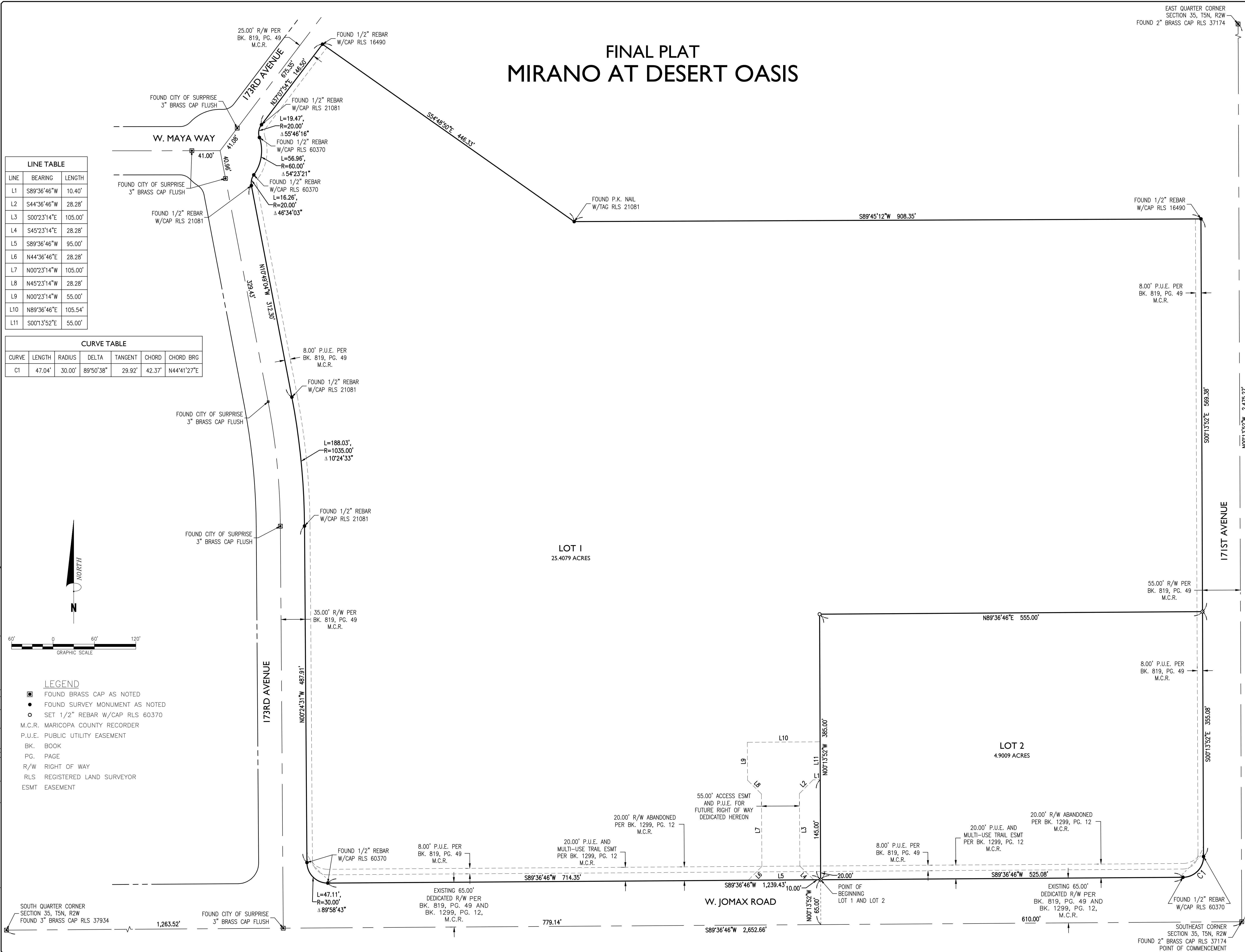
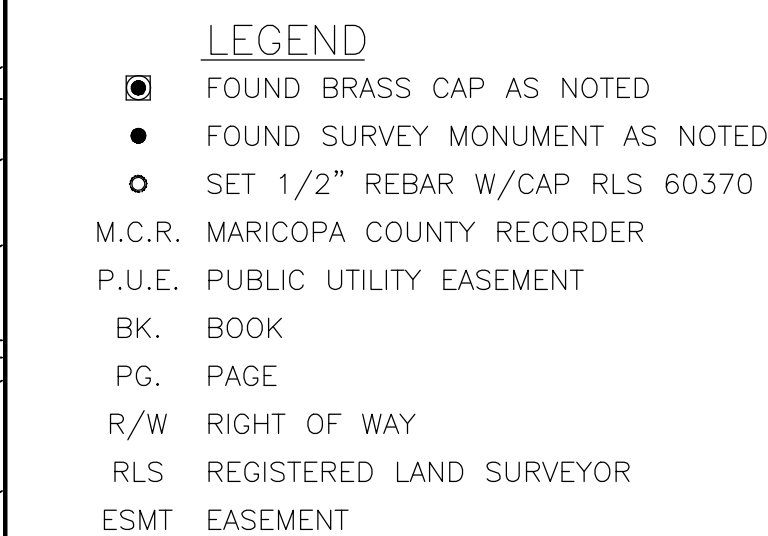


VICINITY MAP



CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BRG
C1	47.04'	30.00'	89°50'38"	29.92'	42.37'	N44°41'27"E

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BRG
C1	47.04'	30.00'	89°50'38"	29.92'	42.37'	N44°41'27"E



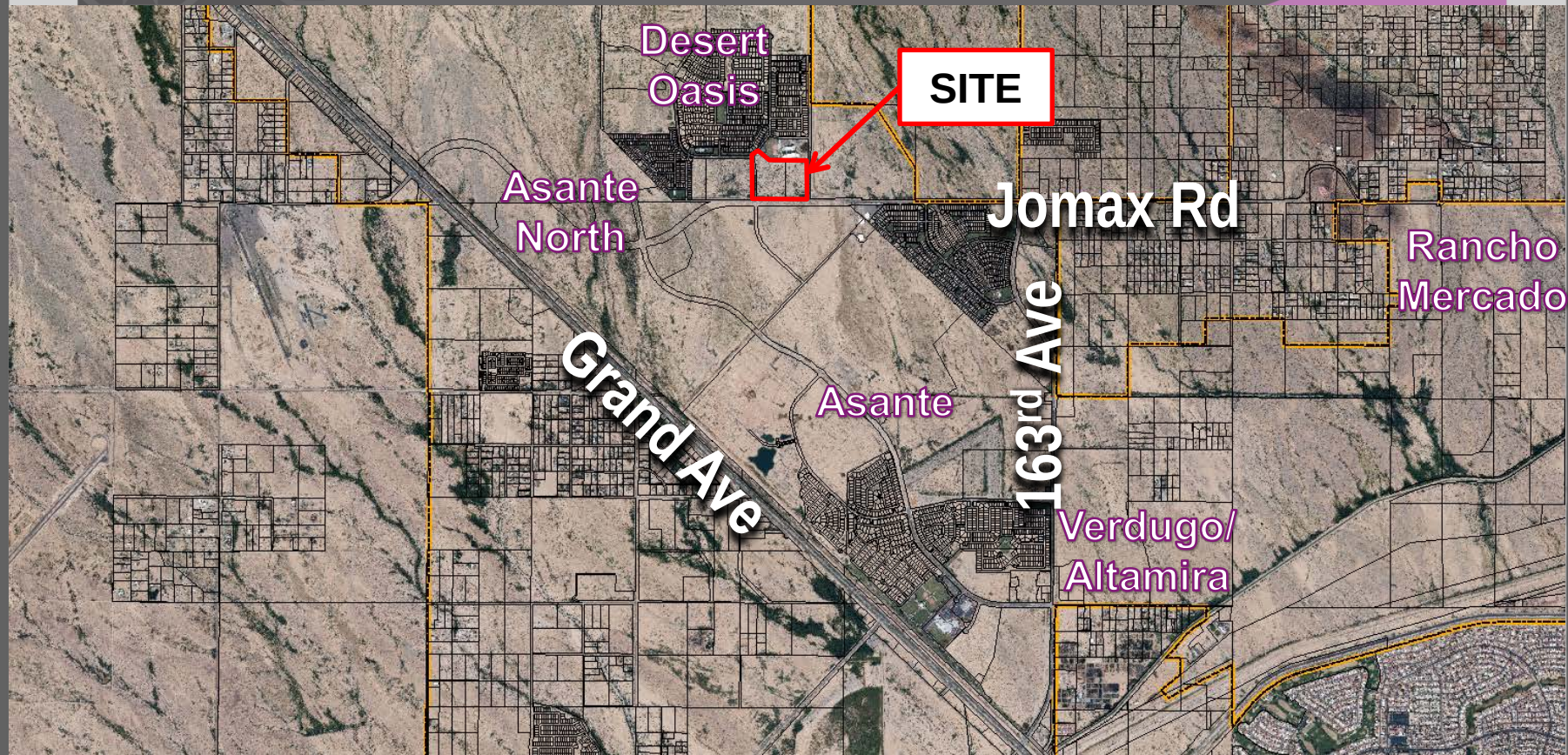


S U R P R I S E
A R I Z O N A

Mirano at Desert Oasis
Final Plat
FS18-072

City Council
May 15, 2018

VICINITY MAP



VICINITY MAP





Zoning History

- 2000: Annexation
- 2000: PAD Approval
- 2016: PAD Amendment/Rezone Approval
- 2017: Preliminary Plat Approval



Surrounding Zoning







SURPRISE
ARIZONA

**QUESTIONS OR
COMMENTS?**

Thank You



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date:	May 15, 2018	Contact Person:	Eric Fitzer, Community Development
Submitting Department:	CD	District:	1
Staff Recommendations:	None		

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action pertaining to approval of the Right of Way Agreement between the Arizona State Land Department and The City of Surprise; Resolution #2018-72.

Motion:

I move to approve Resolution #2018-72

Background:

The Rancho Del Rey development needs right of way from the Arizona State Land Department (ASLD) in order to have the needed access as required by the City's development guidelines. Per ASLD requirements, the City must be the applicant as we will hold the rights of the right of way. The Developer pays for all costs associated with acquiring the right of way. The right of way is located at Happy Valley Road and 145th avenue.

Objective Analysis:

The right of way is needed for access to the development. Without the right of way, there will be no legal access into the development.

Policy Compliant:

Acceptance of this right of way is consistent with The City and Council Policies

Financial Impact:

All activity related to ongoing development of the City of Surprise has an economic and fiscal impact on the city and the region. All Costs associated with the acquisition of this right of way has been born by the developer.

Budget Impact:

No budgetary impact at this time.

FTE Impact:

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

ATTACHMENTS:

Click to download

- ☐ [Resolution 2018-72 ROW Acceptance from ASLD with attachment](#)
 - ☐ [ASLD Rancho Del Ray ROW Agreement](#)
 - ☐ [Auction Notice - ROW Valuation](#)
 - ☐ [Finance Memo for ROW value](#)
-

RESOLUTION #2018-72

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING THE RIGHT OF WAY AGREEMENT BETWEEN THE ARIZONA STATE LAND DEPARTMENT AND THE CITY OF SURPRISE.

WHEREAS, the Arizona State Land Department (the "State") is owner of the property at Happy Valley Road and 145th Avenue, as more particularly described in the exhibits to the Right of Way agreement hereto and incorporated herein by reference (the "Property"); and

WHEREAS, in order to obtain access to the Property, the City wishes to enter into the following right-of-way agreement.

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

Section 1. The State Land Department, State of Arizona, Right of Way agreement, a copy of which is attached hereto as Exhibit A, is approved.

Section 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to sign all documents and to take all steps necessary and reasonable for the City to obtain right-of-way access to the Property.

APPROVED AND ADOPTED this ____ day of _____, 2018.

Sharon Wolcott, Mayor

ATTEST:

APPROVED AS TO FORM:

Sherry A. Aguilar, City Clerk

Robert Wingo, City Attorney

STATE LAND DEPARTMENT STATE OF ARIZONA

Right of Way

R/W No. 16-119579-00

THIS RIGHT OF WAY ("Right of Way") is entered into by and between the State of Arizona (as "Grantor") by and through the Arizona State Land Department and

CITY OF SURPRISE

("Grantee"). In consideration of payment and performance by the parties of each of the provisions set forth herein, the parties agree as follows:

EXTENT OF DOCUMENT

"Additional Conditions", "Exhibits", and "Appendixes" are an integral part of this document. In case of a conflict between the printed boiler document and the additional conditions, exhibits, or appendixes, the applicable additional condition, exhibit, or appendix shall be considered the governing document and supersede the printed boiler, but only to the extent necessary to implement the additional condition, exhibit, or appendix, and only if the additional condition, exhibit, or appendix does not conflict with governing state or federal law.

ARTICLE 1 SUBJECT LAND

1.1 Grantor grants to Grantee a Right of Way on, over, through, and across the State lands described in Appendix A attached hereto ("Subject Land").

1.2 Grantee makes use of the Subject Land "as is", and Grantor makes no express or implied warranties as to the physical condition of the Subject Land.

ARTICLE 2 TERM

2.1 The term of this Right of Way commences on December 5, 2017 ("Commencement Date"), and runs for a perpetual term ("Expiration Date"), unless sooner canceled or terminated as provided herein or as provided by law.

ARTICLE 3
RENT

3.1 Rental is due in advance for the term of this Right of Way document.

3.2 If the Grantee should fail to pay rental when due, or fail to keep the covenants and agreements herein set forth, the Commissioner, at his option, may cancel said Right of Way or declare the same forfeited in the manner provided by law.

ARTICLE 4
PURPOSE AND USE OF SUBJECT LAND

4.1 The purpose of this Right of Way is the location, construction, operation, and maintenance of:

Public road with underground utilities.

4.2 No material may be removed by Grantee or its contractors without the written approval of the Commissioner.

4.3 Grantee shall not exclude from use the State of Arizona, its lessees or grantees, or the general public the right of ingress and egress over this Right of Way.

4.4 Grantee shall acquire required permits prior to construction, and adhere to all applicable rules, regulations, ordinances, and building codes as promulgated by the local jurisdiction and any applicable State or Federal agencies.

4.5 All use of State land outside the Right of Way must be applied for and authorized in accordance with applicable law.

4.6 Grantee shall not sublet or assign this Right of Way or any portion thereof without the written consent of the Grantor.

4.7 The Grantor retains ownership of the Subject Land. The use of this Right of Way is to be non-exclusive. This Right of Way is sold subject to existing reservations, easements, or rights of way heretofore legally obtained and now in full force and effect.

4.8 When necessary for Grantee's reasonable use of this Right of Way for the purposes for which the grant is made, it shall be deemed to include the rights in, upon, over, and across the described Subject Land to erect, construct, reconstruct, replace, repair, and maintain the facilities authorized by this Right of Way.

4.9 Grantee shall have the right to erect, maintain, and use gates in all fences under the control of the Grantor which now cross or shall hereafter cross said Right of

Way, and to trim, cut, and clear away trees or brush whenever in its judgment the same shall be necessary for the convenient and safe exercise of the right herein provided.

4.10 Grantee shall not fence any portion of this Right of Way unless specifically authorized in the attached additional conditions without prior written consent of Grantor, nor shall Grantee exclude from the use of the surface thereof the State of Arizona or its lessees or grantees as reserved in Paragraph 10.1.

ARTICLE 5

CONFORMITY TO LAW

5.1 This Right of Way is subject to applicable laws and covenants relating to State lands.

ARTICLE 6

CANCELLATION, TERMINATION AND ABANDONMENT

6.1 This Right of Way is subject to cancellation pursuant to A.R.S. § 38-511.

6.2 If at any time the Right of Way ceases to be used for the purpose for which it was granted, it shall become void, and the right to use the Subject Land and all the rights of Grantee hereunder shall revert to the Grantor.

6.3 Upon revocation or termination of the Right of Way, the Grantee shall remove all equipment or facilities and, so far as is reasonably possible, restore and/or rehabilitate the Subject Land to its original condition, and to the satisfaction of the Commissioner.

ARTICLE 7

INDEMNITY

7.1 This provision is pursuant to the July 12, 2000 memorandum issued by the Risk Management Section of the Arizona Department of Administration applicable to all political subdivisions of the State.

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

ARTICLE 8
RESERVATIONS; RELINQUISHMENTS

8.1 Grantor reserves the right to grant other rights in, upon, over, and across the described Subject Land for any purpose whatsoever not inconsistent or incompatible with the use allowed by this indenture, and the Grantee agrees not to exclude the Grantor or its lessees or grantees from the use of the Subject Land herein described.

8.2 Grantor reserves all natural resources, timber, and minerals (including oil or gas) in or upon the described Subject Land, and the right to grant leases, permits, easements, and/or rights of way to extract such resources as provided by law and in a manner not inconsistent or incompatible with Grantee rights hereunder. Where inconsistent or incompatible uses exist, the Grantor will require the applicant therefor to indemnify Grantee for loss it might suffer by reason of such use.

8.3 Grantor reserves the right to relinquish to the United States pursuant to the U.S. Act of August 30, 1890, land needed for irrigation works in connection with a government reclamation project.

ARTICLE 9
LOCATION, CONSTRUCTION AND MAINTENANCE

9.1 Grantee shall ensure full compliance with the terms and conditions of this Right of Way by its agents, employees, and contractors (including sub-contractors of any tier), and the employees of each of them and shall include the terms and conditions in all contracts and sub-contracts which are entered into by any of them.

9.2 Failure or refusal of Grantee's agents, employees, contractors, sub-contractors, or their employees to comply with these terms and conditions shall be deemed to be the failure or refusal of Grantee.

ARTICLE 10
NATIVE PLANTS AND CULTURAL RESOURCES

10.1 (a) Pursuant to A.R.S. §§ 41-841 and 41-842, Grantee, Grantee's employees, and Grantee's guests shall not excavate or collect any prehistoric or historic archaeological specimens on the Subject Land without a permit from the Director of the Arizona State Museum and written approval of Grantor pursuant to the terms of this Right of Way. Grantee shall immediately report any unpermitted excavation or collection of archaeological specimens on the Subject Land to the Arizona State Museum and Grantor.

(b) Pursuant to A.R.S. § 41-844, Grantee shall report to the Director of the Arizona State Museum and Grantor any prehistoric or historic archaeological site, or paleontological site, that is discovered on the Subject Land by Grantee, Grantee's

employees, or Grantee's guests, and shall, in consultation with the Director of the Arizona State Museum and Grantor, immediately take all reasonable steps to secure the preservation of the discovery.

10.2 (a) Grantee shall not move, use, destroy, cut or remove or permit to be moved, used, destroyed, cut or removed any timber, cactus, native plants, standing trees or products of the land except that which is necessary for the use of the Subject Land, and then only with the prior written approval of Grantor. For undeveloped land, the Grantee must submit a plant survey prior to the removal of any native plant. If the removal or destruction of plants protected under the Arizona Native Plant Law (A.R.S. § 3-901 et seq., or any successor statutes) is necessary to the use of the Subject Land, Grantee shall also obtain the prior written approval of the Arizona Department of Agriculture. In the event the Grantee removes the native plants, the Grantee must pay a vegetation fee to the Grantor and this fee is not a reimbursable improvement.

(b) Grantee is responsible for treatment of all regulated and restricted noxious weeds listed by the Arizona Department of Agriculture.

ARTICLE 11

GRANTEE SHALL PROTECT AND RESTORE THE SUBJECT LAND

11.1 Grantee shall be required, upon completion of Right of Way construction, to make such rehabilitation measures on the State lands, including but not limited to restoration of the surface, revegetation, and fencing as determined necessary by the Grantor.

11.2 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to all land values including, but not limited to vegetation, drainage channels, and streambanks. Construction methods shall be designed to prevent degradation of soil conditions in areas where such degradation would result in detrimental erosion or subsidence. Grantee shall take such other soil and resource conservation and protection measures on the Subject Land under grant as determined necessary by the Grantor.

11.3 Costs incurred by the Grantee in complying with restoration and rehabilitation requirements, as determined by the Department, on State lands shall be borne by the Grantee.

11.4 Grantee shall conduct its operations on the Subject Land in such a manner as is consistent with good environmental practices. Grantee shall exert reasonable efforts to avoid damage of protected flora, and restore the surface to its condition prior to the occupancy thereof by Grantee.

ARTICLE 12
MISCELLANEOUS

12.1 The described Subject Land shall be used only for the purpose stated in Paragraph 4.1, and as may be further detailed elsewhere in this document.

12.2 This Document is submitted for examination and shall have no binding effect on the parties unless and until executed by the Grantor (after execution by the Grantee), and until a fully executed copy is delivered to the Grantee.

12.3 In the event of a dispute between the parties to this Right of Way, it is agreed to use arbitration to resolve the dispute, but only to the extent required by A.R.S. § 12-1518. In no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.

12.4 Insurance provisions are intentionally omitted from this Permit pursuant to the July 12, 2000 memorandum issued by the Risk Management Section of the Arizona Department of Administration to all political subdivisions of the State.

12.5 The Grantor does not represent or warrant that access exists over other State lands which intervene respectively between the above Right of Way and the nearest public roadway.

12.6 If for any reason the State of Arizona does not have title to any of the Subject Land described herein, this Right of Way shall be null and void insofar as it relates to the land to which the State has failed to receive title.

12.7 Every obligation of the State under this Right of Way is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Right of Way, this Right of Way may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.

12.8 The parties agree to be bound by applicable State and Federal rules governing Equal Employment Opportunity, Non-discrimination and Disabilities, including Executive Order No. 2009-09.

12.9 Within 30 days of project completion, Grantee shall submit a completed certificate of construction (copy attached).

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These Additional Conditions are attached to and made a part of the Right of Way boiler plate form (the "Boiler Plate"). The term "Section" when used in these Additional Conditions shall be deemed to refer to the Section numbers of the text in the Boiler Plate. The term "Paragraph" when used in these Additional Conditions shall be deemed to refer to the Paragraph numbers of the text in these Additional Conditions. The term "Right of Way" shall mean the Boiler Plate as supplemented by these Additional Conditions.

1. LEGAL DESCRIPTION, RENT AND PURPOSE

1.1 A legal description and/or a visual depiction of this Right of Way is/are detailed in EXHIBIT A attached hereto. Subject to Grantor's rules and policies then in place, and as a result of construction-related restrictions, Grantor and Grantee may agree to modify the legal description by the Grantee submitting "as built" or "proposed realignment" legal descriptions, depending on the situation, to Grantor for Grantor's review. If approved by Grantor, and additional acreage is impacted, Grantee agrees to pay an appraised or pro-rated charge as Grantor determines is appropriate. No refund will be made for a reduction in acreage.

1.2 Grantor reserves the right to grant additional access rights, or any other rights not in conflict with the rights granted herein, to other parties at the Grantor's sole discretion.

1.3 This Right of Way is for the purpose of a public roadway with underground utilities, and does not permit any above ground facilities without proper rights authorized or issued by Grantor, assignees or its successors.

1.3.1 This Right of Way prohibits the erection of any type advertising sign(s) or monument structure(s) without proper rights authorized or issued by Grantor, assignees or its successors.

2. CONSTRUCTION, MAINTENANCE AND OPERATION

2.1 Grantee is responsible for complying with all federal, state and local guidelines in regards to the construction, maintenance and operation of this Right of Way grant and its associated appurtenances.

2.2 Prior to construction, and at the request of the Grantor, Grantee shall provide construction plans (no larger than 11" x 17" format) and applicable drainage report(s),

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engineering infrastructure report(s) or studies, and any Clean Water Act (CWA) Section 401 or 404 documents to the Grantor for the Grantor's review.

2.3 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to surface features affecting adjacent land values, including, but not limited to, vegetation, drainage channels and stream banks.

2.4 Grantee shall be responsible for controlling noxious weeds as listed by the Arizona Department of Agriculture for the term of this Right of Way. Grantor recommends Grantee review Arizona Department of Agriculture website for prohibited and restricted noxious weed rules and regulations.

2.5 Grantee agrees that any rubbish or debris from construction and maintenance work shall be removed and properly disposed of at its expense. Disposal of construction-related and maintenance-related materials on State Trust land is strictly prohibited.

2.6 Specific sites where construction and maintenance equipment and vehicles shall not be allowed (e.g. archaeological sites, areas with threatened or endangered species, or fragile watersheds) shall be clearly marked onsite by the Grantee prior to the beginning of any construction, maintenance or other ground disturbing activities. Grantee shall take any and all steps necessary to ensure that these sites are not touched.

2.7 All equipment shall be removed from the site within seven (7) days of project completion.

2.8 Grantee shall be responsible for weed control on disturbed areas within the limits of this Right of Way, and shall be responsible for consultation with the Grantor and/or local authorities for acceptable weed control methods.

2.9 For construction after Commencement Date of this Right of Way: Prior to commencement of construction Grantee shall submit and receive Grantor approval for a plan to restore and rehabilitate disturbed areas remaining once construction has been completed. The plan shall include, but not be limited to, reseeding, reforestation, erosion control, and watershed protection measures.

2.10 For ground disturbance after Commencement Date of this Right of Way: All rock brought to the surface along with topsoil and overburden from the affected State Trust lands shall be salvaged and stockpiled separately in a manner that replacement shall utilize

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one hundred (100%) percent of the materials upon completion of construction. Excess rock unsuitable for scattering shall be disposed of in a manner and location that is authorized by the Grantor.

2.11 Grantee shall maintain the Right of Way grant area in the manner described above during the term of this easement. Grantee agrees to complete any necessary restoration and rehabilitation to the satisfaction of the Grantor within ninety (90) days of written notification of non-compliance, or such longer period of time as mutually determined to be necessary to restore and/or rehabilitate subject land.

3. ENVIRONMENTAL MATTERS AND INDEMNITY

The following conditions shall supplement the terms and provisions governing environmental matters as set forth in the Right of Way boiler to which these Conditions are stated below.

3.1 For purposes of this Right of Way, the term "Environmental Laws" shall include but not be limited to any relevant federal, state or local environmental laws, and the regulations, rules and ordinances, relating to environmental matters, and publications promulgated pursuant to the local, state, and federal laws and any rules or regulations relating to environmental matters. For the purpose of this Right of Way, the term "Regulated Substances" shall include but not be limited to substances defined as "regulated substance", "solid waste", "hazardous waste", "hazardous materials", "hazardous substances", "toxic materials", "toxic substances", "inert materials", "pollutants", "toxic pollutants", "herbicides", "fungicides", "rodenticides", "insecticides", "contaminants", "pesticides", "asbestos", "environmental nuisance", "criminal littering", or "petroleum products" as defined in Environmental Laws.

3.2 Grantee shall strictly comply with all Environmental Laws, including, without limitation, water quality, air quality; and handling, transportation, storage, treatment, or disposal of any Regulated Substance on, under, or from the Subject Land. Without limiting the foregoing, compliance includes that Grantee shall: (1) comply with all reporting obligations imposed under Environmental Laws; (2) obtain and maintain all permits required by Environmental Laws, and provide a copy to Grantor within ten (10) business days of receipt of the Right of Way; (3) provide copies of all documentation required by Environmental Laws to Grantor within ten (10) business days of Grantee's submittal and/or receipt of the documentation; (4) during the term of Right of Way, provide copies of all information it receives or obtains regarding any and all environmental matters relating to the Subject Land, including but not limited to environmental audits relating to the Subject

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Land regardless of the reason for which the information was obtained or whether or not the information was required by Environmental Laws; (5) prevent treatment, storage, disposal, handling or use of any Regulated Substances within the Subject Land without prior written authorization from Grantor.

3.3 Grantee at all times shall employ or designate an existing employee (the "Designated Compliance Officer") who is responsible for knowing all Environmental Laws affecting Grantee and Grantee's business and monitoring Grantee's continued compliance with applicable Environmental Laws. Upon request by Grantor, Grantee shall make the Designated Compliance Officer available to discuss Grantee's compliance, answer any questions, and provide such reports and confirming information as Grantor may reasonably request.

3.4 At any time, Grantor may request Grantee to provide an environmental audit of the Subject Land performed by an Arizona registered professional engineer or an Arizona registered geologist. Grantee shall pay the entire cost of the audit.

3.5 Hazardous material generated (motor oil, paint, etc.) shall be disposed of properly or used in a way which will minimize impact on vegetation.

3.6 At any time, during the term of the Right of Way, Grantor may require Grantee to obtain one Phase I environmental assessment of the Subject Land performed by an Arizona registered professional engineer or an Arizona registered geologist. If based upon the Phase I environmental assessment or its own independent investigation, Grantor identifies any possible violation of Environmental Laws or the terms of this Right of Way, Grantor may require Grantee to conduct additional environmental assessments as Grantor deems appropriate for the purpose of ensuring that the Subject Land are in compliance with Environmental Laws. The Phase I assessment, or any other assessment required by Grantor, shall be obtained for the benefit of both Grantee and Grantor. A copy of the Phase I report shall be provided both to Grantee and Grantor. Grantor, in its sole discretion, shall have the right to require Grantee to perform additional assessments of any damage to the Subject Land arising out of any violations of Environmental Laws. If Grantee fails to obtain any assessments required by Grantor, Grantee shall pay the entire costs of any and all assessments required by Grantor, notwithstanding the expiration or termination of the Right of Way.

3.7 Prior to the termination of the Right of Way, Grantee shall restore the Subject Land by removing any and all Regulated Substances. In addition, the restoration shall

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include, but not be limited to, removal of all waste and debris deposited by Grantee. If the Subject Land or any portions thereof are damaged or destroyed from the existence or presence of any Regulated Substance or if the Subject Land or any portions thereof are damaged or destroyed in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance, Grantee shall arrange, at its expense, for the repair, removal, remediation, restoration, and reconstruction to the Subject Land to the original condition existing on the date that Grantee first occupied the Parcel, to the satisfaction of Grantor. In any event, any damage, destruction, or restoration by Grantee shall not relieve Grantee from its obligations and liabilities under this Right of Way. Grantee's restoration obligations under this Section shall survive the expiration or the termination of the Right of Way.

3.8 Grantee shall defend, indemnify and hold Grantor harmless from and against any and all liability, obligations, losses, damages, penalties, claims, environmental response and cleanup costs and fines, and actions, suits, costs, taxes, charges, expenses and disbursements, including legal fees and expenses of whatever kind or nature (collectively, "claims" or "damages") imposed on, incurred by, or reserved against Grantor in any way relating to or arising out of any non-compliance with any Environmental Laws, the existence or presence of any Regulated Substance, on, under, or from the Subject Land, and any claims or damages in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance on, under, or from the Subject Land by Grantee, its agents, contractors, or subcontractors.

3.9 This indemnity shall include, without limitation, claims or damages arising out of any and all violations of Environmental Laws regardless of any real or alleged fault, negligence, willful misconduct, gross negligence, breach of warranty, or strict liability on the part of any of the indemnitees. This indemnity shall survive the expiration or termination of this Right of Way and/or transfer of all or any portion of the Subject Land and shall be governed by the laws of the State of Arizona.

3.10 In the event any action or claim is brought or asserted against Grantor which is or may be covered by this indemnity, Grantee shall fully participate, at Grantee's expense, in the defense of the action or claim including but not limited to the following: (1) the conduct of any required cleanup, removal or remedial actions and/or negotiations, (2) the conduct of any proceedings, hearings, and/or litigation, and (3) the negotiation and finalization of any agreement or settlement. Grantor shall retain the right to make all final decisions concerning the defense. Grantee's obligations to participate in the defense under this Section shall survive the expiration or termination of the Right of Way.

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4. CULTURAL RESOURCES AND NATIVE PLANTS

4.1 Prior to any ground disturbance in areas not previously subject to a cultural resources survey, Grantee shall arrange for a permittee of the Arizona State Museum to inspect the area for cultural, historical, and paleontological remains and submit two copies and a PDF copy of the inspection report to the Arizona State Land Department Archaeology Section for review and approval.

4.2 Provided any cultural resources are discovered, Grantee shall avoid the resource or submit a plan for data recovery. Archaeological surveys and/or site mitigation must be conducted in accordance with the rules and regulations promulgated by the Director of the Arizona State Museum. In the event additional archaeological resources are detected by Grantee after receipt of archaeological clearance, all work shall cease and notification shall be given to the Director of the Arizona State Museum, as well as the Arizona State Land Department Cultural Resources Manager. Ground disturbing activities include, but are not limited to; blading, grading, or widening roads, pole replacement, pull-sites, temporary construction easements, or any other activity that will disturb the topsoil.

4.3 In the event that any archaeological, paleontological, or historical site or object, or Human remains or funerary object that is at least fifty years old is discovered during ground disturbing activities, the work shall cease and the grantee shall notify the Director of the Arizona State Museum pursuant to A.R.S. §41-844, and Arizona State Land Department Cultural Resources Section Manager.

4.4 Grantee shall supply Grantor with any documentation required to consult with the State Historic Preservation Office, as required pursuant to the State Historic Preservation Act (A.R.S. § 41-861 et seq).

4.5 Prior to any ground disturbance, and at the request of Grantor, Grantee agrees to conduct and submit a plant inventory/plant salvage plan to the Grantor. Payment will be required prior to any ground disturbance for any flora cut, removed and/or destroyed.

4.6 If vegetation is authorized by Grantor to be removed and/or destroyed, and prior to any ground disturbance, Grantee agrees to file the appropriate Notice of Intent to Clear Land in accordance with A.R.S. § 3-905 Destruction of Native Plants by State.

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4.7 Grantee shall preserve or relocate all protected plants, if viable and feasible, on or adjacent to the work site that will not interfere with the work required.

4.8 Grantee shall only remove protected plants when specifically authorized to do so, and avoid damaging vegetation that will remain in place. If the Grantee or its contractors are authorized to remove any protected plants from State Trust land for replanting off of State Trust land, a permit from the Department of Agriculture is required.

4.9 Grantee shall contact the Arizona Department of Agriculture for further information or permit requirements related to native protected plants.

4.9.1 A survey may be required to determine if protected plants are present and if plants must be salvaged. Grantee shall contact the Arizona Department of Agriculture at least sixty (60) days before commencement of any salvage work.

4.10 Grantee shall minimize the removal of existing vegetation within the project area to the greatest extent possible.

4.11 Grantee shall salvage or replant cactus and other protected plants.

4.12 Grantee is prohibited to blade, scrape or remove any existing vegetation without authorization from Grantor.

5. SERVICE / ACCESS ROADS

5.1 Grantee shall acquire any permits necessary prior to the construction and maintenance of its service roads. Grantee shall construct new service roads with widths as narrow as possible.

5.2 Material for service road construction and maintenance (i.e. fill dirt, sand and gravel, etc.) may not be acquired from State Trust lands without the proper permits and authorization.

5.3 Service roads shall be maintained in substantially the same condition as they exist at the time the Right of Way is issued except, if not drivable, they may be made drivable.

5.4 Grantee shall not fence nor gate the service roads without the prior written permission of the Grantor.

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5.5 The service roads shall only be used by the Grantee in conjunction with said Right of Way grant and associated appurtenances.

5.6 Grantee shall avoid using service roads during wet weather or when too soft to travel over. The soil shall be deemed too wet to adequately support equipment if such equipment creates ruts in excess of six (6) inches deep.

5.7 Maintenance of the service roads may include dust control measures for the term of this Right of Way.

6. EXISTING LESSEES

6.1 Grantee shall keep all gates closed and ensure its contractors do the same. Grantor reserves the right to require cattle guards if Grantor determines gates are being left open or fencing has been removed or damaged by the Grantee, its employees or contractors.

6.2 Any grazing-related improvements removed or damaged due to construction, operation and maintenance of this Right of Way shall be replaced and/or reconstructed immediately. Cost of replacement and reconstruction shall be the responsibility of the Grantee.

6.3 Grantee shall provide Grantor with documentation of the surface lessee's consent prior to making any alterations to existing improvements.

6.4 If construction or maintenance occurs during periods of livestock grazing, Grantee will take necessary measures to insure livestock protection and containment.

6.4.1 Grantee agrees to notify Grazing Lessee(s) 30 days prior to beginning construction or maintenance, and inquire as to the presence/absence of livestock.

7. MISCELLANEOUS

7.1 The Grantee, or its successors or assigns, shall relocate that portion(s) of the public roadway with underground utilities, and any associated appurtenances or portion(s) thereof associated with or affecting Rights of Way (together, the "Rights of Way"), if any Lessee, Grantee and/or Permittee of the Leases, Rights of Way and/or Permits determines in its reasonable discretion that relocation is necessary to effectuate the purpose(s) of Leases, Rights of Way and/or Permits during the term of this Right of Way. Grantee shall not be

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responsible for any costs associated with the relocation of its public roadway with underground utilities, or any associated appurtenances.

7.2 Grantee shall not alter nor cause ponding, nor any damage up or down stream of any water crossing.

7.3 No altering of existing drainages or drainage structures is authorized under this instrument.

7.4 If any provision or agreement of this Right of Way is found invalid by any tribunal, such invalidity shall not affect the validity of the remaining provisions hereof.

7.5 The following provision shall be deemed added at the end of Section 6.2 of Article 6 of the Right of Way to which these Additional Conditions are attached as if set forth therein verbatim:

“Any violation by Grantee of any of the terms of this Right of Way constitutes a breach. Upon a breach by Grantee which is not cured within sixty (60) days after the date a notice of breach is sent by certified mail to Grantee to the most recent address for Grantee as shown in the files of Grantor, this Right of Way shall become void and the right to use the Subject Land and all of the rights of Grantee hereunder shall revert to Grantor at the expiration of the aforesaid sixty (60) day period.”

7.6 Attached hereto as EXHIBIT B is an insurance rider which shall supplement the terms and provisions governing insurance as set forth in the Right of Way form to which these Additional Conditions are attached. Grantor reserves the right to amend EXHIBIT B as and when the Arizona Department of Administration requires revisions to the insurance requirements applicable to Arizona State Trust Land.

8. EXHIBITS

8.1 The following exhibits are attached to these Additional Conditions and made a part hereof:

<u>EXHIBIT A</u>	Legal Description and/or Visual Depiction of Right of Way
<u>EXHIBIT B</u>	Insurance Rider

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**BY SIGNATURE BELOW, ALL TERMS ARE
AGREED TO AND ACCEPTED BY GRANTEE**

By: _____ ✓

Title: _____ ✓

Date: _____ ✓

[Remainder of this page left blank intentionally]

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the West half of the Southwest Quarter of Section 4, Township 4 North, Range 1 West of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 4, from which the South Quarter Corner of said Section 4 bears North 89 degrees 57 minutes 09 seconds East, 2631.54 feet;

Thence along the South line of said Section 4, North 89 degrees 57 minutes 09 seconds East, 1315.77 feet to the Southeast corner of said West half;

thence along the East line of said West half, North 0 degrees 22 minutes 53 seconds West, 68.00 feet to the POINT OF BEGINNING;

thence South 89 degrees 57 minutes 09 seconds West, 77.50 feet;

thence North 44 degrees 47 minutes 08 seconds East, 28.20 feet;

thence North 0 degrees 22 minutes 53 seconds West, 229.74 feet;

thence North 89 degrees 57 minutes 09 seconds East, 57.50 feet to a point on said East line;

thence along said East line, South 0 degrees 22 minutes 53 seconds East, 249.74 feet to the POINT OF BEGINNING.

Contains 14,560 square feet or 0.3343 acres, more or less.

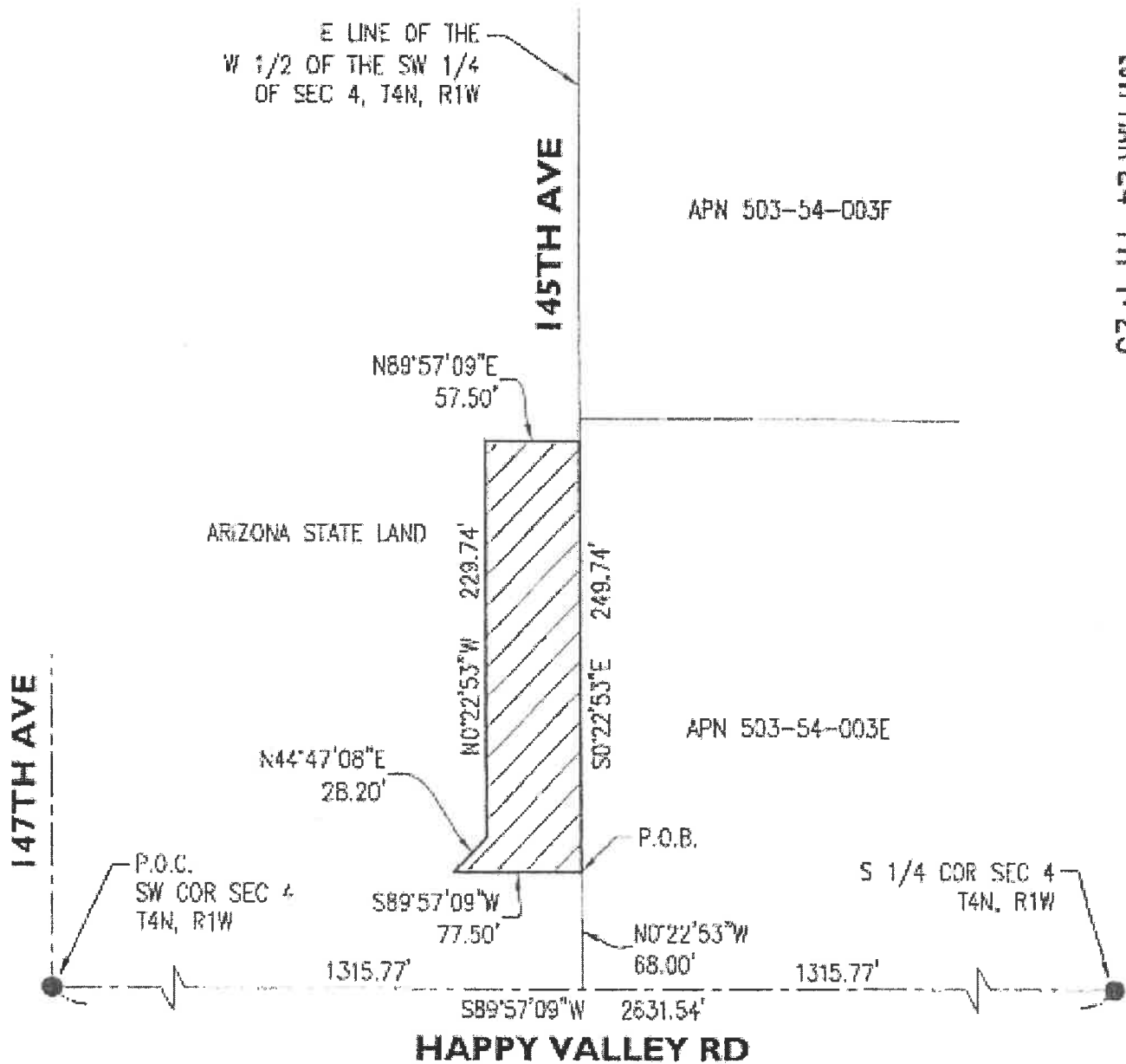
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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the West half of the Southwest Quarter of Section 4, Township 4 North, Range 1 West of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 4, from which the South Quarter Corner of said Section 4 bears North 89 degrees 57 minutes 09 seconds East, 2631.54 feet;

Thence along the South line of said Section 4, North 89 degrees 57 minutes 09 seconds East, 787.00 feet to the POINT OF BEGINNING;

Thence departing said South line, North 0 degrees 02 minutes 51 seconds West, 68.00 feet;

Thence along a line 68.00 feet North of and parallel to said South line, North 89 degrees 57 minutes 09 seconds East, 528.37 feet to a point on the East line of said West half;

Thence along said East line, South 0 degrees 22 minutes 53 seconds East, 68.00 feet to the Southeast corner of said West half;

Thence along said South line, South 89 degrees 57 minutes 09 seconds West, 528.77 feet to the POINT OF BEGINNING.

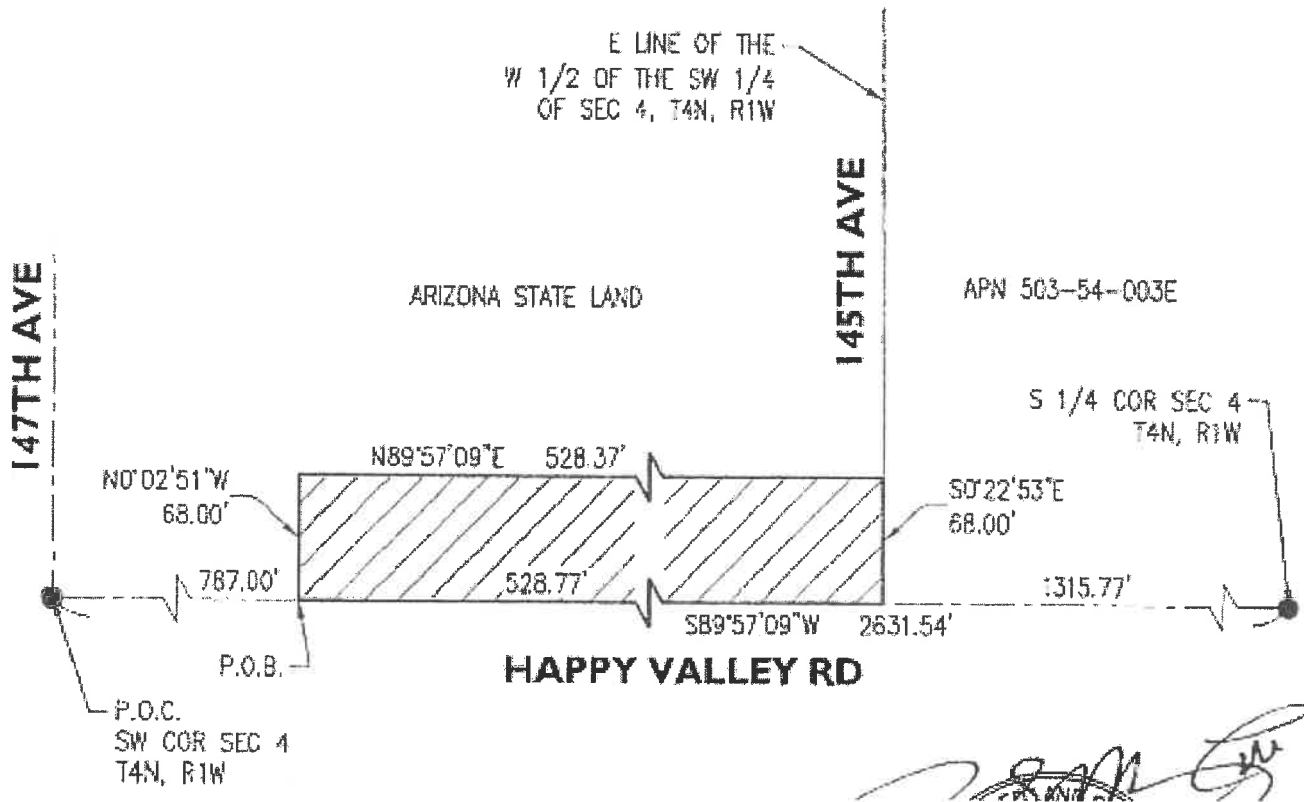
Contains 35,943 square feet or 0.8251 acres, more or less.

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the West half of the Southwest Quarter of Section 4, Township 4 North, Range 1 West of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 4, from which the South Quarter Corner of said Section 4 bears North 89 degrees 57 minutes 09 seconds East, 2631.54 feet;

thence along the South line of said Section 4, North 89 degrees 57 minutes 09 seconds East, 1315.77 feet to the East line of said West half;

thence along said East line, North 0 degrees 22 minutes 53 seconds West, 1487.61 feet to the POINT OF BEGINNING, said point being the beginning of a non-tangent curve, concave Southeast, from which the radius point bears South 0 degrees 31 minutes 36 seconds West a distance of 25.00 feet;

thence Southwesterly 22.28 feet along the arc of said curve to the left through a central angle of 51 degrees 03 minutes 11 seconds to a point of reverse curvature of a curve, concave Easterly, having a radius of 57.50 feet;

thence Northerly 281.96 feet along the arc of said curve to the right through a central angle of 280 degrees 57 minutes 27 seconds to a point of reverse curvature of a curve having a radius of 25.00 feet;

thence Southeasterly 21.96 feet along the arc of said curve to the left through a central angle of 50 degrees 19 minutes 07 seconds to a point on said East line;

thence along said East line, South 0 degrees 22 minutes 53 seconds East, 55.00 feet to the POINT OF BEGINNING.

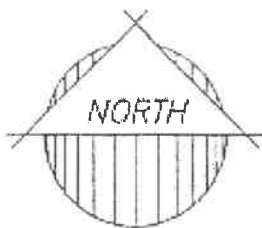
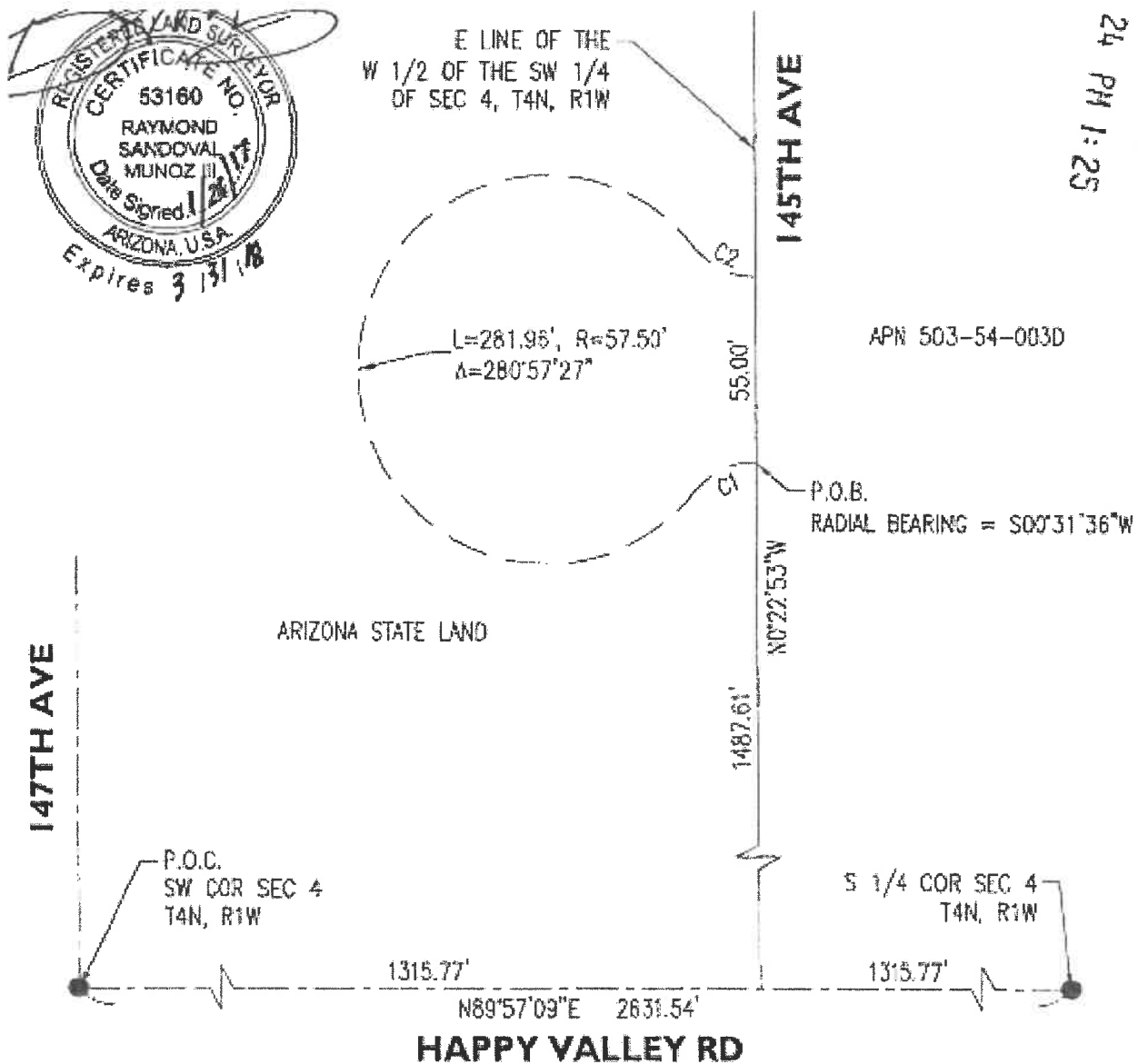
Contains 10,902 square feet or 0.2503 acres, more or less.

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BRG
C1	22.28'	25.00'	51°03'11"	11.94'	21.55'	S65°00'01"W
C2	21.96'	25.00'	50°19'07"	11.74'	21.26'	S64°43'41"E

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EXHIBIT B

INSURANCE RIDER TO STATE LAND DEPARTMENT

This Rider is attached to and made a part of the above-referenced Right of Way as if set forth therein verbatim.

R-1 Indemnity. Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnatee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

In addition, Grantee shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

R-2 Insurance Requirements for Any Contractors Used by a Party to this Right of Way. *(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.)* The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in this Right of Way. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Right of Way by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

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A. Minimum Scope and Limits of Insurance. Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability - Occurrence Form.

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

General Aggregate:	\$2,000,000.00
Products-Completed Operations Aggregate:	\$1,000,000.00
Personal and Advertising Injury:	\$1,000,000.00
Each Occurrence:	\$1,000,000.00
Blanket Contractual Liability-Written and Oral:	\$1,000,000.00
Damage to Rented Premises:	\$ 50,000.00
Each Occurrence	\$1,000,000.00

The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Right of Way.

Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability. Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Right of Way.

- Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor". Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Right of Way.

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b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

c. Policy shall contain a severability of interest provision.

IF GRANTEE HAS CERTIFIED IN THE APPLICATION ADDENDUM FOR THIS RIGHT OF WAY THAT GRANTEE WILL NOT BE ENGAGED IN THE CONDUCT OF BUSINESS WITHIN THE SUBJECT LAND, GRANTEE SHALL NOT BE REQUIRED TO CARRY THE FOREGOING BUSINESS AUTOMOBILE LIABILITY INSURANCE.

3. Worker's Compensation and Employers' Liability.

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

a. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

GRANTEE HAS CERTIFIED IN THE APPLICATION ADDENDUM FOR THIS RIGHT OF WAY THAT GRANTEE WILL NOT BE ENGAGED IN THE CONDUCT OF BUSINESS WITHIN THE SUBJECT LAND GRANTEE SHALL NOT BE REQUIRED TO CARRY THE FOREGOING WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE.

B. Additional Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S § 41-621 (E).

2. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed

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under the indemnification provisions of its Contract with the other governmental entity(ies) party to this Right of Way.

C. Notice of Cancellation. With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this Right of Way in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Arizona State Land Department, 1616 W. Adams, Phoenix, Arizona 85007, and shall be sent by certified mail, return receipt requested.

D. Acceptability of Insurers. Contractors insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. Verification of Coverage. Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Right of Way. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Right of Way must be in effect at or prior to commencement of work under this Right of Way and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Right of Way, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Right of Way shall be sent directly to the Arizona State Land Department, 1616 W. Adams, Phoenix, Arizona 85007. The Right of Way number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Right of Way at any time.

F. Subcontractors. Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. Approval. Any modification or variation from the insurance requirements in this Right of Way must have prior approval from the State of Arizona Department of

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Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal Right of Way amendment, but may be made by administrative action.

H. Exceptions. In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

APPENDIX A

STATE OF ARIZONA LAND DEPARTMENT
1616 W. ADAMS
PHOENIX, AZ 85007

RUN DATE: 9 February 2018
RUN TIME: 16:35 PM
PAGE: 1

KE-LEASE# 016-119579-00-000 APPTYPE: NEW
AMENDMENT#: 0

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LAND#	LEGAL DESCRIPTION	AUS	ACREAGE
04.0-N-01.0-W-04-07-031-9014	M&B THRU SESWSW SENWSW	0.00	1.410
	TOTALS	0.00	1.410

IN WITNESS HEREOF, the parties hereto have signed this Right of Way effective the day and year set forth previously herein.

STATE OF ARIZONA, GRANTOR
Arizona State Land Commissioner

CITY OF SURPRISE
GRANTEE

By: _____
Date

(SEAL)

Authorized Signature **Date**

Title

Address

City **State** **Zip**

GRANTEE'S CERTIFICATE OF CONSTRUCTION

RIGHT OF WAY NUMBER: _____

NAME OF GRANTEE: _____

DATE ISSUED: _____

PERMITTED USE: _____

LAND DEPARTMENT ADMINISTRATOR: _____

DATE CONSTRUCTION STARTED: _____

DATE CONSTRUCTION COMPLETED: _____

I hereby certify that the facilities authorized by the State Land Commissioner, were actually constructed and tested in accordance with the terms of the grant, in compliance with any required plans and specifications, and applicable Federal and State laws and regulations.

Grantee's Signature

Date

Title

**Return To: Arizona State Land Department
R/W Section
1616 W. Adams Street
Phoenix, AZ 85007**

EXHIBIT A

RIGHT OF WAY AGREEMENT WITH STATE LAND DEPARTMENT

STATE LAND DEPARTMENT STATE OF ARIZONA

Right of Way

R/W No. 16-119579-00

THIS RIGHT OF WAY ("Right of Way") is entered into by and between the State of Arizona (as "Grantor") by and through the Arizona State Land Department and

CITY OF SURPRISE

("Grantee"). In consideration of payment and performance by the parties of each of the provisions set forth herein, the parties agree as follows:

EXTENT OF DOCUMENT

"Additional Conditions", "Exhibits", and "Appendixes" are an integral part of this document. In case of a conflict between the printed boiler document and the additional conditions, exhibits, or appendixes, the applicable additional condition, exhibit, or appendix shall be considered the governing document and supersede the printed boiler, but only to the extent necessary to implement the additional condition, exhibit, or appendix, and only if the additional condition, exhibit, or appendix does not conflict with governing state or federal law.

ARTICLE 1 SUBJECT LAND

1.1 Grantor grants to Grantee a Right of Way on, over, through, and across the State lands described in Appendix A attached hereto ("Subject Land").

1.2 Grantee makes use of the Subject Land "as is", and Grantor makes no express or implied warranties as to the physical condition of the Subject Land.

ARTICLE 2 TERM

2.1 The term of this Right of Way commences on December 5, 2017 ("Commencement Date"), and runs for a perpetual term ("Expiration Date"), unless sooner canceled or terminated as provided herein or as provided by law.

ARTICLE 3

RENT

3.1 Rental is due in advance for the term of this Right of Way document.

3.2 If the Grantee should fail to pay rental when due, or fail to keep the covenants and agreements herein set forth, the Commissioner, at his option, may cancel said Right of Way or declare the same forfeited in the manner provided by law.

ARTICLE 4

PURPOSE AND USE OF SUBJECT LAND

4.1 The purpose of this Right of Way is the location, construction, operation, and maintenance of:

Public road with underground utilities.

4.2 No material may be removed by Grantee or its contractors without the written approval of the Commissioner.

4.3 Grantee shall not exclude from use the State of Arizona, its lessees or grantees, or the general public the right of ingress and egress over this Right of Way.

4.4 Grantee shall acquire required permits prior to construction, and adhere to all applicable rules, regulations, ordinances, and building codes as promulgated by the local jurisdiction and any applicable State or Federal agencies.

4.5 All use of State land outside the Right of Way must be applied for and authorized in accordance with applicable law.

4.6 Grantee shall not sublet or assign this Right of Way or any portion thereof without the written consent of the Grantor.

4.7 The Grantor retains ownership of the Subject Land. The use of this Right of Way is to be non-exclusive. This Right of Way is sold subject to existing reservations, easements, or rights of way heretofore legally obtained and now in full force and effect.

4.8 When necessary for Grantee's reasonable use of this Right of Way for the purposes for which the grant is made, it shall be deemed to include the rights in, upon, over, and across the described Subject Land to erect, construct, reconstruct, replace, repair, and maintain the facilities authorized by this Right of Way.

4.9 Grantee shall have the right to erect, maintain, and use gates in all fences under the control of the Grantor which now cross or shall hereafter cross said Right of

Way, and to trim, cut, and clear away trees or brush whenever in its judgment the same shall be necessary for the convenient and safe exercise of the right herein provided.

4.10 Grantee shall not fence any portion of this Right of Way unless specifically authorized in the attached additional conditions without prior written consent of Grantor, nor shall Grantee exclude from the use of the surface thereof the State of Arizona or its lessees or grantees as reserved in Paragraph 10.1.

ARTICLE 5

CONFORMITY TO LAW

5.1 This Right of Way is subject to applicable laws and covenants relating to State lands.

ARTICLE 6

CANCELLATION, TERMINATION AND ABANDONMENT

6.1 This Right of Way is subject to cancellation pursuant to A.R.S. § 38-511.

6.2 If at any time the Right of Way ceases to be used for the purpose for which it was granted, it shall become void, and the right to use the Subject Land and all the rights of Grantee hereunder shall revert to the Grantor.

6.3 Upon revocation or termination of the Right of Way, the Grantee shall remove all equipment or facilities and, so far as is reasonably possible, restore and/or rehabilitate the Subject Land to its original condition, and to the satisfaction of the Commissioner.

ARTICLE 7

INDEMNITY

7.1 This provision is pursuant to the July 12, 2000 memorandum issued by the Risk Management Section of the Arizona Department of Administration applicable to all political subdivisions of the State.

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

ARTICLE 8
RESERVATIONS; RELINQUISHMENTS

8.1 Grantor reserves the right to grant other rights in, upon, over, and across the described Subject Land for any purpose whatsoever not inconsistent or incompatible with the use allowed by this indenture, and the Grantee agrees not to exclude the Grantor or its lessees or grantees from the use of the Subject Land herein described.

8.2 Grantor reserves all natural resources, timber, and minerals (including oil or gas) in or upon the described Subject Land, and the right to grant leases, permits, easements, and/or rights of way to extract such resources as provided by law and in a manner not inconsistent or incompatible with Grantee rights hereunder. Where inconsistent or incompatible uses exist, the Grantor will require the applicant therefor to indemnify Grantee for loss it might suffer by reason of such use.

8.3 Grantor reserves the right to relinquish to the United States pursuant to the U.S. Act of August 30, 1890, land needed for irrigation works in connection with a government reclamation project.

ARTICLE 9
LOCATION, CONSTRUCTION AND MAINTENANCE

9.1 Grantee shall ensure full compliance with the terms and conditions of this Right of Way by its agents, employees, and contractors (including sub-contractors of any tier), and the employees of each of them and shall include the terms and conditions in all contracts and sub-contracts which are entered into by any of them.

9.2 Failure or refusal of Grantee's agents, employees, contractors, sub-contractors, or their employees to comply with these terms and conditions shall be deemed to be the failure or refusal of Grantee.

ARTICLE 10
NATIVE PLANTS AND CULTURAL RESOURCES

10.1 (a) Pursuant to A.R.S. §§ 41-841 and 41-842, Grantee, Grantee's employees, and Grantee's guests shall not excavate or collect any prehistoric or historic archaeological specimens on the Subject Land without a permit from the Director of the Arizona State Museum and written approval of Grantor pursuant to the terms of this Right of Way. Grantee shall immediately report any unpermitted excavation or collection of archaeological specimens on the Subject Land to the Arizona State Museum and Grantor.

(b) Pursuant to A.R.S. § 41-844, Grantee shall report to the Director of the Arizona State Museum and Grantor any prehistoric or historic archaeological site, or paleontological site, that is discovered on the Subject Land by Grantee, Grantee's

employees, or Grantee's guests, and shall, in consultation with the Director of the Arizona State Museum and Grantor, immediately take all reasonable steps to secure the preservation of the discovery.

10.2 (a) Grantee shall not move, use, destroy, cut or remove or permit to be moved, used, destroyed, cut or removed any timber, cactus, native plants, standing trees or products of the land except that which is necessary for the use of the Subject Land, and then only with the prior written approval of Grantor. For undeveloped land, the Grantee must submit a plant survey prior to the removal of any native plant. If the removal or destruction of plants protected under the Arizona Native Plant Law (A.R.S. § 3-901 et seq., or any successor statutes) is necessary to the use of the Subject Land, Grantee shall also obtain the prior written approval of the Arizona Department of Agriculture. In the event the Grantee removes the native plants, the Grantee must pay a vegetation fee to the Grantor and this fee is not a reimbursable improvement.

(b) Grantee is responsible for treatment of all regulated and restricted noxious weeds listed by the Arizona Department of Agriculture.

ARTICLE 11

GRANTEE SHALL PROTECT AND RESTORE THE SUBJECT LAND

11.1 Grantee shall be required, upon completion of Right of Way construction, to make such rehabilitation measures on the State lands, including but not limited to restoration of the surface, revegetation, and fencing as determined necessary by the Grantor.

11.2 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to all land values including, but not limited to vegetation, drainage channels, and streambanks. Construction methods shall be designed to prevent degradation of soil conditions in areas where such degradation would result in detrimental erosion or subsidence. Grantee shall take such other soil and resource conservation and protection measures on the Subject Land under grant as determined necessary by the Grantor.

11.3 Costs incurred by the Grantee in complying with restoration and rehabilitation requirements, as determined by the Department, on State lands shall be borne by the Grantee.

11.4 Grantee shall conduct its operations on the Subject Land in such a manner as is consistent with good environmental practices. Grantee shall exert reasonable efforts to avoid damage of protected flora, and restore the surface to its condition prior to the occupancy thereof by Grantee.

ARTICLE 12
MISCELLANEOUS

12.1 The described Subject Land shall be used only for the purpose stated in Paragraph 4.1, and as may be further detailed elsewhere in this document.

12.2 This Document is submitted for examination and shall have no binding effect on the parties unless and until executed by the Grantor (after execution by the Grantee), and until a fully executed copy is delivered to the Grantee.

12.3 In the event of a dispute between the parties to this Right of Way, it is agreed to use arbitration to resolve the dispute, but only to the extent required by A.R.S. § 12-1518. In no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.

12.4 Insurance provisions are intentionally omitted from this Permit pursuant to the July 12, 2000 memorandum issued by the Risk Management Section of the Arizona Department of Administration to all political subdivisions of the State.

12.5 The Grantor does not represent or warrant that access exists over other State lands which intervene respectively between the above Right of Way and the nearest public roadway.

12.6 If for any reason the State of Arizona does not have title to any of the Subject Land described herein, this Right of Way shall be null and void insofar as it relates to the land to which the State has failed to receive title.

12.7 Every obligation of the State under this Right of Way is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Right of Way, this Right of Way may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.

12.8 The parties agree to be bound by applicable State and Federal rules governing Equal Employment Opportunity, Non-discrimination and Disabilities, including Executive Order No. 2009-09.

12.9 Within 30 days of project completion, Grantee shall submit a completed certificate of construction (copy attached).

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These Additional Conditions are attached to and made a part of the Right of Way boiler plate form (the "Boiler Plate"). The term "Section" when used in these Additional Conditions shall be deemed to refer to the Section numbers of the text in the Boiler Plate. The term "Paragraph" when used in these Additional Conditions shall be deemed to refer to the Paragraph numbers of the text in these Additional Conditions. The term "Right of Way" shall mean the Boiler Plate as supplemented by these Additional Conditions.

1. LEGAL DESCRIPTION, RENT AND PURPOSE

1.1 A legal description and/or a visual depiction of this Right of Way is/are detailed in EXHIBIT A attached hereto. Subject to Grantor's rules and policies then in place, and as a result of construction-related restrictions, Grantor and Grantee may agree to modify the legal description by the Grantee submitting "as built" or "proposed realignment" legal descriptions, depending on the situation, to Grantor for Grantor's review. If approved by Grantor, and additional acreage is impacted, Grantee agrees to pay an appraised or pro-rated charge as Grantor determines is appropriate. No refund will be made for a reduction in acreage.

1.2 Grantor reserves the right to grant additional access rights, or any other rights not in conflict with the rights granted herein, to other parties at the Grantor's sole discretion.

1.3 This Right of Way is for the purpose of a public roadway with underground utilities, and does not permit any above ground facilities without proper rights authorized or issued by Grantor, assignees or its successors.

1.3.1 This Right of Way prohibits the erection of any type advertising sign(s) or monument structure(s) without proper rights authorized or issued by Grantor, assignees or its successors.

2. CONSTRUCTION, MAINTENANCE AND OPERATION

2.1 Grantee is responsible for complying with all federal, state and local guidelines in regards to the construction, maintenance and operation of this Right of Way grant and its associated appurtenances.

2.2 Prior to construction, and at the request of the Grantor, Grantee shall provide construction plans (no larger than 11" x 17" format) and applicable drainage report(s),

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engineering infrastructure report(s) or studies, and any Clean Water Act (CWA) Section 401 or 404 documents to the Grantor for the Grantor's review.

2.3 Grantee shall conduct all construction and maintenance activities in a manner that will minimize disturbance to surface features affecting adjacent land values, including, but not limited to, vegetation, drainage channels and stream banks.

2.4 Grantee shall be responsible for controlling noxious weeds as listed by the Arizona Department of Agriculture for the term of this Right of Way. Grantor recommends Grantee review Arizona Department of Agriculture website for prohibited and restricted noxious weed rules and regulations.

2.5 Grantee agrees that any rubbish or debris from construction and maintenance work shall be removed and properly disposed of at its expense. Disposal of construction-related and maintenance-related materials on State Trust land is strictly prohibited.

2.6 Specific sites where construction and maintenance equipment and vehicles shall not be allowed (e.g. archaeological sites, areas with threatened or endangered species, or fragile watersheds) shall be clearly marked onsite by the Grantee prior to the beginning of any construction, maintenance or other ground disturbing activities. Grantee shall take any and all steps necessary to ensure that these sites are not touched.

2.7 All equipment shall be removed from the site within seven (7) days of project completion.

2.8 Grantee shall be responsible for weed control on disturbed areas within the limits of this Right of Way, and shall be responsible for consultation with the Grantor and/or local authorities for acceptable weed control methods.

2.9 For construction after Commencement Date of this Right of Way: Prior to commencement of construction Grantee shall submit and receive Grantor approval for a plan to restore and rehabilitate disturbed areas remaining once construction has been completed. The plan shall include, but not be limited to, reseeding, reforestation, erosion control, and watershed protection measures.

2.10 For ground disturbance after Commencement Date of this Right of Way: All rock brought to the surface along with topsoil and overburden from the affected State Trust lands shall be salvaged and stockpiled separately in a manner that replacement shall utilize

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one hundred (100%) percent of the materials upon completion of construction. Excess rock unsuitable for scattering shall be disposed of in a manner and location that is authorized by the Grantor.

2.11 Grantee shall maintain the Right of Way grant area in the manner described above during the term of this easement. Grantee agrees to complete any necessary restoration and rehabilitation to the satisfaction of the Grantor within ninety (90) days of written notification of non-compliance, or such longer period of time as mutually determined to be necessary to restore and/or rehabilitate subject land.

3. ENVIRONMENTAL MATTERS AND INDEMNITY

The following conditions shall supplement the terms and provisions governing environmental matters as set forth in the Right of Way boiler to which these Conditions are stated below.

3.1 For purposes of this Right of Way, the term "Environmental Laws" shall include but not be limited to any relevant federal, state or local environmental laws, and the regulations, rules and ordinances, relating to environmental matters, and publications promulgated pursuant to the local, state, and federal laws and any rules or regulations relating to environmental matters. For the purpose of this Right of Way, the term "Regulated Substances" shall include but not be limited to substances defined as "regulated substance", "solid waste", "hazardous waste", "hazardous materials", "hazardous substances", "toxic materials", "toxic substances", "inert materials", "pollutants", "toxic pollutants", "herbicides", "fungicides", "rodenticides", "insecticides", "contaminants", "pesticides", "asbestos", "environmental nuisance", "criminal littering", or "petroleum products" as defined in Environmental Laws.

3.2 Grantee shall strictly comply with all Environmental Laws, including, without limitation, water quality, air quality; and handling, transportation, storage, treatment, or disposal of any Regulated Substance on, under, or from the Subject Land. Without limiting the foregoing, compliance includes that Grantee shall: (1) comply with all reporting obligations imposed under Environmental Laws; (2) obtain and maintain all permits required by Environmental Laws, and provide a copy to Grantor within ten (10) business days of receipt of the Right of Way; (3) provide copies of all documentation required by Environmental Laws to Grantor within ten (10) business days of Grantee's submittal and/or receipt of the documentation; (4) during the term of Right of Way, provide copies of all information it receives or obtains regarding any and all environmental matters relating to the Subject Land, including but not limited to environmental audits relating to the Subject

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Land regardless of the reason for which the information was obtained or whether or not the information was required by Environmental Laws; (5) prevent treatment, storage, disposal, handling or use of any Regulated Substances within the Subject Land without prior written authorization from Grantor.

3.3 Grantee at all times shall employ or designate an existing employee (the "Designated Compliance Officer") who is responsible for knowing all Environmental Laws affecting Grantee and Grantee's business and monitoring Grantee's continued compliance with applicable Environmental Laws. Upon request by Grantor, Grantee shall make the Designated Compliance Officer available to discuss Grantee's compliance, answer any questions, and provide such reports and confirming information as Grantor may reasonably request.

3.4 At any time, Grantor may request Grantee to provide an environmental audit of the Subject Land performed by an Arizona registered professional engineer or an Arizona registered geologist. Grantee shall pay the entire cost of the audit.

3.5 Hazardous material generated (motor oil, paint, etc.) shall be disposed of properly or used in a way which will minimize impact on vegetation.

3.6 At any time, during the term of the Right of Way, Grantor may require Grantee to obtain one Phase I environmental assessment of the Subject Land performed by an Arizona registered professional engineer or an Arizona registered geologist. If based upon the Phase I environmental assessment or its own independent investigation, Grantor identifies any possible violation of Environmental Laws or the terms of this Right of Way, Grantor may require Grantee to conduct additional environmental assessments as Grantor deems appropriate for the purpose of ensuring that the Subject Land are in compliance with Environmental Laws. The Phase I assessment, or any other assessment required by Grantor, shall be obtained for the benefit of both Grantee and Grantor. A copy of the Phase I report shall be provided both to Grantee and Grantor. Grantor, in its sole discretion, shall have the right to require Grantee to perform additional assessments of any damage to the Subject Land arising out of any violations of Environmental Laws. If Grantee fails to obtain any assessments required by Grantor, Grantee shall pay the entire costs of any and all assessments required by Grantor, notwithstanding the expiration or termination of the Right of Way.

3.7 Prior to the termination of the Right of Way, Grantee shall restore the Subject Land by removing any and all Regulated Substances. In addition, the restoration shall

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include, but not be limited to, removal of all waste and debris deposited by Grantee. If the Subject Land or any portions thereof are damaged or destroyed from the existence or presence of any Regulated Substance or if the Subject Land or any portions thereof are damaged or destroyed in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance, Grantee shall arrange, at its expense, for the repair, removal, remediation, restoration, and reconstruction to the Subject Land to the original condition existing on the date that Grantee first occupied the Parcel, to the satisfaction of Grantor. In any event, any damage, destruction, or restoration by Grantee shall not relieve Grantee from its obligations and liabilities under this Right of Way. Grantee's restoration obligations under this Section shall survive the expiration or the termination of the Right of Way.

3.8 Grantee shall defend, indemnify and hold Grantor harmless from and against any and all liability, obligations, losses, damages, penalties, claims, environmental response and cleanup costs and fines, and actions, suits, costs, taxes, charges, expenses and disbursements, including legal fees and expenses of whatever kind or nature (collectively, "claims" or "damages") imposed on, incurred by, or reserved against Grantor in any way relating to or arising out of any non-compliance with any Environmental Laws, the existence or presence of any Regulated Substance, on, under, or from the Subject Land, and any claims or damages in any way relating to or arising out of the removal, treatment, storage, disposition, mitigation, cleanup or remedying of any Regulated Substance on, under, or from the Subject Land by Grantee, its agents, contractors, or subcontractors.

3.9 This indemnity shall include, without limitation, claims or damages arising out of any and all violations of Environmental Laws regardless of any real or alleged fault, negligence, willful misconduct, gross negligence, breach of warranty, or strict liability on the part of any of the indemnitees. This indemnity shall survive the expiration or termination of this Right of Way and/or transfer of all or any portion of the Subject Land and shall be governed by the laws of the State of Arizona.

3.10 In the event any action or claim is brought or asserted against Grantor which is or may be covered by this indemnity, Grantee shall fully participate, at Grantee's expense, in the defense of the action or claim including but not limited to the following: (1) the conduct of any required cleanup, removal or remedial actions and/or negotiations, (2) the conduct of any proceedings, hearings, and/or litigation, and (3) the negotiation and finalization of any agreement or settlement. Grantor shall retain the right to make all final decisions concerning the defense. Grantee's obligations to participate in the defense under this Section shall survive the expiration or termination of the Right of Way.

ADDITIONAL CONDITIONS

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4. CULTURAL RESOURCES AND NATIVE PLANTS

4.1 Prior to any ground disturbance in areas not previously subject to a cultural resources survey, Grantee shall arrange for a permittee of the Arizona State Museum to inspect the area for cultural, historical, and paleontological remains and submit two copies and a PDF copy of the inspection report to the Arizona State Land Department Archaeology Section for review and approval.

4.2 Provided any cultural resources are discovered, Grantee shall avoid the resource or submit a plan for data recovery. Archaeological surveys and/or site mitigation must be conducted in accordance with the rules and regulations promulgated by the Director of the Arizona State Museum. In the event additional archaeological resources are detected by Grantee after receipt of archaeological clearance, all work shall cease and notification shall be given to the Director of the Arizona State Museum, as well as the Arizona State Land Department Cultural Resources Manager. Ground disturbing activities include, but are not limited to; blading, grading, or widening roads, pole replacement, pull-sites, temporary construction easements, or any other activity that will disturb the topsoil.

4.3 In the event that any archaeological, paleontological, or historical site or object, or Human remains or funerary object that is at least fifty years old is discovered during ground disturbing activities, the work shall cease and the grantee shall notify the Director of the Arizona State Museum pursuant to A.R.S. §41-844, and Arizona State Land Department Cultural Resources Section Manager.

4.4 Grantee shall supply Grantor with any documentation required to consult with the State Historic Preservation Office, as required pursuant to the State Historic Preservation Act (A.R.S. § 41-861 et seq).

4.5 Prior to any ground disturbance, and at the request of Grantor, Grantee agrees to conduct and submit a plant inventory/plant salvage plan to the Grantor. Payment will be required prior to any ground disturbance for any flora cut, removed and/or destroyed.

4.6 If vegetation is authorized by Grantor to be removed and/or destroyed, and prior to any ground disturbance, Grantee agrees to file the appropriate Notice of Intent to Clear Land in accordance with A.R.S. § 3-905 Destruction of Native Plants by State.

ADDITIONAL CONDITIONS

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4.7 Grantee shall preserve or relocate all protected plants, if viable and feasible, on or adjacent to the work site that will not interfere with the work required.

4.8 Grantee shall only remove protected plants when specifically authorized to do so, and avoid damaging vegetation that will remain in place. If the Grantee or its contractors are authorized to remove any protected plants from State Trust land for replanting off of State Trust land, a permit from the Department of Agriculture is required.

4.9 Grantee shall contact the Arizona Department of Agriculture for further information or permit requirements related to native protected plants.

4.9.1 A survey may be required to determine if protected plants are present and if plants must be salvaged. Grantee shall contact the Arizona Department of Agriculture at least sixty (60) days before commencement of any salvage work.

4.10 Grantee shall minimize the removal of existing vegetation within the project area to the greatest extent possible.

4.11 Grantee shall salvage or replant cactus and other protected plants.

4.12 Grantee is prohibited to blade, scrape or remove any existing vegetation without authorization from Grantor.

5. SERVICE / ACCESS ROADS

5.1 Grantee shall acquire any permits necessary prior to the construction and maintenance of its service roads. Grantee shall construct new service roads with widths as narrow as possible.

5.2 Material for service road construction and maintenance (i.e. fill dirt, sand and gravel, etc.) may not be acquired from State Trust lands without the proper permits and authorization.

5.3 Service roads shall be maintained in substantially the same condition as they exist at the time the Right of Way is issued except, if not drivable, they may be made drivable.

5.4 Grantee shall not fence nor gate the service roads without the prior written permission of the Grantor.

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5.5 The service roads shall only be used by the Grantee in conjunction with said Right of Way grant and associated appurtenances.

5.6 Grantee shall avoid using service roads during wet weather or when too soft to travel over. The soil shall be deemed too wet to adequately support equipment if such equipment creates ruts in excess of six (6) inches deep.

5.7 Maintenance of the service roads may include dust control measures for the term of this Right of Way.

6. EXISTING LESSEES

6.1 Grantee shall keep all gates closed and ensure its contractors do the same. Grantor reserves the right to require cattle guards if Grantor determines gates are being left open or fencing has been removed or damaged by the Grantee, its employees or contractors.

6.2 Any grazing-related improvements removed or damaged due to construction, operation and maintenance of this Right of Way shall be replaced and/or reconstructed immediately. Cost of replacement and reconstruction shall be the responsibility of the Grantee.

6.3 Grantee shall provide Grantor with documentation of the surface lessee's consent prior to making any alterations to existing improvements.

6.4 If construction or maintenance occurs during periods of livestock grazing, Grantee will take necessary measures to insure livestock protection and containment.

6.4.1 Grantee agrees to notify Grazing Lessee(s) 30 days prior to beginning construction or maintenance, and inquire as to the presence/absence of livestock.

7. MISCELLANEOUS

7.1 The Grantee, or its successors or assigns, shall relocate that portion(s) of the public roadway with underground utilities, and any associated appurtenances or portion(s) thereof associated with or affecting Rights of Way (together, the "Rights of Way"), if any Lessee, Grantee and/or Permittee of the Leases, Rights of Way and/or Permits determines in its reasonable discretion that relocation is necessary to effectuate the purpose(s) of Leases, Rights of Way and/or Permits during the term of this Right of Way. Grantee shall not be

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responsible for any costs associated with the relocation of its public roadway with underground utilities, or any associated appurtenances.

7.2 Grantee shall not alter nor cause ponding, nor any damage up or down stream of any water crossing.

7.3 No altering of existing drainages or drainage structures is authorized under this instrument.

7.4 If any provision or agreement of this Right of Way is found invalid by any tribunal, such invalidity shall not affect the validity of the remaining provisions hereof.

7.5 The following provision shall be deemed added at the end of Section 6.2 of Article 6 of the Right of Way to which these Additional Conditions are attached as if set forth therein verbatim:

“Any violation by Grantee of any of the terms of this Right of Way constitutes a breach. Upon a breach by Grantee which is not cured within sixty (60) days after the date a notice of breach is sent by certified mail to Grantee to the most recent address for Grantee as shown in the files of Grantor, this Right of Way shall become void and the right to use the Subject Land and all of the rights of Grantee hereunder shall revert to Grantor at the expiration of the aforesaid sixty (60) day period.”

7.6 Attached hereto as EXHIBIT B is an insurance rider which shall supplement the terms and provisions governing insurance as set forth in the Right of Way form to which these Additional Conditions are attached. Grantor reserves the right to amend EXHIBIT B as and when the Arizona Department of Administration requires revisions to the insurance requirements applicable to Arizona State Trust Land.

8. EXHIBITS

8.1 The following exhibits are attached to these Additional Conditions and made a part hereof:

<u>EXHIBIT A</u>	Legal Description and/or Visual Depiction of Right of Way
<u>EXHIBIT B</u>	Insurance Rider

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**BY SIGNATURE BELOW, ALL TERMS ARE
AGREED TO AND ACCEPTED BY GRANTEE**

By: _____ ✓

Title: _____ ✓

Date: _____ ✓

[Remainder of this page left blank intentionally]

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the West half of the Southwest Quarter of Section 4, Township 4 North, Range 1 West of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 4, from which the South Quarter Corner of said Section 4 bears North 89 degrees 57 minutes 09 seconds East, 2631.54 feet;

Thence along the South line of said Section 4, North 89 degrees 57 minutes 09 seconds East, 1315.77 feet to the Southeast corner of said West half;

thence along the East line of said West half, North 0 degrees 22 minutes 53 seconds West, 68.00 feet to the POINT OF BEGINNING;

thence South 89 degrees 57 minutes 09 seconds West, 77.50 feet;

thence North 44 degrees 47 minutes 08 seconds East, 28.20 feet;

thence North 0 degrees 22 minutes 53 seconds West, 229.74 feet;

thence North 89 degrees 57 minutes 09 seconds East, 57.50 feet to a point on said East line;

thence along said East line, South 0 degrees 22 minutes 53 seconds East, 249.74 feet to the POINT OF BEGINNING.

Contains 14,560 square feet or 0.3343 acres, more or less.

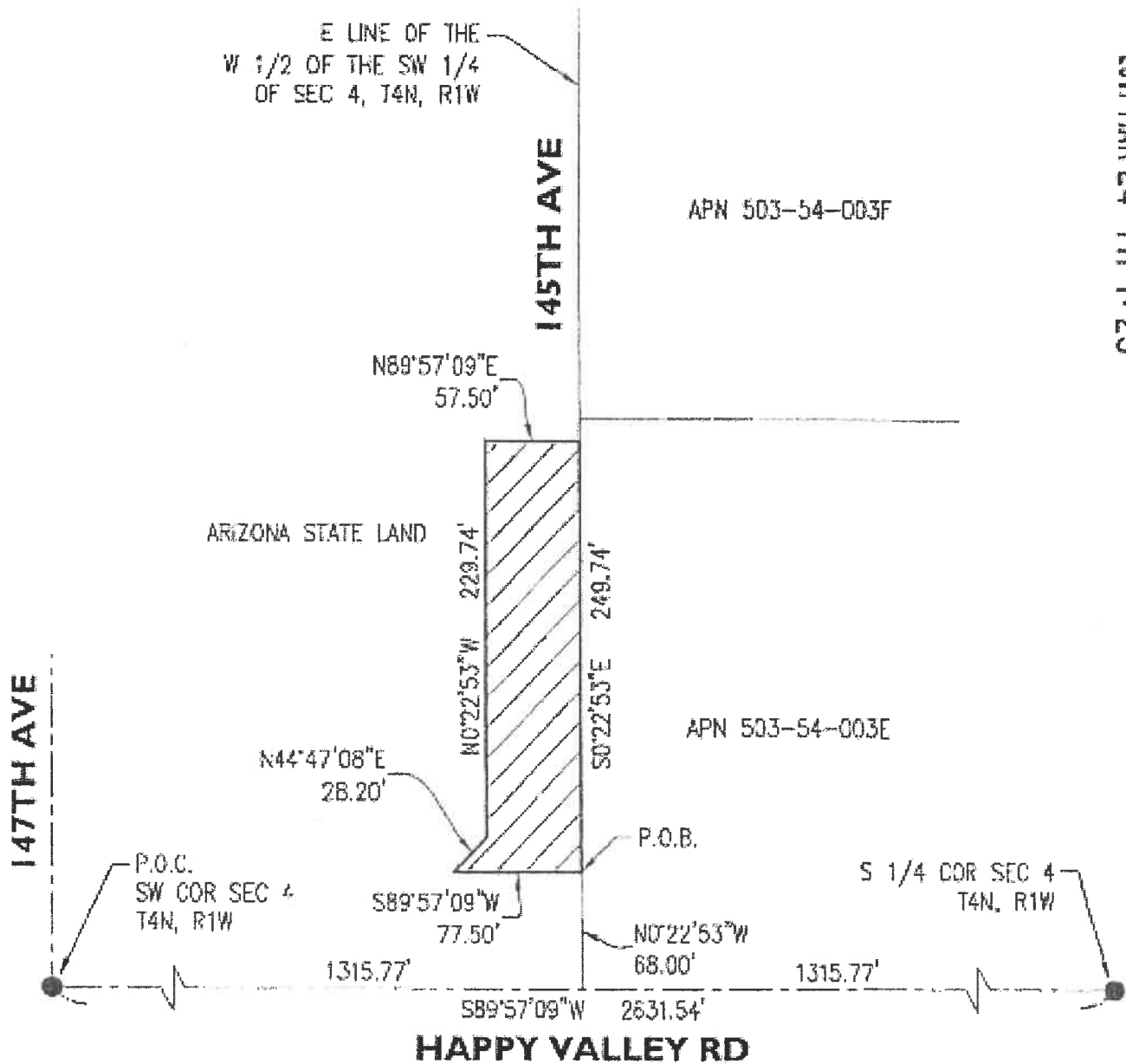
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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the West half of the Southwest Quarter of Section 4, Township 4 North, Range 1 West of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 4, from which the South Quarter Corner of said Section 4 bears North 89 degrees 57 minutes 09 seconds East, 2631.54 feet;

Thence along the South line of said Section 4, North 89 degrees 57 minutes 09 seconds East, 787.00 feet to the POINT OF BEGINNING;

Thence departing said South line, North 0 degrees 02 minutes 51 seconds West, 68.00 feet;

Thence along a line 68.00 feet North of and parallel to said South line, North 89 degrees 57 minutes 09 seconds East, 528.37 feet to a point on the East line of said West half;

Thence along said East line, South 0 degrees 22 minutes 53 seconds East, 68.00 feet to the Southeast corner of said West half;

Thence along said South line, South 89 degrees 57 minutes 09 seconds West, 528.77 feet to the POINT OF BEGINNING.

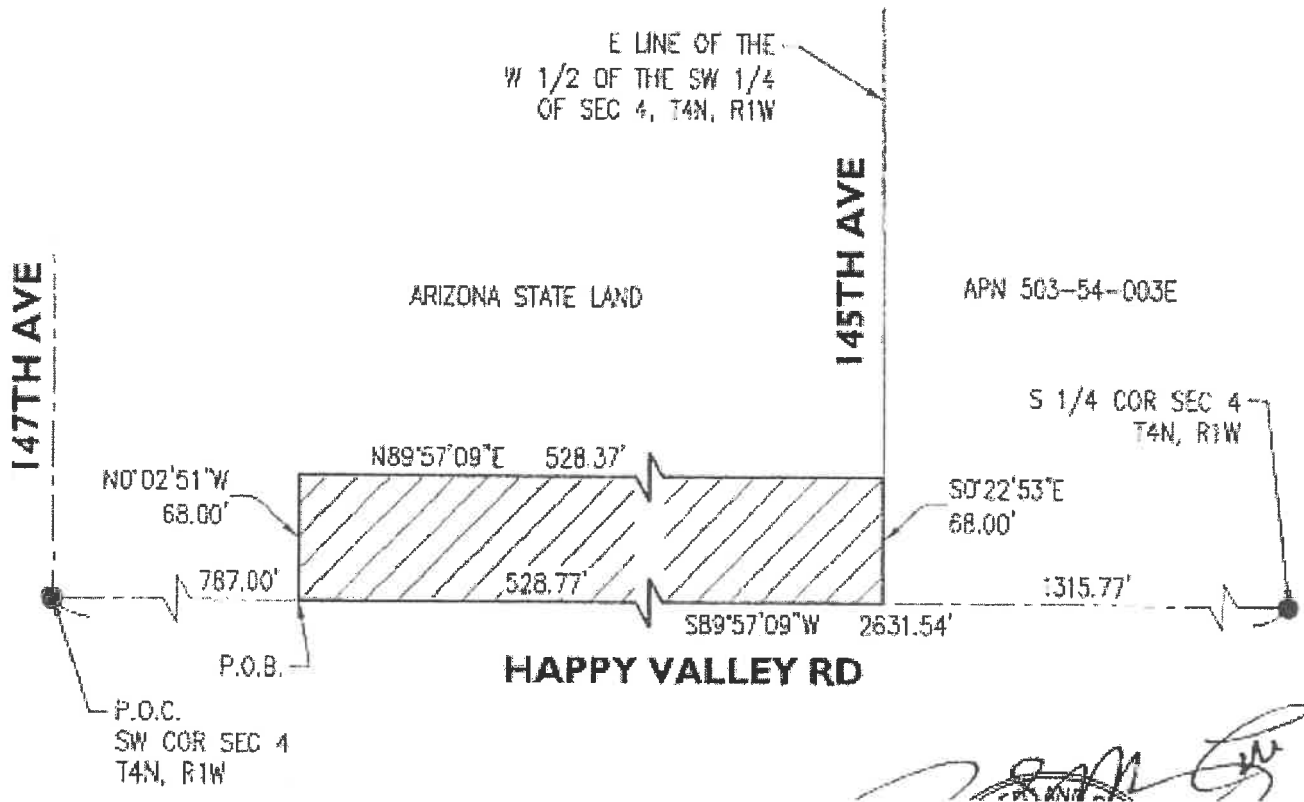
Contains 35,943 square feet or 0.8251 acres, more or less.

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY

A portion of the West half of the Southwest Quarter of Section 4, Township 4 North, Range 1 West of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the Southwest Corner of said Section 4, from which the South Quarter Corner of said Section 4 bears North 89 degrees 57 minutes 09 seconds East, 2631.54 feet;

thence along the South line of said Section 4, North 89 degrees 57 minutes 09 seconds East, 1315.77 feet to the East line of said West half;

thence along said East line, North 0 degrees 22 minutes 53 seconds West, 1487.61 feet to the POINT OF BEGINNING, said point being the beginning of a non-tangent curve, concave Southeast, from which the radius point bears South 0 degrees 31 minutes 36 seconds West a distance of 25.00 feet;

thence Southwesterly 22.28 feet along the arc of said curve to the left through a central angle of 51 degrees 03 minutes 11 seconds to a point of reverse curvature of a curve, concave Easterly, having a radius of 57.50 feet;

thence Northerly 281.96 feet along the arc of said curve to the right through a central angle of 280 degrees 57 minutes 27 seconds to a point of reverse curvature of a curve having a radius of 25.00 feet;

thence Southeasterly 21.96 feet along the arc of said curve to the left through a central angle of 50 degrees 19 minutes 07 seconds to a point on said East line;

thence along said East line, South 0 degrees 22 minutes 53 seconds East, 55.00 feet to the POINT OF BEGINNING.

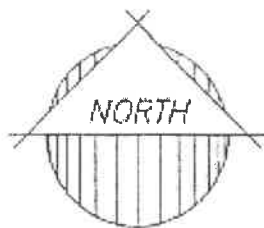
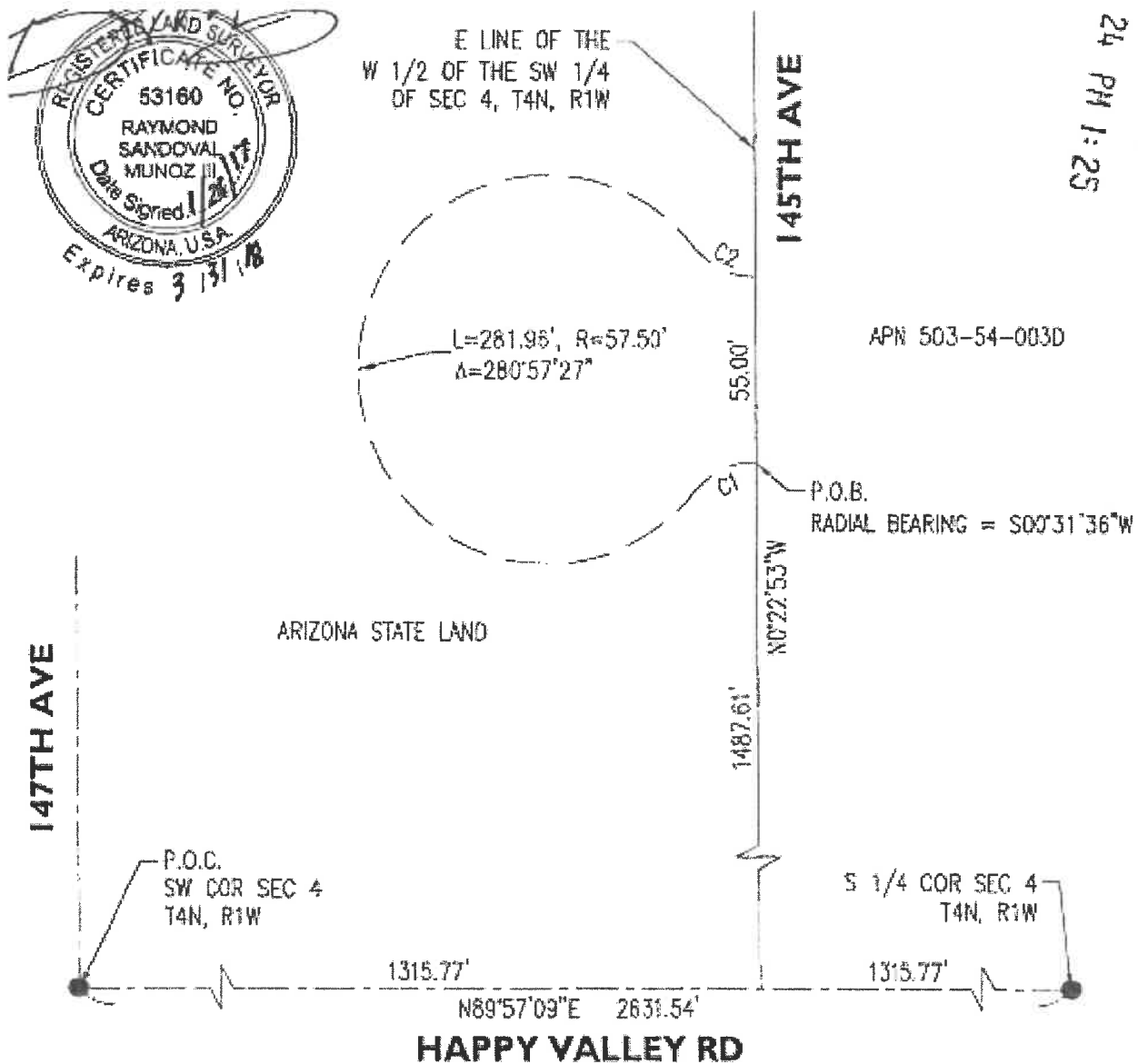
Contains 10,902 square feet or 0.2503 acres, more or less.

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EXHIBIT A - LEGAL DESCRIPTION AND/OR VISUAL DEPICTION OF RIGHT OF WAY



CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BRG
C1	22.28'	25.00'	51°03'11"	11.94'	21.55'	S65°00'01"W
C2	21.96'	25.00'	50°19'07"	11.74'	21.26'	S64°43'41"E

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EXHIBIT B

INSURANCE RIDER TO STATE LAND DEPARTMENT

This Rider is attached to and made a part of the above-referenced Right of Way as if set forth therein verbatim.

R-1 Indemnity. Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

In addition, Grantee shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

R-2 Insurance Requirements for Any Contractors Used by a Party to this Right of Way. *(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.)* The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in this Right of Way. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Right of Way by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

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A. Minimum Scope and Limits of Insurance. Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability - Occurrence Form.

Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

General Aggregate:	\$2,000,000.00
Products-Completed Operations Aggregate:	\$1,000,000.00
Personal and Advertising Injury:	\$1,000,000.00
Each Occurrence:	\$1,000,000.00
Blanket Contractual Liability-Written and Oral:	\$1,000,000.00
Damage to Rented Premises:	\$ 50,000.00
Each Occurrence	\$1,000,000.00

The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor." Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Right of Way.

Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Business Automobile Liability. Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Right of Way.

- Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor". Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Right of Way.

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b. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

c. Policy shall contain a severability of interest provision.

IF GRANTEE HAS CERTIFIED IN THE APPLICATION ADDENDUM FOR THIS RIGHT OF WAY THAT GRANTEE WILL NOT BE ENGAGED IN THE CONDUCT OF BUSINESS WITHIN THE SUBJECT LAND, GRANTEE SHALL NOT BE REQUIRED TO CARRY THE FOREGOING BUSINESS AUTOMOBILE LIABILITY INSURANCE.

3. Worker's Compensation and Employers' Liability.

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

a. Policy shall contain a waiver of subrogation endorsement in favor of the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

GRANTEE HAS CERTIFIED IN THE APPLICATION ADDENDUM FOR THIS RIGHT OF WAY THAT GRANTEE WILL NOT BE ENGAGED IN THE CONDUCT OF BUSINESS WITHIN THE SUBJECT LAND GRANTEE SHALL NOT BE REQUIRED TO CARRY THE FOREGOING WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE.

B. Additional Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S § 41-621 (E).

2. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage provided by the Contractor shall not be limited to the liability assumed

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under the indemnification provisions of its Contract with the other governmental entity(ies) party to this Right of Way.

C. Notice of Cancellation. With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this Right of Way in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to the Arizona State Land Department, 1616 W. Adams, Phoenix, Arizona 85007, and shall be sent by certified mail, return receipt requested.

D. Acceptability of Insurers. Contractors insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. Verification of Coverage. Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Right of Way. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Right of Way must be in effect at or prior to commencement of work under this Right of Way and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Right of Way, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Right of Way shall be sent directly to the Arizona State Land Department, 1616 W. Adams, Phoenix, Arizona 85007. The Right of Way number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Right of Way at any time.

F. Subcontractors. Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. Approval. Any modification or variation from the insurance requirements in this Right of Way must have prior approval from the State of Arizona Department of

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Administration, Risk Management Division, whose decision shall be final. Such action will not require a formal Right of Way amendment, but may be made by administrative action.

H. Exceptions. In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

APPENDIX A

STATE OF ARIZONA LAND DEPARTMENT
1616 W. ADAMS
PHOENIX, AZ 85007

RUN DATE: 9 February 2018
RUN TIME: 16:35 PM
PAGE: 1

KE-LEASE# 016-119579-00-000 APPTYPE: NEW
AMENDMENT#: 0

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LAND#	LEGAL DESCRIPTION	AUS	ACREAGE
04.0-N-01.0-W-04-07-031-9014	M&B THRU SESWSW SENWSW	0.00	1.410
	TOTALS	0.00	1.410

IN WITNESS HEREOF, the parties hereto have signed this Right of Way effective the day and year set forth previously herein.

STATE OF ARIZONA, GRANTOR
Arizona State Land Commissioner

CITY OF SURPRISE
GRANTEE

By: _____
Date

(SEAL)

Authorized Signature **Date**

Title

Address

City **State** **Zip**

GRANTEE'S CERTIFICATE OF CONSTRUCTION

RIGHT OF WAY NUMBER: _____

NAME OF GRANTEE: _____

DATE ISSUED: _____

PERMITTED USE: _____

LAND DEPARTMENT ADMINISTRATOR: _____

DATE CONSTRUCTION STARTED: _____

DATE CONSTRUCTION COMPLETED: _____

I hereby certify that the facilities authorized by the State Land Commissioner, were actually constructed and tested in accordance with the terms of the grant, in compliance with any required plans and specifications, and applicable Federal and State laws and regulations.

Grantee's Signature

Date

Title

**Return To: Arizona State Land Department
R/W Section
1616 W. Adams Street
Phoenix, AZ 85007**

Douglas A. Ducey
Governor



Lisa A. Atkins
Commissioner

Arizona State Land Department

1616 West Adams, Phoenix, Arizona 85007
(602) 542-4631

NOTIFICATION OF PENDING SALE

September 25, 2017

Certified No. 9171 9690 0935 0161 5560 78

City of Surprise
16000 N. Civic Center Plaza
Surprise, AZ 85374
Attn: Lari Beth Kirkendall

RE: Public Auction Sale No. 16-119579

Dear Ms. Kirkendall:

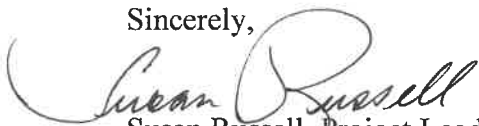
Enclosed is a copy of the Sales Notice, which will be advertised for ten consecutive weeks in both the Arizona Capitol Times and the Daily News-Sun. Please see the enclosed Sales Notice for full particulars regarding the auction.

You or an authorized representative must be present to bid. If you choose to send an authorized representative, he/she must present a notarized statement to the auctioneer authorizing him/her to bid in your absence.

If there are no bidders in attendance at the time of the auction, or if you do not have the required documents and/or certified funds, as outlined in the auction notice, the auction may be cancelled.

Please note that the certified funds, due on the day of auction, must be in the form of a cashier's check, no other form of payment can be accepted.

Sincerely,


Susan Russell, Project Leader
Rights of Way Section
Real Estate Division
(602) 542-3115
(602) 542-2720 facsimile
srussell@azland.gov

Enclosures

**ARIZONA STATE LAND DEPARTMENT
1616 WEST ADAMS STREET
PHOENIX, ARIZONA 85007**

**PUBLIC AUCTION SALE NO. 16-119579
PERPETUAL RIGHT OF WAY EASEMENT**

Pursuant to A.R.S. Title 37, notice is hereby given that the state of Arizona through its Arizona State Land Department (herein called ASLD), will sell at Public Auction to the highest and best bidder at the Arizona State Land Department at 10:00 a.m. on Tuesday, December 5, 2017, at 1616 W. Adams, Room 434B, Phoenix, Arizona, a perpetual right of way easement for the purpose of a Public Road with Underground Utilities situated in Maricopa County to wit:

TOWNSHIP 4 NORTH, RANGE 1 WEST, G&SRB&M, MARICOPA COUNTY, ARIZONA

PARCEL: M&B THRU SESWSW AND SENWSW, SECTION 4. CONTAINING 1.41 ACRES,
MORE OR LESS.

BENEFICIARY: PERMANENT COMMON SCHOOLS (INDEMNITY SELECTIONS)

For a complete legal description of the land, prospective bidders are advised to examine the right of way application file as well as all pertinent files of ASLD.

Said right of way easement has been valued at \$50,252.00 and consists of 1.41 acres, more or less.

Additional requirements and conditions of this right of way are available and may be viewed at the Arizona State Land Department, 1616 West Adams Street, Phoenix, Arizona.

The complete file associated with the described land is open to public inspection at the ASLD, 1616 West Adams Street, Phoenix, Arizona, from 8:00 a.m. to 4:30 p.m., exclusive of holidays and weekends. Please direct any questions regarding this Public Auction to the Rights of Way Section of the Real Estate Division of ASLD at (602) 542-4098. This auction notice is available on the ASLD's web site at www.azland.gov.

Each potential bidder must show ASLD's representative a cashier's check made payable to the Arizona State Land Department in the amount specified under Terms of Sale Paragraph (A) below.

TERMS OF SALE:

(A) *At the time of sale* the successful bidder must pay the following by a cashier's check: (1) The value of the right of way, which is \$50,252.00; (2) A Selling and Administrative Fee of 3% of the value of the right of way, which is \$1,508.00; (3) Reimbursable Estimated Advertising Fee, which is \$2,500.00. The total amount due at the time of sale is \$54,260.00 (less \$2,500.00 if the successful bidder is the applicant for a total amount due of \$51,760.00).

(B) Within 30 days after the auction date the successful bidder must pay the full balance of the amount bid for the right of way and pay a Selling and Administrative Fee of 3% of the purchase price for the right of way less the amount paid under (A)(2) above.

(C) Within 30 days after the auction date the successful bidder shall be required to pay the actual legal advertising cost, less the amount paid under (A)(3) above.

BIDDING INFORMATION:

(A) The time of sale shall be deemed to be the time of declaration of the highest and best bidder. The bidding will begin at the total value of the right of way. A bid for less than the value of the right of way easement or by a party who has not inspected the right of way and/or the associated files and records of ASLD will not be considered.

(B) All bidders must sign an affidavit stating that they have undertaken due diligence in preparation for the auction and that their representative is authorized to bid and bind the bidder. It is the bidder's responsibility to research the records of local jurisdictions and public agencies regarding this property.

(C) Pursuant to A.R.S. §37-240(B), the successful bidder must be authorized to transact business in the state of Arizona no later than ten (10) business days after the auction. The successful bidder must sign an affidavit stating it is the successful bidder and sign a Certification Statement pursuant to A.R.S. Title 37 and the Rules of ASLD.

(D) If the successful bidder fails to complete the payment as stated in the auction notice together with the additional required fees within 30 days from the auction date, all amounts paid at the time of auction by the successful bidder will be forfeited.

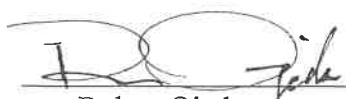
(E) In the event of forfeiture, the ASLD Commissioner may declare that the bid placed before the final bid accepted is the highest bid, and that the bidder has five (5) days after notification by ASLD to pay by cashier's check all amounts due.

GENERAL INFORMATION:

The ASLD may cancel this auction in whole or in part at any time prior to the acceptance of a final bid.

A protest to this sale must be filed within 30 days after the first day of publication of this announcement and in accordance with A.R.S. §37-301.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the ADA Coordinator, at (602) 542-2629. Requests should be made as early as possible to allow time to arrange the accommodation.


Ruben Ojeda
(for) Lisa A. Atkins
Commissioner



9/7/17
Date



COMMUNITY DEVELOPMENT
CITY OF SURPRISE

16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374

T. 623.222.3000

Date: May 3, 2018

To: Finance

From: Lari Beth Kirkendall, Real Property Manager

Re: Arizona State Land Department Right of Way 16-119579 Valuation

The Value of the Right of Way associated with the Rancho Del Rey Development located at Happy Valley Road and 145th avenue is \$50,252.00.

The Right of Way consists of approximately 1.41 acres.



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date:	May 15, 2018	Contact Person:	Kendra Pettis, Sports and Tourism Director
Submitting Department:	Sports and Tourism	District:	1
Staff Recommendations:	None		

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action authorizing funding from the Tourism Fund to support a resort feasibility study in an amount not to exceed \$20,000 as recommended by the Tourism Advisory Commission.

Motion:

Motion to authorize funding from the Tourism Contingency Fund to support a resort feasibility study in an amount not to exceed \$20,000.

Background:

The City of Surprise will be issuing a request for proposals for the Resort Feasibility Study as recommended by the Tourism Advisory Commission. The draft Scope of Work consists of four aspects, a list and descriptions of each are below: 1. Market Demand Analysis - The market demand analysis should be focused on gathering and analyzing relevant economic data regarding the Surprise market area to determine whether the overall economic environment in the area appears to be suitable for resort development. The analysis should examine correlations between key economic factors and the demand for lodging and shall utilize any available forecasts of these indicators in the evaluation of potential future demand. 2. Site Analysis - The City of Surprise is currently interested in a resort study for (1) City Center Development and (2) Loop 303 Development and (3) Surprise planning area near the White Tank Regional Park. 3. Facility Recommendation - The study shall include a preliminary recommendation as to the proposed resort facilities for all 3 proposed sites: (1) City Center Development, (2) Loop 303 Development and (3) Surprise planning area near the White Tank Regional Park. 4. Market Share Estimates - The market share estimates shall include supply and demand analysis for the proposed properties and forecast their market orientation and competitive position with respect to other lodging facilities (how they will potentially impact existing hotels in the market).

Objective Analysis:

To be determined through study.

Policy Compliant:

Studies are listed as one of the designated items that the Tourism Fund can be used for according to

Ordinance No. 2015-10.

Financial Impact:

One time cost not to exceed \$20,000 allocated from the Tourism Fund.

Budget Impact:

Budget amendment to transfer up to \$20,000 from the Tourism Contingency Fund to the Tourism Services Fund for the feasibility study.

FTE Impact:

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

ATTACHMENTS:

Click to download

- ☐ [Scope of Work Feasibility Study](#)
 - ☐ [Resolution 2018-73](#)
-

Scope of Work
Market Feasibility Study
Proposed Hotel/Resort Facility

Introduction

The City of Surprise requests proposals for professional services to conduct a market feasibility study for a proposed full service resort property within the City of Surprise and its planning area. The study should address the current and projected market demand analysis for the number, type and duration of hotel stays in the City; a competitive analysis on what a new resort facility must do to provide a unique alternative to the current hotel supply and be successful.

Overview

The City of Surprise wishes to examine the potential for successful development of a resort facility within the City of Surprise and its planning area. Although a specific site has not been designated, there are potential sites within the City that may provide an opportunity for hospitality development. The mission is to determine what type of hospitality project is feasible by the private sector and what amenities could be supported. The feasibility may include recommendations for public incentives and new infrastructure to improve the project viability if there is an unfavorable shortfall in the projections.

The successful bidder will conduct a study to recommend a facility program and determine the overall market feasibility of the recommended facility. The resulting analysis will be provided to potential hotel developers, management companies and brands who may be interested in participating in a hotel project.

Desired Objectives & Assumptions

The primary factors contributing to the consideration of a new resort facility in Surprise are as follows:

- The perceived need for a quality resort will allow the City to market itself as an overnight destination to visitors, which has been recommended by multiple economic plans for the City.
- The perception that the City of Surprise's primary tourism market sector (Spring Training and sporting events) rely on amenities and larger accommodations through rental homes/air bnb during peak season to support tourists/fans so a resort with quality and attractive amenities in the City may be able to attract additional visitors during peak seasons and new visitors on a year round basis.
- The perception that hotel room rates and availability during peak season is prohibitive to the City of Surprise target demographics and increased capacity would allow for additional room nights and revenue.
- The perception that existing hotels are losing overnight stays to newer facilities in surrounding areas for visitors doing business with local industry located in the City.
- The perception that there is demand for destination events like weddings, sporting events, tourism and performing arts and music festivals that may not be accounted for in standard market analyses.
- The perception that there is a demand for banquet and meeting space for weddings, small conferences, business events (non-profit galas, annual meetings, etc.) that would be attracted to a facility in the City.
- A conference location for various private and public sector entities, using a quality resort with meeting space as a platform.
- An increased ability to attract new events to the City of Surprise.

Scope of Work

The study should provide the following four aspects within the study:

(1) Market Demand Analysis

The market demand analysis should be focused on gathering and analyzing relevant economic data regarding the Surprise market area to determine whether the overall economic environment in the area appears to be suitable for resort development. The analysis should examine correlations between key economic factors and the demand for lodging and shall utilize any available forecasts of these indicators in the evaluation of potential future demand.

- The market analysis should include interviews in the area in order to help facilitate the overall Surprise market area analysis. The interviews should include key demand generators, inspection and evaluation of competition and discussions with persons familiar with development patterns and the local hotel market. Including by not limited to:
 - i. Managers of tourist attractions
 - ii. Owners and managers of potentially competitive lodging facilities
 - iii. Government officials in zoning, development and transportation
 - iv. Major employers in the area
 - v. Convention and visitor bureau representatives/chamber of commerce offices
 - vi. Potential users including medical tourism/travel groups, meeting planners, event promoters and/or other customers.
- Analyze the existing hotels within the market and gain their historical operating performance.
- Determine current and potential future lodging and hospitality demand in the market area.
- Identify and determine current community needs and possible quality of life opportunities that would benefit from additional accommodation space, and evaluate the economic opportunity for the City.
- Analyze present marketing position strategies and provide recommendations for underserved markets and or opportunities that can be targeted with a new hospitality market.

If the Market Analysis shows favorably, the study shall include items 2, 3 and 4 outlined below.

(2) Site Analysis

The City of Surprise is currently interested in a resort study for (1) City Center Development and (2) Loop 303 Development and (3) Surprise planning area near the White Tank Regional Park.

The site analysis for these 3 areas should address the following:

- a. Evaluate the site in terms of its opportunities and constraints for development; including but not limited to
 - o Accessibility and Visibility
 - o Physical Characteristics
 - o Ambiance
 - o Economic and Demographic Indicators
 - Population
 - Estimated Income
 - Effective Buying Income
 - o Present utilization and surrounding development
 - o Relationship to demand generators
 - o Relationship to area amenities

- Advantages/disadvantages of the site versus the major competitors
- Transportation Characteristics

(3) Facility Recommendation

The study shall include a preliminary recommendation as to the proposed resort facilities for all 3 proposed sites: (1) City Center Development, (2) Loop 303 Development and (3) Surprise planning area near the White Tank Regional Park.

The recommendation should include:

- a. Location - site selection criteria
- b. Occupancy levels and room configuration with potential phasing options
- c. Restaurant and lounge/food and beverage facilities, if appropriate
- d. Number, size, quality and type of performance and multi-use spaces (may or may not include recreational facilities, tourism amenities and or arts and cultural features)
- e. Brand Affiliation, if any

In addition to the above, the study should estimate the average daily room rate and occupancy that could potentially be achieved in a representative year and over the first five years of operation of the recommended hotel(s).

(4) Market Share Estimates

The market share estimates shall include supply and demand analysis for the proposed properties and forecast their market orientation and competitive position with respect to other lodging facilities (*how they will potentially impact existing hotels in the market*).

Timeline

After commencing the study, the City of Surprise would like a final report no later than 8 weeks later.

RESOLUTION #2018-73

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2018 BUDGET BY REALLOCATING APPROPRIATIONS OF \$20,000 FROM THE TOURISM FUND FROM CONTINGENCY TO SERVICES FOR A RESORT FEASIBILITY STUDY.

WHEREAS, on August 4, 2015, Ordinance 2015-10 increased the tax on any hotel within the city in the business of charging for lodging and/or lodging space furnished to any transient to 4.52% of gross income;

WHEREAS, per the Comprehensive Financial Management Policies approved by the Mayor and Council in August 2016, of the tax collected for the Tourism Fund, 75% is designated for sports and tourism facility development and improvement and 25% for marketing, studies and special events;

WHEREAS, on April 30, 2018, the Tourism Advisory Commission voted to recommend that Council approve of the allocation of tourism funds in an amount not to exceed \$20,000 for a resort feasibility study;

WHEREAS, the City of Surprise wishes to authorize the use of the \$20,000 for a resort feasibility study;

WHEREAS, the FY2018 budget was adopted by Council Resolution #2017-64 on June 6, 2017;

WHEREAS, this action will necessitate a budget amendment; and

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

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

Section 1. That the statements and schedules attached as *Exhibit A* and incorporated by reference are adopted, amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2017 through June 30, 2018.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this ____ day of _____, 2018.

Sharon R. Wolcott, Mayor

Attest:

Approved as to form:

Sherry Aguilar, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2018-73

Exhibit A

1. Appropriation- The allocations below represent a reallocation of appropriations in the amount of \$20,000 from Contingency within the Tourism Fund to Services within the Tourism Fund to establish a budget for a resort feasibility study. These allocations do not represent an actual transfer of funds, but only a transfer of spending authority.

Fund	Department	Current Budget	Increase/ (Decrease)	Amended Budget
Tourism Fund Contingency	Sports & Tourism	\$459,800	(\$20,000)	\$439,800
Tourism Fund Services	Sports & Tourism	\$0	\$20,000	\$20,000
		\$459,800	\$0	\$459,800



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date:	May 15, 2018	Contact Person:	Sherry Ann Aguilar, City Clerk
Submitting Department:		District:	Internal
Staff Recommendations:	None		

Consent	☒	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action on the minutes of the Regular City Council Work Session and Regular City Council Meeting of May 1, 2018.

Motion:

I move to approve the meeting minutes.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

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- ☐ [Work Session](#)
- ☐ [Regular Meeting](#)

CITY OF SURPRISE
Regular City Council Work Session - May 1, 2018
16000 North Civic Center Plaza
Surprise, AZ 85374

Tuesday, May 1, 2018 @ 4:00PM

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, May 1, 2018. Also in attendance with Mayor Wolcott were Vice Mayor Remley, Council Member Winters, Council Member Hayden, Council Member Duffy and Council Member Hall. Council Member Tande was excused.

Staff Present:

City Manager, Bob Wingenroth, City Attorney, Robert Wingo, and City Clerk, Sherry Ann Aguilar.

Pledge of Allegiance

Call to the Public:

E. Regular City Council Work Session Agenda:

**1. Presentation and discussion pertaining to an update regarding 2018
Emergency Operations Plan - NO ACTION**

Fire Chief, Tom Abbott gave a powerpoint presentation regarding this item. The plan is a basic plan, the two primary annexes are A & B. This plan will replace the plan from September 016.

Captain Kevin Spirlong commented that this is one of his duties to coordinate with agencies and the plan follows the Incident Command System, operations planning, logistics and finance/administration.

2. Presentation and discussion pertaining to an update of the City's Transit Feasibility Study and survey - NO ACTION

City Planner, Martin Lucero gave a powerpoint presentation regarding this item. Mr. Lucero reviewed sections of the survey in detail.

Public Involvement - Website; wikimap; print materials; community outreach and new transit videos.

Next steps: Launch wikimap; public workshop/Charrette; begin evaluation of mode and route analysis; Council update in August.

Mayor Wolcott - This is outstanding, great data far superior to anything else provided. Excited about the reverse route numbers, people are getting excited about Surprise and people are coming here. One of the most important decisions we will be making for the next 10 years. Kudos to the consultant but special thanks to Martin Lucero, you have done an amazing job and kudos to the Communications Department for the video.

Council Member Winters - Thank you for the presentation and appreciate the data. I always knew we needed to get transit here and we will use it. 176 people that didn't respond, was there any follow up?

Mr. Lucero - Some of the surveys were not completed, parts missing, etc.,

Council Member Hall - Valley Metro is expressing safety issues, looking into how they are going to handle this. Asked staff to take a look at this, they have lost some ridership because of this.

3. Presentation and discussion pertaining to the City of Surprise Intelligent Transportation Systems (ITS) Strategic Plan - NO ACTION

Traffic Engineer, Karl Zook gave a powerpoint presentation on this item.

Council Member Duffy - I am a big fan of this, you are already there, you just don't know. The digital signs from ADOT and City of Surprise are funny and get the message across.

Council Member Hall - Well defined plan, if we leave this meeting and a resident says it sounds really good, but what does this mean for me? What do we say? Example flow on Bell Road, will the lights be coordinated?

Regular City Council Work Session Minutes – May 1, 2018 – Page 3

Albert Garcia of Public Works - The Adaptive signal control is nearing completion. Work behind the scenes and make recommendations for changes, then in a few weeks will go live. What this system does is evaluate the traffic in real time to coordinate signals. Travel time will be the benefit from this system in a more efficient manner. Moving from analog to digital world.

Council Member Winters - Any particular reason you stopped at Cotton Lane and Bell Road?

Mr. Garcia - Federally funded program. Cotton Lane is the cost benefit of where it made sense to stop. Some negotiating that had to be done. The light at Arizona Traditions are concerned about the intersection and traffic flow.

Executive Session:

Adjournment:

Council Member Hall made the motion to adjourn the Regular City Council Work Session of May 1, 2018 at 5:01 PM. Council Member Winters seconded the motion. Six yes votes, one excused (Tande), motion carried.

Sharon R. Wolcott, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Meeting of **Tuesday, May 1, 2018.**

Sherry Ann Aguilar, City Clerk, MMC

CITY OF SURPRISE
Regular City Council Meeting - May 1, 2018
16000 North Civic Center Plaza
Surprise, AZ 85374

Tuesday, May 1, 2018 @ 6:00PM

Call To Order

Roll Call

Mayor Wolcott called the Regular City Council Meeting to order at 06:00 p.m. at Surprise at City Hall Council Chamber, 16000 North Civic Center Plaza Surprise, Arizona 85374, on Tuesday, May 1, 2018. Also in attendance with Mayor Wolcott were Vice Mayor Remley, Council Member Winters, Council Member Hayden, Council Member Duffy, Council Member Hall and Council Member Tande was excused.

Staff Present:

City Manager, Bob Wingenroth; City Attorney, Robert Wingo and City Clerk, Sherry Ann Aguilar.

Pledge of Allegiance

PROCLAMATION AND COMMUNITY ACKNOWLEDGEMENTS

City Manager Report:

Mike Cassidy introduced the new members of the Surprise Youth Council and handed out the oath along with Mayor Wolcott. City Clerk Aguilar conducted the Oath of Office.

City Clerk Report:

Call To The Public:

Doc Sullivan - Spoke in support of the Circle City Water Acquisition - Basically Circle City Water Company services 150 families. They have the rights to water from Colorado River, will boost our water reserves by 40%, not effect rates or boost tax. We are going to need the water; I am in favor of this. If we don't move forward, if we don't some other City or EPCOR water will do this.

Regular City Council Meeting Agenda:

Consent Agenda:

1. Consideration and action pertaining to a conditional acceptance of maintenance of the streets and public utility improvements at Desert Oasis Parcel L13B; Resolution # 2018-60 - APPROVED

2. Consideration and action pertaining to approval of the Second Amendment to the Intergovernmental Agreement between the Maricopa County Library District and City of Surprise to extend operation of the Northwest Regional Library and Hollyhock Library for two years until June 30, 2020; Resolution # 2018-44 - APPROVED

3. Consideration and action pertaining to an amendment of the Fiscal Year 2018 Budget by reallocating appropriations of \$220,000 from Solid Waste Contingency to Solid Waste Supplies and Services associated with increased operational costs and amending the Capital and Operating List of items over \$50,000; Resolution # 2018-63 - APPROVED

4. Consideration and action pertaining to amending the FY2018 budget by reallocating appropriations of \$337,400 from Grants Contingency to the Ground Ambulance Fund to cover Personnel, Supplies, and Services expenses and amending the Operating List of Items over \$50,000; Resolution # 2018-67 - APPROVED

5. Consideration and action approving the Intergovernmental Agreement (IGA) between the Maricopa County Library District and City of Surprise for library services; Resolution # 2018-57 - APPROVED

6. Consideration and action to amend the Fiscal Year 2018 budget by reallocating appropriations of \$4,000 from contingency within the Grants Fund for acceptance of a grant award from the Arizona Governor's Office of Highway Safety, Buckle Up Arizona! Click It or Ticket Enforcement Campaign; Resolution #2018-58 - APPROVED

7. Consideration and action on the meeting minutes of April 17, 2018 Regular City Council Work Session and Council City Council Meeting - APPROVED

Council Member Hall made the motion to approve the consent agenda. Council Member Winters seconded the motion. Six yes votes, one excused (Tande), motion carried.

Regular Agenda Items - Non-Public Hearing:

8. Consideration and action pertaining to approval of the purchase of approximately 0.59 acres of unimproved real property within the Original Townsite commonly known as 16007 North Nash Street, Surprise, Arizona for \$85,000.00; Resolution # 2018-53 - APPROVED

Eric Fitzer gave a brief presentation on this item.

Vice Mayor Remley made the motion to approve Resolution 2018-53. Council Member Duffy seconded the motion. Six yes votes, one excused (Tande), motion carried.

9. Consideration and action adopting the tentative expenditure limitation budget for FY2019 in the amount of \$327,044,300 and authorizing publication of said tentative budget; Resolution # 2018-66 - APPROVED

Finance Director, Lindsey Duncan gave a powerpoint presentation on this item.

Mr. Wingenroth brought forward a potential location for the new library to be located in Asante Park. He asked for Council input on this issue.

Mayor Wolcott commented that this is very exciting and gave an overview of Asante Park, when it started and then the economy downturn, growth stopped and now the development is moving again. I think this is a perfect location for this library.

Vice Mayor Remley - Efficiencies in our current Library, savings, etc.? We have this money, and if it is not spent on a library by January 2020, what do we have to do?

Mr. Wingenroth - We will have to return the impact fees back.

Council Member Winters - I am all for this idea, thanks to Lennar, this is a growing area with thousands of homes will be going up, I love this idea.

Council Member Hall- I am totally for this, the right time and the right sight. We had a library study done, are we looking at more technology over books? Need to have an area for kids and families. 10,000 sq. ft., will be critical on the design.

Council Member Duffy - I don't want to sound like a downer, but I want to make sure of our investing. I don't want to see unnecessary spending, but we have a lot of needs in the City.

Mr. Wingenroth - We do need to come up with funding, but we will need to have a commitment from the developer and of course, the Council.

Regular City Council Meeting Minutes – May 1, 2018 – Page 4

Mayor Wolcott - Council Member Duffy you raise a really good point on the spending, positive head nods that we would like to move forward with giving the City Manager direction to look into this and discuss with the developer.

Council Member Winters - This money can only be spent on a library, if we don't move forward, we will not get this back.

Council Member Hall - We need some private commercial investment in this area. Sometimes public spending proceeds private spending. Fire Station, library, if a commercial developer sees what is happening, they will want to invest and this will add to the home values.

Ms. Duncan continued the presentation.

Council Member Winters made the motion to approve Resolution 2018-66. Council Member Hall seconded the motion, six yes votes, one excused (Tande), motion carried.

10. Consideration and action pertaining to adoption of an updated 2018 Emergency Operations Plan; Resolution # 2018-59 - APPROVED

Fire Chief Tom Abbott gave a brief presentation on this item.

Council Member Hall made the motion to approve Resolution 2018-59. Council Member Winters seconded the motion, six yes votes, one excused (Tande), motion carried.

Other Business and Future Agenda Items:

Mayor Wolcott - Bring forward a Lobbying ordinance

K. Mayor/Council Reports:

Mayor and Council reported on the events and/or meetings that they attended.

Council Member Duffy - Sci-Tech Festival; Police/Fire Softball Game.

Council Member Hall - Sci-Tech Festival; Read On Surprise Meeting; presentation by the City of Tempe - Free Kinder Care; Kingswood Parke Spring Fling; Thank Bob and team budget presentations.

Council Member Winters - JPAC Meeting in Wild Horse Pass in Chandler.

Regular City Council Meeting Minutes – May 1, 2018 – Page 5

Council Member Hayden - Attended Police/Fire baseball game; Firefighter awards ceremony and Police awards ceremony; SC Grand Hall on traffic safety organized by Police Dept.;

Vice Mayor Remley - Very constructive District 4 meeting last week. It's amazing all of the projects that are currently underway in this City will be a reality. Many new jobs will come with the growth. Thanked staff for all their hard work on the budget process, met with department heads and learned a lot.

Mayor Wolcott - Thanked Chief Young for an amazing town hall, the residents really appreciated this event. Great presentation, residents had a great remarks and were very pleased. Since last meeting, we spent over 2 hours discussing our downtown, has generated a lot of interest, especially the news media. We have been working towards correcting and retracting statements made in the newspapers. We committed to meet on an ongoing basis. We are calendaring a regular meeting, the 1st Wednesday of every month, every Councilmember will have an opportunity to participate. My first official meeting with this group was in 2012, as of May 5, 2016, we had a settlement agreement. Our 1st meeting is tomorrow. Thank you for your patience and support, we are going to make some real progress here.

Executive Session:

Adjournment:

Vice Mayor Remley made the motion to adjourn the Regular City Council Meeting of May 1, 2018 at 7:04 PM. Council Member Hall seconded the motion. Six yes votes, one excused (Tande), motion carried.

Sharon R. Wolcott, Mayor

ATTEST:

Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Meeting of **Tuesday, May 1, 2018**.

Sherry Ann Aguilar, City Clerk, MMC



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date: May 15, 2018

Contact Person: Sherry Ann Aguilar, City Clerk

Submitting Department:

District: 5

Staff Recommendations: None

Consent	☒	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action on a renewal license for Turf Paradise Off-track Parimutuel Wagering License for Brookside II Sports Bar & Grille located at 15170 W. Bell Road, Suite 115, Surprise, AZ 85374 for the term of June 1, 2018 through May 31, 2021.

Motion:

I move to approve a renewal license for Turf Paradise Off-track Parimutuel Wagering License for Brookside II Sports Bar & Grille located at 15170 W. Bell Road, Suite 115, Surprise, AZ. 85374 for the term of June 1, 2018 through May 31, 2021.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

Click to download

No Attachments Available



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date: May 15, 2018 Contact Person: Sherry Ann Aguilar, City Clerk
Submitting Department: District: 4
Staff Recommendations: None

Consent	x	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action on a renewal license for Off-track Parimutuel Wagering License for Runner's Sports Bar located at 12751 W. Bell Road, Surprise, AZ 85378 for the term of June 1, 2018 through May 31, 2021.

Motion:

I move to approve a renewal license for Off-track Parimutuel Wagering License for Runner's Sports Bar located at 12751 W. Bell Road, Surprise, AZ. 85378 for the term of June 1, 2018 through May 31, 2021.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

[Click to download](#)

No Attachments Available



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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

Council Meeting Date: May 15, 2018

Contact Person: Sherry Ann Aguilar, City Clerk

Submitting Department:

District: 2

Staff Recommendations: None

Consent	☒	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action on a request by Nicholas Guttilla (Agent) for an Interim Permit/Person Transfer/Corporation for Safeway #977 (Also known as Albertson's) located at 14551 W. Grand Avenue, Surprise, AZ 85374 (License #09070567).

Motion:

I move to approve a request by Nicholas Guttilla (Agent) for an Interim Permit/Person Transfer/Corporation for Safeway #977 (Also known as Albertson's) located at 14551 W. Grand Avenue, Surprise, AZ 85374 (License #09070567).

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

Click to download

No Attachments Available



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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Council Meeting Date: May 15, 2018
Submitting Department: Finance Dept
Staff Recommendations: None

Contact Person: Lindsey Duncan, Finance Director
District: 1

Consent	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Presentation and discussion pertaining to the FY2018 Financial Status Report through February 2018.

Motion:

Discussion only, there is no action.

Background:

This update will review the financial activity through the month of February 2018.

Objective Analysis:

The comparison of the actual financial activity to the plan laid out in the budget helps the City to determine the current financial position. This will allow for better short and long term financial planning as the current fiscal year is underway and the planning for the next budget begins.

Policy Compliant:

This item is compliant with City and Council Policy.

Financial Impact:

The attached presentation provides an update of the year to date revenue and expenditures for the general fund.

Budget Impact:

This item does not amend the current fiscal year budget. There will be discussion of the city's financial performance to-date.

FTE Impact:

This item does not change the full time equivalent position count.

ATTACHMENTS:

Click to download

- ☐ [Sales and Use Tax Report February 2018](#)
 - ☐ [FY18 Grant Expenditure Report](#)
 - ☐ [FY2018 Financial Status Update Presentation](#)
-



Sales and Use Tax
Fiscal Year to Date as of February 2018

General Fund	2016 Actual	2017 Actual	2018 Actual	Actual 2018 to 2017 \$ Variance	% Variance	2018 Budget	Actual to Budget 2018 \$ Variance	% Variance
Retail	8,793,893	10,236,003	10,888,719	652,715	6%	10,143,799	744,920	7%
Vehicles	3,481,728	4,221,816	4,926,404	704,588	17%	4,478,022	448,382	10%
Communications/Utilities	3,912,705	3,357,415	3,472,613	115,198	3%	3,327,160	145,453	4%
Contracting	1,250,000	1,250,000	1,250,000	0	0%	1,250,000	0	0%
Restaurant/Bar	3,798,325	4,397,119	4,862,438	465,319	11%	4,357,495	504,943	12%
Real Estate/Rental & Leasing	2,910,348	2,966,026	3,215,127	249,101	8%	2,939,358	275,769	9%
Arts/Entertainment	498,123	355,604	351,234	(4,371)	-1%	352,396	(1,162)	0%
Hotel/Motel	344,835	333,696	370,004	36,307	11%	330,696	39,307	12%
Transient Lodging	89,226	96,126	104,863	8,738	9%	92,532	12,332	13%
Auditing	31,013	3,250	950	(2,300)	-71%	0	950	0%
Use Tax	581,426	611,236	735,599	124,363	20%	605,704	129,895	21%
Other Tax Activity	778,764	236,000	164,200	(71,800)	-30%	233,916	(69,716)	-30%
Total General Fund	26,470,386	28,064,292	30,342,149	2,277,857	8%	28,111,077	2,231,072	8%
Percentage of change from prior period		6%	8%					
Transportation Improvement Fund (1.5% tax rate)	2,168,350	1,958,927	2,160,801	201,874	10%	1,322,733	838,068	63%
Percentage of change from prior period		-10%	10%					
General Capital Fund (2.2% tax rate)	1,930,247	1,623,093	1,919,174	296,082	18%	888,534	1,030,641	116%
Percentage of change from prior period		-16%	18%					
Tourism Fund - Bed Tax (3.52% tax rate)	243,957	338,363	369,119	30,757	9%	325,714	43,406	13%
Percentage of change from prior period		39%	9%					
Total All Funds	30,812,939	31,984,674	34,791,243	2,806,569	9%	30,648,057	4,143,187	14%

FY2017 amounts for General Fund categories, excluding contracting and transient lodging, were updated to include ADOR's implementation of location based and business code reporting.

General Fund

Retail (2.2% tax rate) - tax collections from large and small retail stores, discount department stores, warehouse clubs, and supercenters.

Vehicles (2.2% tax rate) - tax collections from vehicle sales.

Communication/Utilities (2.2% tax rate) - tax collections from businesses that provide telecommunications (landlines and cellular), electricity, gas, and water services.

Contracting (2.2% of the 3.7% contracting tax rate is dedicated to the General Fund) - tax collections from businesses engaging in contracting activity, (e.g., landscaping, painting, flooring installation, siding, roofing, concrete, plumbing, heating, framing, drywall, infrastructure, masonry, finish carpentry). The first \$1.25 million received in revenues from the 2.2% transaction privilege tax on construction will be retained in the General Fund. Any additional amount will be recorded in the General Capital Fund and will be used to fund the Capital Improvement Plan.

Restaurant and Bar (3.2% tax rate) - tax collections from restaurants, bars and caterers.

Real Estate, Rental & Leasing (2.2% tax rate) - tax collections from rental income of commercial and residential real property, and personal property rentals (e.g., rentals of formal wear, DVD's, home health equipment, recreational goods, electronics, appliances).

Arts and Entertainment (2.2% tax rate) - tax collections from businesses that charge admission for exhibition, amusement, or entertainment, (e.g., gym memberships, golf courses, athletic and dance instruction, movie theatres).

Hotel/Motel (2.2% tax rate) - tax collections from the activity of renting lodging space for any length of time and other activities provided at the hotel/motel.

Transient Lodging (1% of the 4.52% transient lodging tax rate is dedicated to the General Fund) - tax collections from the activity of charging for lodging and/or lodging space furnished to any transient for less than thirty consecutive days, and is in addition to the hotel/motel tax rate of 2.2%.

Auditing - payments from tax audits conducted by in house and contract auditors.

Use Tax (2.2% tax rate) - tax collections from goods and products that are used or stored in the City where sales tax was not paid when purchased.

Other Tax Activity (2.2% tax rate) - tax collections from business license fees, advertising, feed at wholesale, job printing, manufactured buildings, old business codes, and maintenance, repair, replacement or alteration projects (MRRA).

Dedicated Funds

Transportation Improvement (1.5% of the 3.7% contracting tax rate is dedicated to the Transportation Improvement Fund)

The transportation improvement fund is established to provide for the collection and expenditure of the dedicated 1.5% local construction transaction tax adopted by the Mayor and Council through ordinance 05-13. This tax is dedicated for the improvement of existing roadway corridors and the related costs of the construction of new roadways.

General Capital (2.2% of the 3.7% contracting tax rate)

The first \$1.25 million received in revenues from the 2.2% transaction privilege tax on construction will be retained in the General Fund. Any additional amount will be recorded in the General Capital Fund and will be used to fund the Capital Improvement Plan.

Tourism (3.52% of the 4.52% transient lodging tax rate is dedicated to the Tourism Fund)

Ordinance No. 2015-10 increased the tax rate to 4.52% with 3.52% recorded in the Tourism Fund. Mayor and City Council has designated that 75% will be allocated to Sports Tourism Facility Development/Facility Improvement and 25% will be allocated to Special Events/Marketing/Studies.



Transaction Privilege Tax Report

Hotel Motel

Tax Collected	Reported to State	Reported to City	FY2014	FY2015	FY2016	*FY2017	FY2018	5 YR Average FY2014 - FY2018
Jul	Aug	Sep	\$ 19,645	\$ 17,682	\$ 16,928	\$ 21,297	\$ 31,513	\$ 21,413
Aug	Sep	Oct	\$ 19,858	\$ 24,363	\$ 24,829	\$ 23,264	\$ 26,213	\$ 23,705
Sep	Oct	Nov	\$ 25,992	\$ 30,945	\$ 31,473	\$ 35,342	\$ 38,405	\$ 32,431
Oct	Nov	Dec	\$ 18,586	\$ 52,349	\$ 59,506	\$ 58,393	\$ 55,171	\$ 48,801
Nov	Dec	Jan	\$ 61,772	\$ 41,435	\$ 44,780	\$ 46,760	\$ 48,603	\$ 48,670
Dec	Jan	Feb	\$ 43,701	\$ 43,753	\$ 49,646	\$ 36,930	\$ 43,340	\$ 43,474
Jan	Feb	Mar	\$ 43,414	\$ 23,111	\$ 50,389	\$ 33,947	\$ 53,287	\$ 40,829
Feb	Mar	Apr	\$ 51,074	\$ 85,180	\$ 67,284	\$ 77,765	\$ 73,472	\$ 70,955
Mar	Apr	May	\$ 70,001	\$ 80,525	\$ 90,729	\$ 91,488		\$ 83,186
Apr	May	Jun	\$ 34,916	\$ 32,169	\$ 39,894	\$ 44,009		\$ 37,747
May	Jun	Jul	\$ 25,429	\$ 28,916	\$ 26,763	\$ 29,185		\$ 27,573
Jun	Jul	Aug	\$ 19,937	\$ 20,246	\$ 22,958	\$ 23,917		\$ 21,765
TOTAL			\$ 434,326	\$ 480,674	\$ 525,179	\$ 522,296	\$ 370,004	\$ 500,550

*Hotel and Motel amounts for FY2017 were updated to include AZ Dept. of Revenue's implementation of location based and business code reporting

Transient Lodging

Tax Collected	Reported to State	Reported to City	FY2014	¹ FY2015	FY2016	FY2017	FY2018	5 YR Average FY2014 - FY2018
Jul	Aug	Sep	\$ 15,995	\$ 11,744	\$ 31,002	\$ 35,321	\$ 50,396	\$ 28,892
Aug	Sep	Oct	\$ 12,937	\$ 16,747	\$ 9,222	\$ 24,356	\$ 37,041	\$ 20,061
Sep	Oct	Nov	\$ 14,652	\$ 17,452	\$ 18,222	\$ 38,396	\$ 44,062	\$ 26,557
Oct	Nov	Dec	\$ 14,316	\$ 25,420	\$ 29,903	\$ 71,136	\$ 52,360	\$ 38,627
Nov	Dec	Jan	\$ 20,966	\$ 24,210	\$ 42,957	\$ 56,159	\$ 55,496	\$ 39,958
Dec	Jan	Feb	\$ 30,681	\$ 23,112	\$ 52,789	\$ 43,260	\$ 51,399	\$ 40,248
Jan	Feb	Mar	\$ 25,482	\$ 55,130	\$ 63,003	\$ 67,301	\$ 78,493	\$ 57,882
Feb	Mar	Apr	\$ 35,185	\$ 53,564	\$ 86,084	\$ 98,560	\$ 104,735	\$ 75,626
Mar	Apr	May	\$ 58,376	\$ 65,790	\$ 131,787	\$ 150,918		\$ 101,718
Apr	May	Jun	\$ 27,544	\$ 22,092	\$ 55,825	\$ 69,245		\$ 43,676
May	Jun	Jul	\$ 21,952	\$ 24,125	\$ 35,250	\$ 47,870		\$ 32,299
Jun	Jul	Aug	\$ 15,877	\$ 21,607	\$ 41,187	\$ 36,092		\$ 28,691
TOTAL			\$ 293,964	\$ 360,993	\$ 597,231	\$ 738,613	\$ 473,983	\$ 534,234

¹Transient Lodging tax rate increased from 2.52% to 4.52% effective 11/01/2015, Ordinance No. 2015-10 (3.52% of the 4.52% is recorded to the Tourism Fund)



Transaction Privilege Tax Report

Restaurant and Bar

Tax Collected	Reported to State	Reported to City	FY2014	FY2015	FY2016	*FY2017	FY2018	5 YR Average FY2014 - FY2018
Jul	Aug	Sep	\$ 346,076	\$ 370,435	\$ 402,510	\$ 502,873	\$ 517,688	\$ 427,917
Aug	Sep	Oct	\$ 371,486	\$ 393,533	\$ 430,056	\$ 482,560	\$ 551,570	\$ 445,841
Sep	Oct	Nov	\$ 364,346	\$ 433,656	\$ 434,876	\$ 496,508	\$ 588,019	\$ 463,481
Oct	Nov	Dec	\$ 402,986	\$ 410,955	\$ 481,198	\$ 531,487	\$ 595,474	\$ 484,420
Nov	Dec	Jan	\$ 423,043	\$ 473,106	\$ 487,777	\$ 545,694	\$ 600,545	\$ 506,033
Dec	Jan	Feb	\$ 438,338	\$ 469,465	\$ 522,687	\$ 602,045	\$ 651,071	\$ 536,721
Jan	Feb	Mar	\$ 436,637	\$ 460,847	\$ 491,380	\$ 621,598	\$ 676,521	\$ 537,397
Feb	Mar	Apr	\$ 490,692	\$ 532,431	\$ 547,841	\$ 614,354	\$ 681,549	\$ 573,373
Mar	Apr	May	\$ 614,719	\$ 607,926	\$ 675,027	\$ 800,846		\$ 674,630
Apr	May	Jun	\$ 466,620	\$ 506,791	\$ 545,300	\$ 650,128		\$ 542,210
May	Jun	Jul	\$ 463,010	\$ 510,135	\$ 481,777	\$ 597,185		\$ 513,027
Jun	Jul	Aug	\$ 444,832	\$ 431,220	\$ 436,037	\$ 540,675		\$ 463,191
TOTAL			\$ 5,262,786	\$ 5,600,500	\$ 5,936,467	\$ 6,985,953	\$ 4,862,438	\$ 6,168,240

*Restaurant and Bar amounts for FY2017 were updated to include AZ Dept. of Revenue's implementation of location based and business code reporting

FY 18 Grant Expenditure Detail
for July 1, 2017 through February 28, 2018

Dept	Project	Project Title	Expended
City Attorney	G13040	FY 17 Prosecutor's Office VOCA	8,900
City Attorney	G13060	FFY 17 Prosecutor's Office VOCA 2	4,900
SPD	G31110	DEA Task Force FY 17	3,400
SPD	G31120	Police Department VOCA FY 17	19,800
SPD	G31150	FY 17 GOHS Know Your Limit	9,700
SPD	G31180	FFY 16 CBRNE Sustainment 160823-01	37,600
SPD	G31210	Police Department UASI Reall 150822-02	200
SPD	G31220	FFY17 PD CBRNE Sustainment UASI	2,000
SPD	G31240	FFY18 DEA Task Force	7,900
SPD	G31300	FY 17 GOHS STEP OT	10,000
SPD	G31310	FY18 GOHS STEP Enforcement	1,300
SPD	G31340	FFY18 GOHS Occupant Protection Enforce	800
SPD	G31350	FFY18 GOHS DUI Abatement	11,800
FMD	G34090	FFY 16 Fire CBRNE Sustain 160822-01	9,100
FMD	G34100	SAFER Grant EMY-2015-FH-00791	216,200
FMD	G34180	FFY 18 FD AZDOHS CERT Sustainment	12,600
FMD	G34190	FFY 18 AZDOHS CBRNE Sustainment	15,500
FMD	G34230	Gila River Indian Community Grant	5,900
CD	G42010	FY 17 SRTS Studies - Parkview & Ashton	5,000
CD	G42020	FY 17 SRTS Studies - Marley & Rancho	23,100
CD	G42040	FY 17 SRTS Walking/Biking Maps	38,500
CD	G42050	DOD - 2 AME-UP	275,000
CD	G42060	PIP Grant for Grant 42010	2,800
CD	G42070	PIP Grant for Grant G42020	2,800
CD	G42080	PIP Grant for Grant G42030	2,900
HSCV	G51170	FY 14-15 CDBG St Improv	1,700
HSCV	G51220	FY 16 CDBG Public Service	49,000
HSCV	G51230	FY 16 CDBG AZTC Improvements	144,700
HSCV	G51240	FY 2016 HOME	64,100
HSCV	G51260	2013 CDBG Emergency Repair	39,900
HSCV	G51290	2015 CDBG Utility Feasibility Study	54,100
HSCV	G51320	FY 14-15 HOME	117,900
HSCV	G51330	2015 HOME	50,000
HSCV	G51400	2017 CDBG Administration	60,700
HSCV	G51410	2017 CDBG Admin - advertising	6,600
HSCV	G51420	2017 CDBG Public Service	3,100
HSCV	G51480	TO Stabilizing Families in Need	27,500
HSCV	G51500	FY 18 AAA - Meals	28,800
HSCV	G51510	FY 18 AAA - Senior Center	8,700
HSCV	G51520	FY 18 CAP	55,500
HSCV	G51550	2017 CDBG Sr Ctr Improvement	4,400

Total Expended

\$1,444,400.00



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ARIZONA

FY2018 Financial Status Update

**City Council Meeting
May 15, 2018**

FY2018 General Fund Resources

Category	Budget Thru Feb	Actual Thru Feb*	\$ Variance	% Variance
Local Sales Tax	\$ 28.1	\$ 30.3	\$ 2.2	8%
Intergovernmental	22.0	23.0	1.0	5%
Charges for Services/Other	5.1	8.8	3.7	73%
Property Tax	4.8	4.6	(0.2)	(4%)
Franchise Fees	3.1	3.4	0.3	(10%)
Transfers In	3.9	3.9	-	0%
Total	\$ 67.0	\$ 74.0	\$ 7.0	10%

Amounts in millions

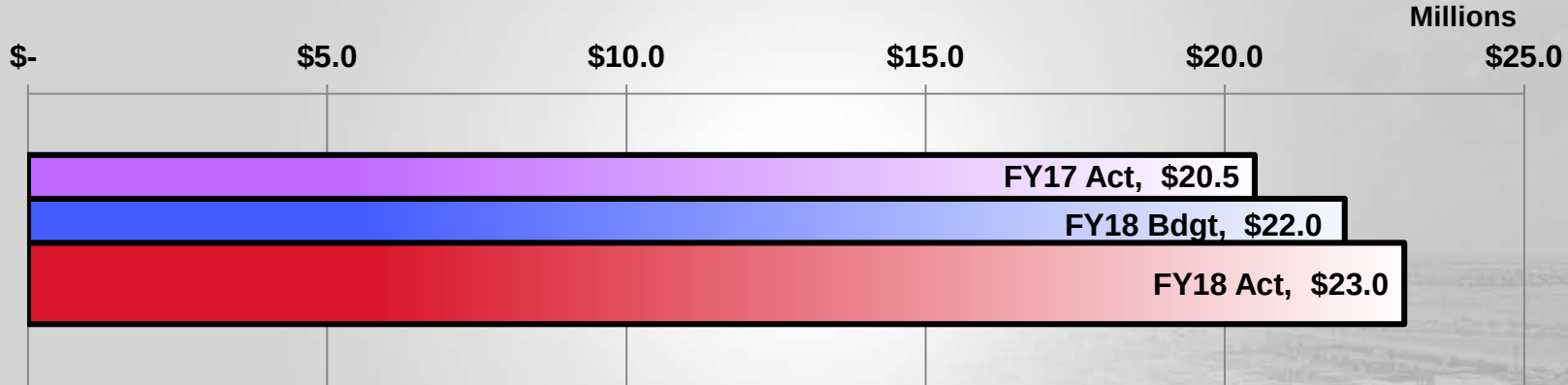
*Unaudited

Local Sales Tax



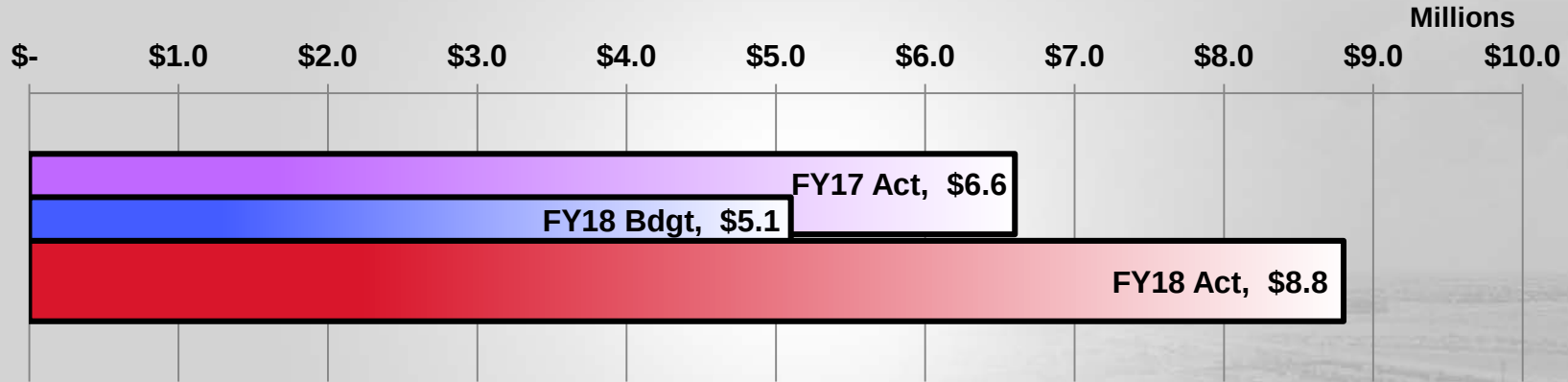
- Current actuals exceeded budget by \$2.2 M
- Development agreement reimbursements need to be considered.

Intergovernmental



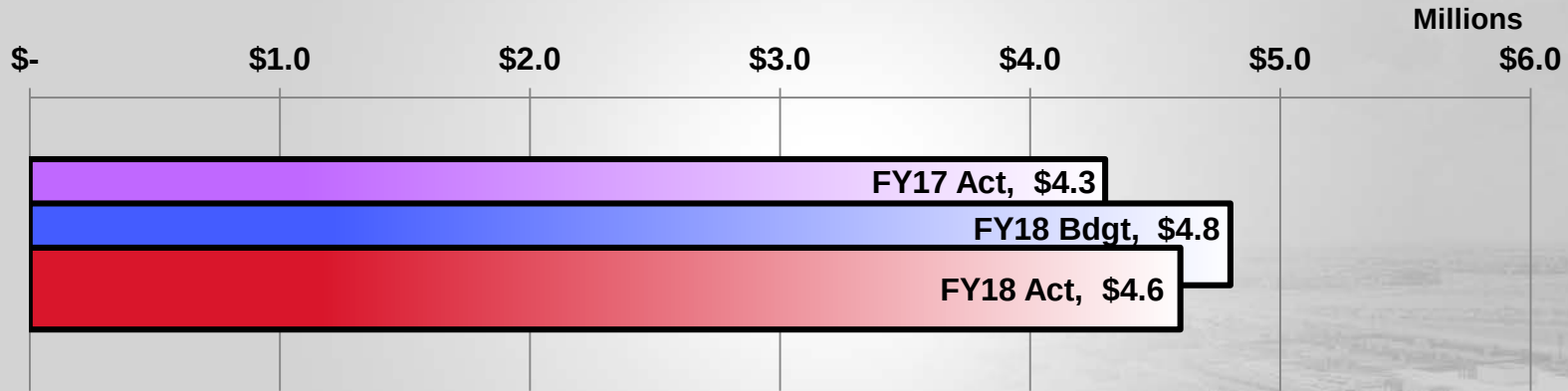
- Current actuals exceeded original budget by \$1.0 M
- Timing

Charges for Services/Other FY2018



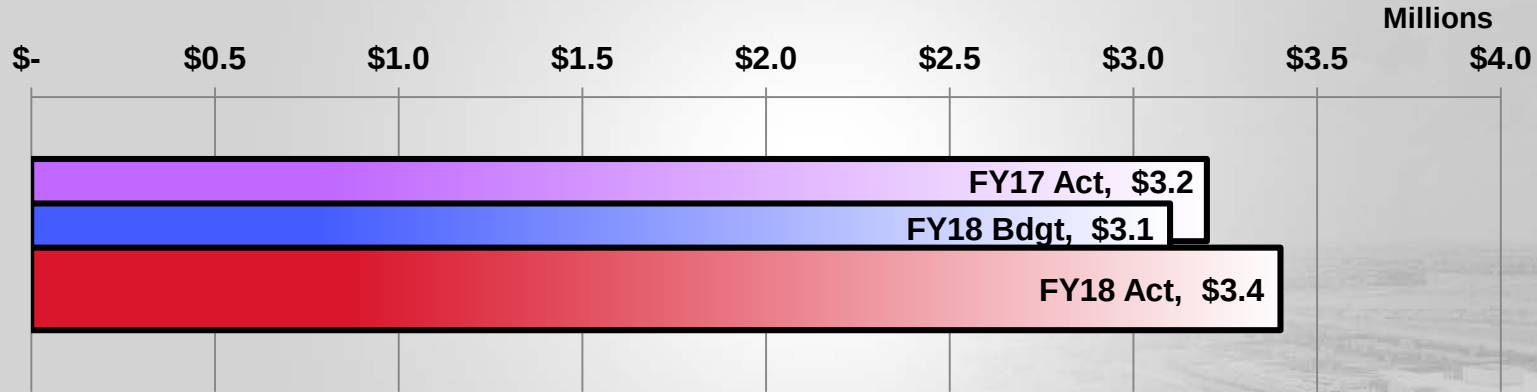
- Current actuals exceeded budget by \$3.7M
 - Development related planning, permitting, and inspection revenue is trending higher than budgeted

Property Tax FY2018



- Amount collected will equal amount of the levy.

Franchise Fees FY2018



- Current actuals are more than budget by \$0.3M

Transfers In FY2018



- Current actuals are equal to budget.

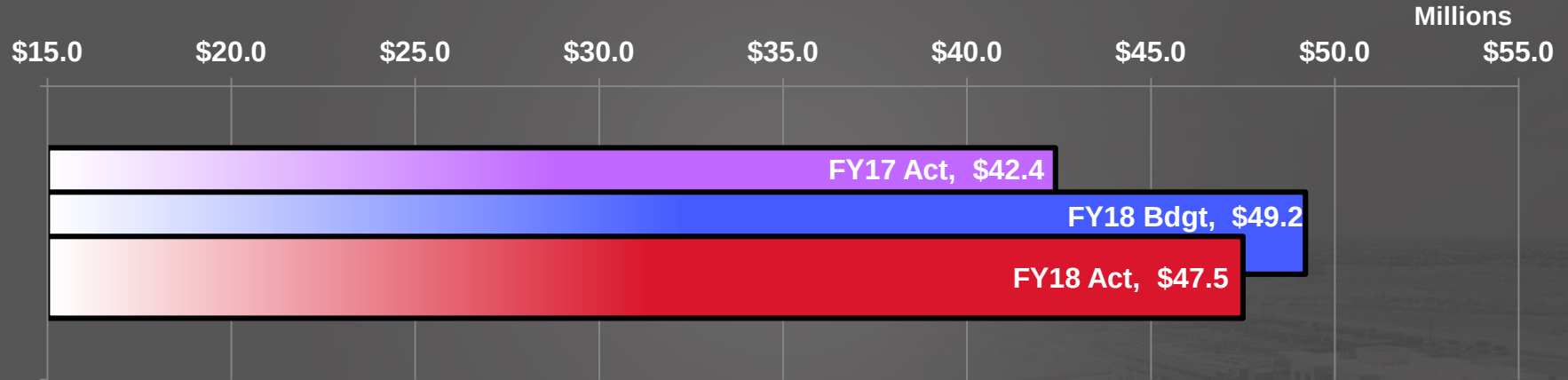
FY2018 General Fund Uses

Category	Budget Thru Feb	Actuals Thru Feb*	\$ Variance	% Variance
Personnel	\$ 49.2	\$ 47.5	\$ (1.7)	(3%)
Supplies	2.6	2.3	(0.3)	(12%)
Services	13.4	13.4	-	0%
Capital	0.1	-	(0.1)	(100%)
Contingency	-	-	-	-
Transfers Out	5.2	5.2	-	-
Total	\$ 70.5	\$ 68.4	\$ (2.1)	(3%)

Amounts in millions

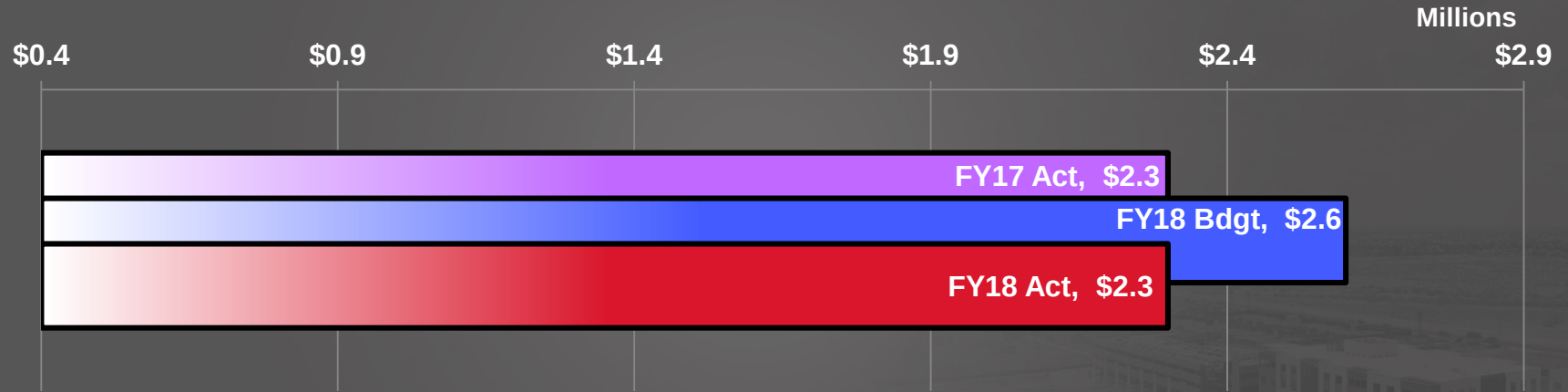
*Unaudited

Personnel FY2018



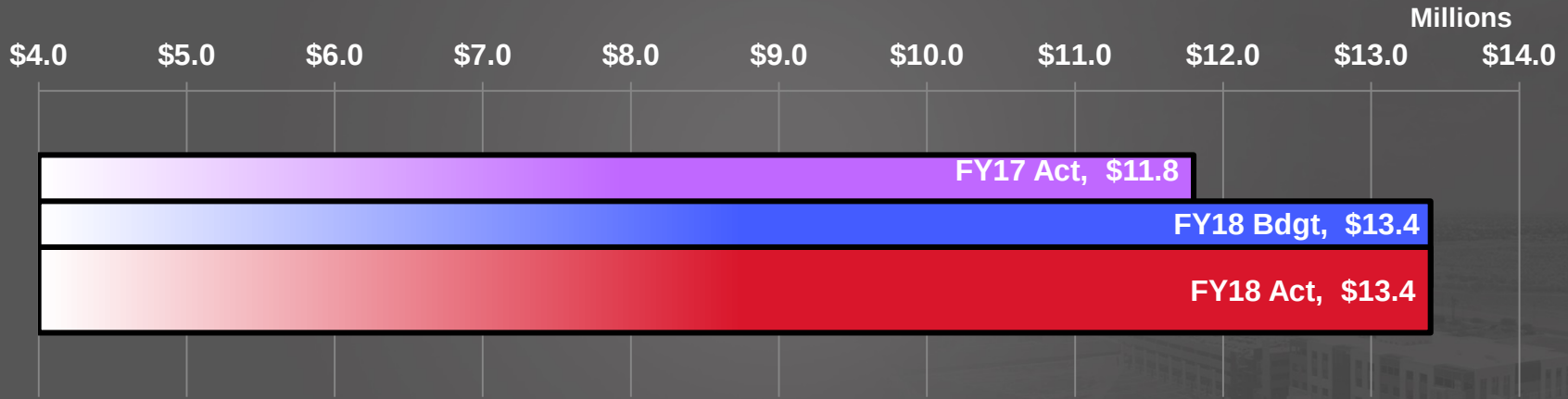
- FY18 Budget line reflects the PSPRS budget amendment.

Supplies FY2018



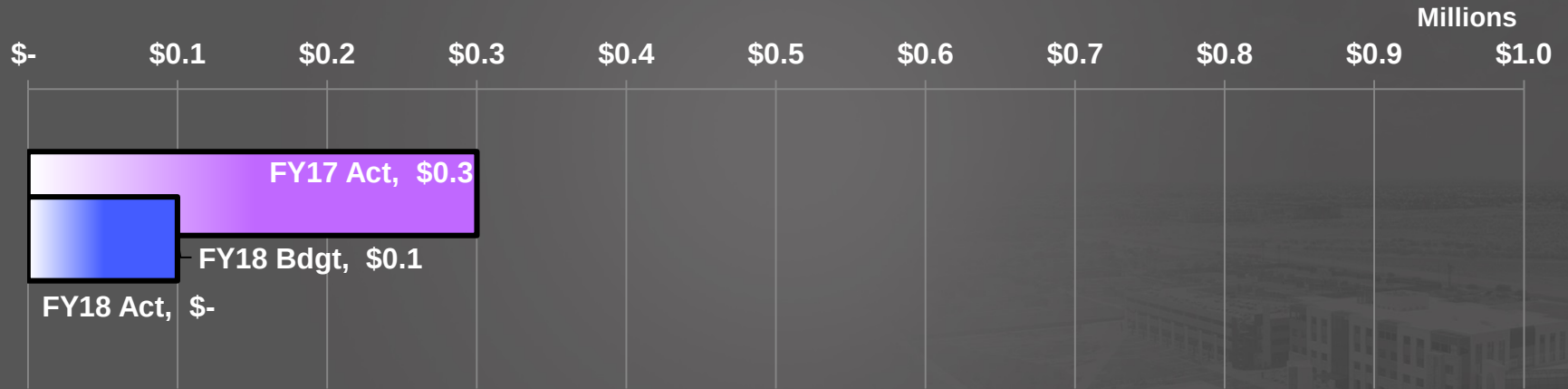
- Current actuals are below original by \$0.3M

Services FY2018

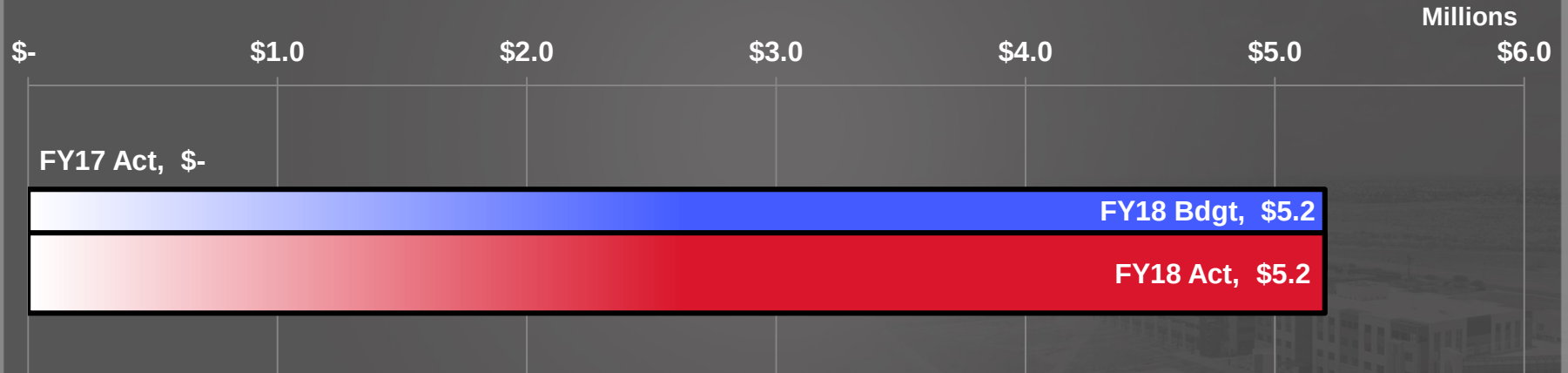


- Services are less than the budget amount by \$0.06M

Capital FY2018



Transfers Out FY2018



FY2018 Grant Expenditure Detail

Department	Total Expenditures
Community Development	\$350,100
City Attorney	13,800
Fire-Medical	259,300
Human Services/Community Vitality	716,600
Police	104,600
Total Expenditures	\$1,444,400

FY2017 vs. 2018 Grant Awards

Department	2017 Awards	2018 Awards
Community Development	\$402,500	\$0
City Attorney	94,700	*329,900
Fire-Medical	*873,400	107,900
Human Services/Community Vitality	926,200	626,200
Police	240,600	*648,800
Total Awards	\$2,537,400	\$1,722,800

* Includes multi-year award



SURPRISE
ARIZONA

**QUESTIONS OR
COMMENTS?**

Thank You



CITY OF SURPRISE
Regular City Council Meeting

May 15, 2018 @ 6:00:00 PM

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Council Meeting Date:	May 15, 2018	Contact Person:	Robert Wingo, City Attorney
Submitting Department:	Attorney's Office	District:	Internal
Staff Recommendations:	None		

Consent	Regular	Public Hearing	Report/Discussion
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Agenda Wording:

Consideration and action to enter into executive session for legal advice and discussion or consultation with the City Attorney pertaining to the Circle City Water acquisition pursuant to A.R.S. 38-431.03(A)(3).

Motion:

I move to recess into executive session for the purpose noticed.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

None; discussion only

Budget Impact:

None; discussion only

FTE Impact:

This item does not impact the overall full-time equivalent count.

ATTACHMENTS:

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No Attachments Available