



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

Monday, November 6, 2023 @ 6:00 PM
COUNCIL CHAMBERS

A. Call To Order

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

B. Roll Call

C. Pledge of Allegiance

D. Proclamation and Community Acknowledgements

E. City Manager Report

F. City Clerk Report

G. 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. You may also [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.

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.

Please be aware that Council Members may not discuss or respond to matters raised during call to the public that are not specifically identified on the agenda. Council Members may however, in their discretion, discuss or respond to relevant matters raised during a noticed public hearing or agenda item.

H. Regular City Council Meeting Agenda

CONSENT AGENDA:

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|----|----------|---|---------------------------------|
| 1. | Internal | Consideration and action to approve the October 17, 2023 Regular Council Meeting Minutes and Regular City Council Workshop Minutes. | Kristi Passarelli
City Clerk |
| 2. | Citywide | Consideration and action pertaining to approval of an Intergovernmental Agreement (IGA) between the cities of Goodyear, Peoria, and Surprise to develop a | Brenden Espie
Fire - Medical |

community paramedicine program and an amendment to the fiscal year 2024 budget by reallocating appropriations of \$25,000 within the Grants Fund; Resolution #2023-154.

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|----|------------|--|--|
| 3. | District 5 | Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at The Fountains at Surprise Center, generally located east of Bullard Avenue between West Greenway Road and West Tierra Buena Lane; Resolution # 2023-162. | Kristin Tytler

Public Works |
| 4. | District 1 | Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Sunrise ROW Improvements on 171 st Avenue, generally located at 171 st Avenue between Jomax Road and West Bajada Road. Case FS19-599; Resolution # 2023-156. | Kristin Tytler

Public Works |
| 5. | District 1 | Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Sunrise ROW Improvements on Jomax Road, generally located at Jomax Road between 171 st Avenue and North 163 rd Avenue. Case FS19-601; Resolution # 2023-157. | Kristin Tytler

Public Works |
| 6. | District 3 | Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Toll at Prasada Unit G, generally located at the northwest corner of West Peoria Road and Cotton Road; Resolution # 2023-158. | Kristin Tytler

Public Works |
| 7. | District 1 | Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Bungalows at Asante, generally located at the northwest corner of West Pat Tillman Boulevard and North 163 rd Avenue; Resolution # 2023-159. | Kristin Tytler

Public Works |
| 8. | District 3 | Consideration and action to accept the Dedication of Public Right-of-Way With Conditions from High Desert Development, Inc. for right of way along Waddell near Cotton Lane. | Lloyd Abrams
Community
Development |
| 9. | Citywide | Consideration and action to grant FirstDigital Communications of Arizona, LLC the non-exclusive revocable license to use public streets, roads and alleys for installation, operation, and maintenance of fiber optic cable; Resolution # 2023-166. | Kristin Tytler
Public Works |

REGULAR AGENDA ITEM - PUBLIC HEARING:

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| 10. | Citywide | Consideration and action pertaining to a Zoning Text Amendment (ZTA) to the Surprise Land Development Ordinances (LDO) to revise standards to update and clarify lighting provisions; Ordinance #2023-25. | Trevor Fleetham

Community
Development |
| 11. | District 1 | Consideration and action pertaining to an amendment to the Windstone Ranch PUD by modifying the rear yard setback from 20-feet to 15-feet, a property generally located at the northeast corner of Happy Valley Road and 151 st Avenue; Ordinance #2023-28. | Chris Sexton

Community
Development |

12.	District 3	Consideration and action pertaining to a recommendation to the Arizona Department of Liquor Licenses and Control (DLLC) on Application No. 260017, requested by Jared Michael Repinski, for Trapper's Sushi Co, for Series 12 Liquor License. Trapper's Sushi Co is located at 17200 W Peoria Ave #100, Surprise, AZ 85355.	Kristi Passarelli City Clerk
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13.	District 3	Consideration and action pertaining to a recommendation to the Arizona Department of Liquor Licenses and Control (DLLC) on Application No. 260017, requested by Lauren Kay Merrett , for Firebirds Wood Fired Grill, for Series 12 Liquor License. Firebirds Wood Fired Grill is located at 13388 Prasada Parkway, Surprise, AZ 85379.	Kristi Passarelli City Clerk
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REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

14.	Citywide	Consideration and action pertaining to the Neighborhood Grant Program Awards for Fiscal Year 2024 as recommended by the sub-committee on Community Outreach, Partnerships and Grants.	Jodi Tas Human Svcs and Comm Vitality
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15.	Citywide	Consideration and action pertaining to an amendment to the comprehensive citywide fee schedule by adopting a police department video recording fee, and moving budget authority in the amount of \$37,500 within the General Fund Contingency to police records department charges for service; Resolution #2023-169.	Benny Pina Police
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I. Other Business and Future Agenda Items

J. City Council Reports

K. Executive Session

1.	Citywide	Consideration and action to recess into executive session for discussion and consultation with the city attorney for legal advice and to consider the city council's position and instruct the city attorney pertaining to the 3M and Dupont PFAS public water provider settlements pursuant to A.R.S. 38-431.03A.3. and 4.	Water Resource Management
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For information Purposes; Upon a public majority vote of a quorum of the City Council, the Council may hold an executive session, which will not be open to the public, but for only the following purposes:

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

or its designated representatives, of an Indian reservation located within or adjacent to the city or town. A.R.S. §38-401.03 (A)(6)).

- discussing or consulting with designated representatives of the city in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. §38-431.03 (A)(7)).

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

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

L. Adjournment

KRISTI PASSARELLI, CITY CLERK

POSTED: Thursday, November 2nd, 2023 @ 11:00 AM

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



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: City Clerk
Staff Recommendations:

Contact Person:
District: Internal

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

Invocation

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: City Clerk
Staff Recommendations:

Contact Person: Kristi Passarelli, City Clerk
District: Internal

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

Agenda Wording:

Consideration and action to approve the October 17, 2023 Regular Council Meeting Minutes and Regular City Council Workshop Minutes.

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

1. 101723 Regular Meeting Minutes
 2. 101723 Work Session Minutes
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CITY OF SURPRISE
Regular City Council Meeting
16000 N. Civic Center Plaza
Surprise, AZ 85374

Tuesday, October 17, 2023 @ 6:00 PM
COUNCIL CHAMBERS

A. Call To Order

Mayor Hall called the Regular Council Meeting of October 17, 2023 to order at the 6:00 p.m., located at Surprise City Hall, 16000 N. Civic Center Plaza, Surprise, AZ. 85374.

1. Invocation

Mayor Hall led a prayer.

B. Roll Call

In attendance with Mayor Hall were Vice-Mayor Chris Judd, Councilmembers Nick Haney, Alyson Cline, Patrick Duffy, and Jack Hastings. Councilmember Ken Remley was excused.

C. Pledge of Allegiance

Mayor Hall led the Pledge of Allegiance.

D. Proclamation and Community Acknowledgements

Mayor Hall declared that it was national code enforcement month.

Mayor Hall declared that it was National Community Planning month.

E. City Manager Report

1. Reports

2. Dependent Scholarship Award Program

City Manager Bob Wigenroth thanked the City Council for their support to City Staff. He talked about the dependent scholarship program. He acknowledged Scott Collins and his son Grant Collins as a former recipient of the grant. Donna Meuse, came to present an update on the scholarship program. She introduced Jada Johnson, and Ella Westmorland-Klidas as Scholoship winners.

City Manager Bob Wigenroth, introduced Adam Johnson to present the members of the Youth Council Members.

F. City Clerk Report

1. Reports

2. City Clerk's Office Passport Report and Recognition

City Clerk Kristi Passarelli presented statistics to the City Council regarding passport applications that the Clerk's Office processes. She then presented an award to City Clerk Assistants Leea Arban, and Julie Busby.

G. Call To The Public

Michael Kornegay, a Surprise Resident, was called but did not appear.

Alejandro Christ, a Surprise Resident, came to talk about Station 309 & Aquatic Center. He talked about the City Density and the bond election.

H. Regular City Council Meeting Agenda

1. CONSENT AGENDA:

Motion: To Approve
Initiated By: Jack Hastings
Seconded By: Patrick Duffy

Yes: Aly Cline, Jack Hastings, Patrick Duffy, Skip Hall, Chris Judd, Nick Haney
No: None
Abstain: None

Vote Result: Passed

1. Consideration and action to approve the September 19, 2023 Executive Session Minutes; October 3, 2023 Regular Council Meeting Minutes and Regular City Council Workshop Minutes.
2. Consideration and action pertaining to approval of an amendment to the Intergovernmental Agreement with Maricopa County to facilitate temporary shelter and housing services, to accept grant funding, and to amend the Fiscal Year 2024 budget by moving budget authority of \$125,000 from General Contingency to project G51770 FY24 Community Services Block Grant (CSBG) in the Grants Fund; Resolution #2023-155.
3. Consideration and action pertaining to approval of the Final Plat entitled “Willow Trails, Phase 2”, dated August 28, 2023, a property located at the southeast corner of Deer Valley Road and Citrus Road. Case FS21-381.
4. Consideration and action pertaining to approval of the Final Plat entitled “Willow Trails, Phase 1”, dated August 28, 2023, a property located at the southeast corner of Deer Valley Road and Citrus Road. Case FS21-380.
5. Consideration and action pertaining to approval of the Final Plat entitled “Re-Plat of Marley Park Square Re-Plat and Master Site Plan Amendment”, dated August 22, 2023, a property generally located on the southwest corner of Waddell Rd. and Litchfield Rd. Case FS23-0453
6. Consideration and action pertaining to approval of the Final Plat entitled “North Copper Canyon Village – Parcel 2A”, dated September 18, 2023, a property located at the southeast corner of Pinnacle Peak Road and 175th Avenue. Case FS22-0837.
7. Consideration and action pertaining to the Final Plat entitled “Final Plat of Cactus Commerce Center” dated August 25, 2023. Case FS23-0549.
8. Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Rancho Mercado 147th Avenue Bridge, generally located at 147th Avenue between Happy Valley Road and McMicken Way. Resolution #2023-144.

9. Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Norwich Dry Crossing, generally located at Norwich Drive between West Citrus Road and West Grand Avenue. Resolution #2023-149.
10. Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Fulton Homes Escalante Phase 2 Infrastructure, generally located at the northeast corner of West Pinnacle Peak Boulevard and North 163rd Avenue. Resolution #2023-150.
11. Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Rio Rancho Estates, Parcel 1B.2 generally located at the southwest corner of West Happy Valley Road and North 183rd Avenue. Resolution #2023-148.
12. Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Rio Rancho Estates Parcel 3B, generally located at the northwest corner of West Happy Valley Road and North 183rd Avenue. Resolution # 2023-151.
13. Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Sunrise Parcel C, generally located at the northeast corner of Jomax Road and North Cotton Lane. Resolution # 2023-152.
14. Consideration and action pertaining to the adoption of an Intergovernmental Agreement with the Maricopa Association of Governments (MAG) for the City's participation in the US60 (Grand Ave): Loop 303 (Estrella) to SR74 Corridor Study; Resolution #2023-160.
15. Consideration and action pertaining to approval of an Intergovernmental Agreement between the City of Surprise and the State of Arizona for the Citywide Surprise Network Switch and Node Cabinets Project; Resolution #2023-101.

2. REGULAR AGENDA ITEM - PUBLIC HEARING:

16. Consideration and action pertaining to the Coyote Lakes Planned Area Development (PAD) amendment to change the underlying zoning of approximately 6.85 acres from Community Commercial (C-2) to Residential High Density (R-3). The site is generally located on the northeast corner of Bell Rd. and Coyote Lakes Pkwy. Case FS23-0131.

Leslie Carnie, Came to present this item. She talked about the project location, and gave some background on the item.

Mayor Hall opened this item up for public discussion.

Alejandro Christ, A Surprise Resident, asked about a traffic light at 115th and the traffic there now.

Marshal Johnson, A Surprise Resident, came to talk about this item. He mentioned previous actions with the area.

Marc Burns, A Surprise Resident, came to talk about this item. He talked about wanting the project completed.

Councilmember Cline, talked about the history of the property and the desires of the local residents.

Councilmember Hastings, talked about the zoning of the area, and the local support.

Councilmember Duffy, talked about the residents supporting the project. He asked about the distance of the entrance. Carolyn Oberholtzer Said the distance was 555 ft from the light.

Councilmember Haney, asked if there was a presentation from the applicant? Carolyn Oberholtzer with Bergin, Frakes, Smalley & Oberholtzer, came back to give a presentation. Asked about the limitations of the land and why it hasn't developed and what kind of commercial would develop if ever? Carolyn talked about the intensity of the location, and how traffic flows nearby. Mayor Hall mentioned other areas that haven't developed. Councilmember Haney, talked about how he likes commercial when possible, but acknowledged the support for this project.

Vice-Mayor Judd, talked about his preference for commercial as well. He liked the support for this project.

Councilmember Cline, talked about how this is one of the first things people see when they entered the City. She talked about the importance of beautifying Bell road.

Motion: To Approve Ordinance 2023-26

Initiated By: Aly Cline

Seconded By: Jack Hastings

Yes: Aly Cline, Jack Hastings, Patrick Duffy, Skip Hall, Chris Judd, Nick Haney

No: None

Abstain: None

Vote Result: Passed

3. REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

17. Consideration and action pertaining to approval of a Fiscal Year 2024 budget amendment moving budget authority in the amount of \$120,000 from General Contingency to project R51020 in the Municipal Arts Fund for the Stadium Art Project, "Bounce and Swing"; Resolution #2023-161.

Julie Akerly, and Andrea Davis, came to talk about this item. Andrea gave a presentation about this item. She gave background on the policy for project funding. She talked about locations for art, and allowable expenditures.

Mayor Hall asked if there was a visual of where the money was going? Andrea said they would talk about it.

Councilmember Cline, asked if the money could be spent on anything besides art? Andrea said it could only be used on art, and that the funds roll over.

Andrea talked about the "Bounce and Swing" project and where the funds would be coming from. Julie talked about the art piece.

Councilmember Duffy, asked about the clarification about the elements that were previously proposed. He talked about the process of getting the funds over.

Councilmember Hastings, said he liked the additions. He said that this is a good project.

Vice-Mayor Judd, asked how long ago was the project approved? Staff said it was 2 years. He

then asked some infrastructure included? Julie said that's already included and that this was just for the enhancements.

Councilmember Haney, asked how long this project would last? Julie said it would last at least a hundred years or more.

Councilmember Cline, talked about where the money was coming from to cover the proposed cost.

Motion: To Approve
Initiated By: Jack Hastings
Seconded By: Aly Cline

Yes: Aly Cline, Jack Hastings, Patrick Duffy, Skip Hall, Chris Judd, Nick Haney

No: None

Abstain: None

Vote Result: Passed

I. Other Business and Future Agenda Items

J. City Council Reports

Councilmember Haney, talked about the scholarship program. He talked about his previous bond meeting. He also talked about having a meeting with state representatives about the road ways. He talked about a site visit at a pottery place. 10/26 is his next community meeting at Asante at 6:00 PM.

Councilmember Cline, thanked the bond team for their contributions to the bond meetings. She talked about doing a site visit at the new Epcor Facility and White Tanks Facility. Her next bond meeting is on 10/23 at 6:00 PM at Cimarron Springs School.

Vice-Mayor Judd, will have his district 6 meeting at the tap house tomorrow night. Thursday night is the best of the west awards. Saturday night is game night. White tank conservancy charity fundraiser Saturday night as well.

Councilmember Hastings, talked about his bond meeting at the library. He encouraged people to vote. He thanked Robert Wingo for his support as the City Attorney.

Councilmember Duffy, Bond meeting at Sonoran heights tomorrow night at 6:00 PM.

Mayor Hall, said Game night from 5:30 to 8:30 at Mark Coronado Park.

K. Executive Session

1. Executive Session Items
2. Executive Disclaimer - Part 1
3. Executive Disclaimer - Part 2
4. Executive Disclaimer - Part 3

L. Adjournment

Motion: To Adjourn
Initiated By: Aly Cline
Seconded By: Jack Hastings

Yes: Aly Cline, Jack Hastings, Patrick Duffy, Skip Hall, Chris Judd, Nick Haney
No: None
Abstain: None

Vote Result: Passed

Meeting Adjourned at 7:33 PM.

Skip Hall, Mayor

ATTEST:

Kristi Passarelli, City Clerk

CERTIFICATION:

I, Kristi Passarelli, 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, October 17, 2023.**

Kristi Passarelli, City Clerk



CITY OF SURPRISE
Regular City Council Work Session
16000 N. Civic Center Plaza
Surprise, AZ 85374
Tuesday, October 17, 2023 @ 4:00 PM
COUNCIL CHAMBERS

A. Call To Order

Mayor Hall called the Regular Council Meeting of October 17, 2023 to order at 4:00 p.m., located at Surprise City Hall, 16000 N. Civic Center Plaza, Surprise, AZ. 85374.

B. Roll Call

In attendance with Mayor Hall were Vice-Mayor Chris Judd, Councilmembers Nick Haney, Alyson Cline, Patrick Duffy, and Jack Hastings. Councilmember Ken Remley was excused.

C. Pledge of Allegiance

Mayor Hall led the Pledge of Allegiance.

D. Proclamation and Community Acknowledgements

E. City Manager Report

F. City Clerk Report

G. Call To The Public

H. Regular City Council Work Session Agenda

1. CONSENT AGENDA:

2. REGULAR AGENDA ITEM - PUBLIC HEARING:

3. REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

1. Updates on the Arts and Culture Division and an overview of public art definitions, background, and processes of public art.

Julie Akerly, Arts & Culture Manager, came to talk about this item. She gave a presentation about public art. She gave some background on the Division's previous actions. She talked about what public art is. She further elaborated on the Public Art Process. She gave an overview of Project Timelines.

Mayor Hall asked if anything was planned for the aquatic center? Julie said there was but she would address it in the future.

2. Presentation and Discussion of the Draft City Council Strategic Plan Update.

Eric Fitzer, Director of Strategic Initiatives, came to present this item. He gave some background on the strategic plan; namely Safe and Healthy Community, Transportation, Economic and Cultural Vitality, Community Livability & Life-long Learning, and Stewardship.

Vice-Mayor Judd, asked about water and its' place in the plan. Eric said it was under stewardship. The Vice-Mayor Judd said it would be a good idea to make it a key point.

Councilmember Cline, talked about her appreciation for life-long learning. She said there were other programs that could be included as well.

Councilmember Duffy, asked where recreation falls under? Eric said under community livability. Councilmember Duffy asked why it doesn't say recreation specifically, he said he would like to have it included.

Mayor Hall, asked about beautification of Grand Avenue? He also talked about the area between Peoria avenue and Northern and the size of the road there, and asked if it could be improved? He said the City should pay attention to design overall.

Councilmember Haney, asked if we could improve the accessibility of the City government by improving the venues of communication?

I. Other Business and Future Agenda Items

J. City Council Reports

K. Executive Session

1. Executive Disclaimer - Part 1

L. Adjournment

Motion: To Adjourn

Initiated By: Aly Cline

Seconded By: Nick Haney

Yes: Aly Cline, Jack Hastings, Patrick Duffy, Skip Hall, Chris Judd, Nick Haney

No: None

Abstain: None

Vote Result: Passed

Meeting Adjourned at 4:51 PM

Skip Hall, Mayor

ATTEST:

Kristi Passarelli, City Clerk

CERTIFICATION:

I, Kristi Passarelli, 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, October 17, 2023.**

Kristi Passarelli, City Clerk



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023

Contact Person: Brenden Espie, ASSISTANT FIRE CHIEF

Submitting Department: Fire - Medical

District: Citywide

Staff Recommendations: None

Consent: No

Regular: Yes

Public Hearing: No

Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to approval of an Intergovernmental Agreement (IGA) between the cities of Goodyear, Peoria, and Surprise to develop a community paramedicine program and an amendment to the fiscal year 2024 budget by reallocating appropriations of \$25,000 within the Grants Fund; Resolution #2023-154.

Motion:

I move to approve Resolution # 2023-154.

Background:

The City of Surprise Fire-Medical Department entered into an IGA with the cities of Goodyear, Avondale, Peoria, and Sun City Fire and Medical Department to establish a community paramedicine program that would provide support to frequent 911 callers (use more than three times per month). At that time, the program was funded by a grant awarded to the City of Goodyear from Vitalyst Health Foundation. The cities of Peoria, Goodyear and Surprise received grant funding from United Healthcare in FY19. Each city has used a portion of the funding over the last 3 years. The IGA will be continue through FY24 to spend down the remaining funding.

Objective Analysis:

The objective of this cooperative agreement is to serve individuals in the community that frequently use the 911 system and to develop a regional community standard paramedic training curriculum.

Policy Compliant:

The IGA is compliant with all City and Council policies.

Financial Impact:

Remaining grant funding is \$35,000, of which the City of Surprise's portion is estimated to be \$25,000 for personnel, supplies, and services expenses for the operation of the community paramedicine program.

Budget Impact:

The FY2024 adopted budget did not include appropriations in anticipation of this grant. Acceptance of continuing the IGA will reallocate appropriations in the amount of \$25,000 within the Grants fund from Grants Contingency to Project G34160. 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 staff levels.

ATTACHMENTS:

1. 2019-2020-IGA Community Paramedicine fully executed 09.24.2019
 2. 2021-2022 - Updated IGA with Peoria
 3. 2020-2021-LCON 03619B_Community Paramedicine_Renewal-Signed
 4. 23.10.09 Res 2023-154 Community Paramedicine Program
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**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF PEORIA , the CITY OF GOODYEAR,
AND the CITY OF SURPRISE,
TO
DEVELOP A COMMUNITY PARAMEDICINE PROGRAM**

THIS INTERGOVERNMENTAL AGREEMENT for the development of a grant-funded community paramedicine project ("Agreement") is entered into as of September 24 2019 by and among the City of Goodyear, an Arizona municipal corporation ("Goodyear"), , the City of Peoria, an Arizona municipal corporation ("Peoria"), and the City of Surprise, an Arizona municipal corporation ("Surprise") Goodyear, Peoria, and Surprise are collectively referred to in this Agreement as the "Partnering Agencies" and each individually as a "Party."

RECITALS

- A. Mobile integrated healthcare is the provision of healthcare using patient-centered, mobile resources in an out-of-hospital environment. Community Paramedicine is a locally designed, community-based, collaborative model of care that leverages the skills of paramedics and EMS systems to address health care gaps identified through a community-specific needs assessment.
- B. The Partnering Agencies desire to work cooperatively to create a regional approach to Mobile Integrated Healthcare and Community Paramedicine ("MIHP-CP") service delivery and education development.
- C. The Partnering Agencies desire to work collaboratively to develop a regional Community Paramedicine program that addresses patients who are high frequency users of the 911 system ("Program"), as well as to develop a regional community standard paramedic training curriculum ("Curriculum").
- D. The Partnering Agencies desire to enter into this Agreement to set forth the responsibilities and obligations of the Partnering Agencies with respect to the Program and the Curriculum.
- E. The Partnering Agencies are authorized and empowered to enter into this Agreement pursuant to A.R.S. §§ 11-951 and 11-952.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Partnering Agencies agree as follows:

1. Program Components. The Program will consist of the following components: training and curriculum development, data collection, patient interactions, data analysis, and development of performance measures.
2. Curriculum Development and Training. The Partnering Agencies' first task will be to develop the Curriculum and provide training to selected employees from each Party. To accomplish this task the Partnering Agencies will form a committee ("Training Committee").
 - 2.1 Each Party shall designate one employee to serve on the Training Committee. In addition, Gail H. Bradley, M.D., the contracted medical director for Peoria and Goodyear ("Medical Director"), shall serve on the Training Committee.
 - 2.2 The Training Committee shall determine the training modules to be included in the Curriculum. Notwithstanding the foregoing, the Curriculum shall include, but not be limited to, the following modules: electronic patient care reporting (ePCR) system and data collection; high frequency user (as defined in Section 4) patient list and selection; approaching patients safely and scripting the approach to the patient; stages of behavioral change and accessing crisis intervention; hospice/palliative care; community paramedic quality assurance; triggers for referral; and home safety, health and environment.
 - 2.3 The Curriculum shall be no less than eight (8) hours in duration but not more than forty (40) hours.
 - 2.4 In developing the Curriculum, the Training Committee shall seek input from all Fire Department based MIHP-CP programs within the Phoenix Metro west region.
 - 2.5 The Curriculum shall be a standardized curriculum suitable for use by all current and future MIHP-CP providers within Arizona.
 - 2.6 The Training Committee shall designate at least three paramedics from each Party to attend the initial training class.
 - 2.7 The Training Committee shall determine the location at one of the Party's facilities where the training will be conducted. The Partnering Agencies agree to work cooperatively to identify and make available suitable space at one of the Party's facilities for the training to be held.
 - 2.8 The training shall be provided by the Medical Director and other qualified individuals selected by the Training Committee.
 - 2.9 The Curriculum shall be developed and the training completed no later than September 30, 2019.
3. Data Collection. The Partnering Agencies will use an electronic patient care reporting system (ePCR) for the field collection of data.
 - 3.1 Before any patient interaction occurs, the Partnering Agencies shall work cooperatively to develop a data collection form that will be used by all Partnering Agencies. The data collection form shall be developed so that it enables the Partnering Agencies to create a database capable of tracking variables such as client demographics, services requested, patient diagnosis, chief complaint, referring physician, referrals to other services by a community paramedic, and outcomes.

- 3.2 The Partnering Agencies will use ZOI software as the data collection tool and will enter their data into one database.
 - 3.3 Each Party shall be responsible for its own data collection.
- 4. Patient Interaction. After the data collection form is developed and training is completed, the Partnering Agencies shall identify and contact the top 10% of high frequency users of 911 services (“Participating Patients”). “High frequency users” are those patients that access the 911 system three or more times during a month or fifteen or more times in a year. Additionally, Community paramedicine teams will be available to respond to requests made by on-scene initial response providers through the 911 system. First responders may also submit referrals to the Community Paramedicine Program.
 - 4.1 The Partnering Agencies will work collaboratively to provide vehicles from their existing resources to be used in the Program. At a minimum, the vehicles should be equipped with a mobile computer terminal (MCT) and a mobile radio and 2 portable radios capable of communication with the Phoenix Regional Dispatch Center.
 - 4.2 A Community Paramedicine response vehicle shall be staffed with two paramedics (“Paramedic Team”). Notwithstanding the foregoing, if the Partnering Agencies are, on occasion, unable to staff a vehicle with two paramedics, a vehicle may be staffed with one paramedic and one emergency medical technician (EMT).
 - 4.3 The Community Paramedicine vehicle will be staffed at a minimum of 24 hours a week, with the exception of recognized Holidays.
 - 4.4 In addition to staffing the vehicles, the Partnering Agencies shall identify and provide each Paramedic Team with medical and diagnostic equipment required for a MIHC-CP paramedic assessment. Such medical and diagnostic equipment may include, but is not limited to, cardiac monitors, thermometers, and blood pressure measuring devices. The Partnering Agencies agree to collaborate to assemble the required equipment from their existing supplies. There is no expectation that any Partnering Agency will purchase additional equipment solely for the use in the Program.
 - 4.5 The Paramedic Teams will contact patients who have been identified as Participating Patients pursuant to Section 4 above to determine their healthcare needs, their access to healthcare services, and the availability of resources to meet their daily needs.
 - 4.6 The Paramedic Teams will also provide information to Participating Patients on available resources in an effort to increase Participating Patients’ understanding and effective utilization of healthcare and community resources.
 - 4.7 The information the Paramedic Teams collect from Participating Patients shall be entered into one database.
- 5. Data Analysis. Following the data collection through patient interaction, the Partnering Agencies will work cooperatively to review and evaluate the data using both patient specific and systematic criteria.
 - 5.1 The Partnering Agencies will evaluate the collected data to determine the Participating Patients’ perception of the Program’s value, and to measure the

Participating Patients' improved understanding and management of their healthcare during the Program as well as the reduction in their reliance on the 911 system.

- 5.2 Using the collected data, the Partnering Agencies will evaluate the efficacy of implementing a regional Program as follows:
 - 5.2.1 Correlate the reduction in 911 system use to readmission data for Participating Patients.
 - 5.2.2 Determine the overall associated costs for providing the Program and identify a plan for its sustainability.
 - 5.2.3 Extrapolate possible savings in healthcare costs.
 - 5.2.4 Identify a regional inter-departmental MIHP-CP model that is cost-effective and outcome-driven.
 - 5.2.5 Identify partnerships and a resource network for a sustainable regional Program.
6. Development of Performance Measures. Based on the data analysis, the Partnering Agencies shall develop performance measures for MIHP-CP service delivery.
7. Funding and Costs. The Program will be funded by a \$175,000 contribution from United Healthcare to the City of Peoria on behalf of the Peoria Fire Medical Department and the consortium comprised of Peoria, Goodyear, and Surprise that is created by this Agreement-. The contribution funds shall be equitably divided among the Partnering Agencies with estimated costs as follows: (1) \$110,000 shall be allocated evenly among the Partnering Agencies to cover staffing costs (2) \$17,000 shall be allocated for initial and ongoing training costs; (3) \$20,000 shall be allocated for payment to the Medical Director for her assistance with the Program; (4) \$8,000.00 shall be allocated for on-call Medical Direction; (5) \$5,000.00 shall be allocated to data analysis and (6) \$15,000 shall be allocated to MCT cost and dispatch fees.
8. Term of Agreement. This Agreement shall be effective upon the date of the last signature below ("Effective Date") and will remain in full force and effect for one (1) year from that date. This Agreement may be renewed for successive one (1) year periods upon mutual consent of the Partnering Agencies in writing and signed by persons duly authorized to enter into contracts on behalf of the Partnering Agencies.
9. Termination. Any Party may terminate its participation in this Agreement with or without cause upon twenty (20) days' written notice to the Partnering Agencies.
10. Amendments. This Agreement may be modified only by a written amendment signed by each Party's authorized designee.
11. Workers' Compensation. Pursuant to A.R.S. § 23-1022 (D) and for the purposes of workers' compensation coverage only, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Partnering Agencies. The primary employer shall be solely liable for any workers' compensation benefits. Pursuant to A.R.S. § 23-1022(E), each Party

shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

“All employees are hereby further notified that they may be required to work under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances, they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers’ compensation only.”

12. Insurance. Each Party agrees to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. This insurance requirement may be satisfied by the purchase of insurance or through the provisions of a self-insurance program.
13. Indemnification. Each Party (as “Indemnitor”) agrees to indemnify, defend, and hold harmless the other Partnering Agencies (as “Indemnitees”) for, 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 or personal injury (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee(s) are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
14. Conflict of Interest. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.
15. Further Acts. Each Party shall execute and deliver all such documents and perform all such acts as reasonably necessary and mutually agreed upon by the Partnering Agencies, from time to time, to carry out the matters contemplated by this Agreement.
16. Nondiscrimination. The Partnering Agencies agree to comply with all applicable provisions of state and federal non-discrimination laws and regulations including, but not limited to Executive Order 75-5, as modified by Executive Order 99-4, which mandates that all persons, regardless of race, religion, sex, age, national origin, or political affiliation shall have equal access to employment opportunities and all other federal and state employment and educational opportunity laws, rules and regulations, including the Americans with Disabilities Act. No Party shall engage in any form of illegal discrimination.
17. E-Verify Requirements. To the extent applicable under A.R.S. § 41-4401, the Partnering Agencies warrant compliance, on behalf of themselves and any and all subcontractors, with all federal immigration laws and regulation that relate to their employees and compliance with the E-Verify requirements under A.R.S. § 23-214(A). Each Partnering Agency has the right to inspect the documentation of the other Partnering Agencies to ensure compliance with this paragraph. A Party’s breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in the termination of the Agreement by the non-breaching Partnering Agencies.

18. Notice. All notices, claims, requests, and demands under this Agreement shall be in writing and served in person by U.S. Mail, registered or certified, return receipt, postage prepaid, to the addresses set forth below or at such other address as shall be indicated in writing by such Party. Service by certified mail shall be deemed to occur three (3) business days after being placed in the U.S. Mail, properly addressed with sufficient postage. In-person notice shall be deemed received when delivered to such Party. Any notice required to be given under this Agreement shall be provided to all Partnering Agencies.

If to Goodyear:	City of Goodyear 190 N. Litchfield Road Goodyear, AZ 85338 Attn.: Julie Arendall, City Manager Copy to: Roric Massey, City Attorney
If to Peoria:	City of Peoria 8401 W. Monroe Street Peoria, AZ 85345 Attn: Jeff Tyne, City Manager Copy to: Vanessa Hickman, City Attorney
If to Surprise:	City of Surprise 16000 N. Civic Center Plaza Surprise, AZ 85374 Attn: Michael Frazier, City Manager Copy to: Robert Wingo, City Attorney

19. Governing Law. The laws of the State of Arizona shall govern this Agreement. Any suit or action pertaining to this Agreement shall be brought in the Maricopa County Superior Court.
20. Arbitration. In accordance with ARS § 12-1518, the Partnering Agencies to agree to resolve all disputes arising out of or relating to this Agreement through arbitration after exhausting applicable administrative review, except as may be required by other applicable statutes.
21. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A counterpart being brought forward by a Party for approval by its legislative body or equivalent shall be signed and executed in accordance with that Party's practice. Neither a signature nor a signature line for every Party shall be required in each counterpart. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Partnering Agencies may be physically attached to a single document.
22. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted or is not correctly inserted,

then upon the application of a Party, the Agreement will promptly be physically amended to make such insertion or correction.

23. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
24. Entire Agreement; Interpretation; Parole Evidence. This Agreement represents the entire agreement of the Partnering Agencies with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any party except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement.
25. Assignment. No right or interest in this Agreement shall be assigned or delegated by a Party to this Agreement without prior, written permission of each Party, signed by persons duly authorized to enter into contracts on behalf of the Partnering Agencies.
26. Legal Obligations. This Agreement does not relieve any Party of any obligation or responsibility imposed upon it by law.

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this 23rd day of September, 2019.

CITY OF GOODYEAR

By: [Signature]

Its: City Manager

Date: September 24, 20 19

Attest: [Signature] for
City Clerk



In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

[Signature]
City Attorney

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this 3rd day of September 2019.

CITY OF PEORIA

By: _____

Its: DEPUTY CITY MANAGER

Date: 9/4/19

Attest: _____

City Clerk



In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Janepa P. Hickman
City Attorney

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this 17 day of Sept, 2019.

CITY OF SURPRISE

By:


MICHAEL T. FRAZIER

Its:

CITY MANAGER

Date:

9/18/19

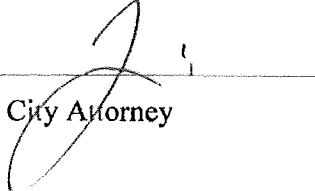
Attest:



Deputy

City Clerk

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.


City Attorney

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF PEORIA , the CITY OF GOODYEAR,
AND the CITY OF SURPRISE,
TO
DEVELOP A COMMUNITY PARAMEDICINE PROGRAM

AMENDED AND RESTATED**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT for the grant-funded community paramedicine project ("Agreement") is entered into and modified as of September 1, 2020 by and among the City of Goodyear, an Arizona municipal corporation ("Goodyear"), the City of Peoria, an Arizona municipal corporation ("Peoria"), and the City of Surprise, an Arizona municipal corporation ("Surprise"). Goodyear, Peoria, and Surprise are collectively referred to in this Agreement as the "Partnering Agencies" and each individually as a "Party."

RECITALS

- A. Mobile integrated healthcare is the provision of healthcare using patient-centered, mobile resources in an out-of-hospital environment. Community Paramedicine is a locally designed, community-based, collaborative model of care that leverages the skills of paramedics and EMS systems to address health care gaps identified through a community-specific needs assessment.
- B. In 2019, the Partnering Agencies worked together cooperatively to create a regional approach to Mobile Integrated Healthcare and Community Paramedicine ("MIHP-CP") service delivery and education development.
- C. The Partnering Agencies worked collaboratively to develop a regional Community Paramedicine program that addresses patients who are high frequency users of the 911 system ("Program"), as well as to develop a regional community standard paramedic training curriculum ("Curriculum").
- D. The Partnering Agencies desire to enter into this Amended and Restated Agreement to set forth the modified responsibilities and obligations of the Partnering Agencies with respect to the Program and the Curriculum.
- E. The Partnering Agencies are authorized and empowered to enter into this Agreement pursuant to A.R.S. §§ 11-951 and 11-952.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the Partnering Agencies agree as follows:

1. Program Components and Management. The Program will consist of the following components: training and curriculum development, data collection, patient interactions, data analysis, and development of performance measures. The Program management and day to day activities will be carried out by Goodyear and Surprise staff ("Participating Agencies")
2. Curriculum Development and Training. The Participating Agencies' first task will be to update the Curriculum and provide on-going refresher training to selected employees from each the Participating Parties. To accomplish this task the Participating Agencies will form a committee ("Training Committee").
 - 2.1 Each Party shall designate one employee to serve on the Training Committee. In addition, Gail H. Bradley, M.D., the contracted medical director for Peoria and Goodyear ("Medical Director"), shall serve on the Training Committee.
 - 2.2 The Training Committee shall determine the training modules to be included in the Curriculum. Notwithstanding the foregoing, the Curriculum shall include, but not be limited to, the following modules: electronic patient care reporting (ePCR) system and data collection; high frequency user (as defined in Section 4) patient list and selection; approaching patients safely and scripting the approach to the patient; stages of behavioral change and accessing crisis intervention; hospice/palliative care; community paramedic quality assurance; triggers for referral; and home safety, health and environment.
 - 2.3 The Curriculum shall be no less than eight (8) hours in duration but not more than forty (40) hours.
 - 2.4 In developing the Curriculum, the Training Committee shall seek input from all Fire Department based MIHP-CP programs within the Phoenix Metro west region.
 - 2.5 The Curriculum shall be a standardized curriculum suitable for use by all current and future MIHP-CP providers within Arizona.
 - 2.6 The Training Committee shall designate at least three paramedics from each Party to attend the initial training class.
 - 2.7 The Training Committee shall determine the location at one of the Party's facilities where the training will be conducted. The Participating Agencies agree to work cooperatively to identify and make available suitable space at either Goodyear's or Surprise's facilities for the training to be held.
 - 2.8 The training shall be provided by the Medical Director and other qualified individuals selected by the Training Committee.
3. Data Collection. The Participating Agencies will use an electronic patient care reporting system (ePCR) for the field collection of data.
 - 3.1 Before any patient interaction occurs, the Participating Agencies shall work cooperatively to review and update the data collection form that will be used by all Participating Agencies. The data collection form format shall enable the Participating Agencies to maintain a database capable of tracking variables such

- as client demographics, services requested, patient diagnosis, chief complaint, referring physician, referrals to other services by a community paramedic, and outcomes.
- 3.2 The Participating Agencies will use an agreed upon ePCR software as the data collection tool and will enter their data into one database.
 - 3.3 Each Participating Agency shall be responsible for its own data collection.
4. Patient Interaction. After the data collection form is updated and refresher training is completed, the Participating Agencies shall identify and contact the top 10% of high frequency users of 911 services (“Participating Patients”). “High frequency users” are those patients that access the 911 system three or more times during a month or fifteen or more times in a year. Additionally, Community paramedicine teams will be available to respond to requests made by on-scene initial response providers through the 911 system. First responders may also submit referrals to the Community Paramedicine Program.
- 4.1 The Participating Agencies will work collaboratively to provide vehicles from their existing resources to be used in the Program. At a minimum, the vehicles should be equipped with a mobile computer terminal (MCT) and a mobile radio and 2 portable radios capable of communication with the Phoenix Regional Dispatch Center.
 - 4.2 A Community Paramedicine response vehicle shall be staffed with two paramedics (“Paramedic Team”). Notwithstanding the foregoing, if the Participating Agencies are, on occasion, unable to staff a vehicle with two paramedics, a vehicle may be staffed with one paramedic and one emergency medical technician (EMT).
 - 4.3 The Community Paramedicine vehicle will be staffed at a minimum of 24 hours a week, with the exception of recognized Holidays.
 - 4.4 In addition to staffing the vehicles, the Participating Agencies shall identify and provide each Paramedic Team with medical and diagnostic equipment required for a MIHC-CP paramedic assessment. Such medical and diagnostic equipment may include, but is not limited to, cardiac monitors, thermometers, and blood pressure measuring devices. The Participating Agencies agree to collaborate to assemble the required equipment from their existing supplies. There is no expectation that any Participating Agency will purchase additional equipment solely for the use in the Program.
 - 4.5 The Paramedic Teams will contact patients who have been identified as Participating Patients pursuant to Section 4 above to determine their healthcare needs, their access to healthcare services, and the availability of resources to meet their daily needs.
 - 4.6 The Paramedic Teams will also provide information to Participating Patients on available resources in an effort to increase Participating Patients’ understanding and effective utilization of healthcare and community resources.
 - 4.7 The information the Paramedic Teams collect from Participating Patients shall be entered into one database.

5. Data Analysis. Following the data collection through patient interaction, the Participating Agencies will work cooperatively to review and evaluate the data using both patient specific and systematic criteria.
 - 5.1 The Participating Agencies will evaluate the collected data to determine the Participating Patients' perception of the Program's value, and to measure the Participating Patients' improved understanding and management of their healthcare during the Program as well as the reduction in their reliance on the 911 system.
 - 5.2 Using the collected data, the Participating Agencies will evaluate the efficacy of implementing a regional Program as follows:
 - 5.2.1 Correlate the reduction in 911 system use to readmission data for Participating Patients.
 - 5.2.2 Determine the overall associated costs for providing the Program and identify a plan for its sustainability.
 - 5.2.3 Extrapolate possible savings in healthcare costs.
 - 5.2.4 Identify a regional inter-departmental MIHP-CP model that is cost-effective and outcome-driven.
 - 5.2.5 Identify partnerships and a resource network for a sustainable regional Program.
6. Development of Performance Measures. Based on the data analysis, the Participating Agencies shall develop performance measures for MIHP-CP service delivery.
7. Funding and Costs. The Program has been funded by a \$175,000 contribution from United Healthcare to the City of Peoria on behalf of the Peoria Fire Medical Department and the consortium comprised of Peoria, Goodyear, and Surprise that was created by this Agreement. The Program has been in operation for a year and the current Program account balance is \$89,000. Peoria will continue to manage the account on behalf of the Parties and will forward funding to the respective Parties based upon invoiced costs associated with the Program. These costs may include staffing costs, ongoing training costs, **an annual payment to the Medical Director in the amounts invoiced**, \$5,000 for data analysis, and \$15,000 for MCT costs and dispatch fees.
8. Accounting and Reporting. Peoria shall continue to manage the Program funding and associated accounting related to this Agreement and grant funding. As of September 1, 2020 Surprise will manage all grant reporting requirements on behalf of all Parties related to this grant and this Agreement.
9. Term of Agreement. This Agreement shall be effective upon the date of the last signature below ("Effective Date") and will remain in full force and effect for one (1) year from that date. This Agreement may be renewed for successive one (1) year periods upon mutual consent of the Partnering Agencies in writing and signed by persons duly authorized to enter into contracts on behalf of the Partnering Agencies.
10. Termination. Any Party may terminate its participation in this Agreement with or without cause upon twenty (20) days' written notice to the Partnering Agencies.

11. Amendments. This Agreement may be modified only by a written amendment signed by each Party's authorized designee.
12. Workers' Compensation. Pursuant to A.R.S. § 23-1022 (D) and for the purposes of workers' compensation coverage only, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Partnering Agencies. The primary employer shall be solely liable for any workers' compensation benefits. Pursuant to A.R.S. § 23-1022(E), each Party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

“All employees are hereby further notified that they may be required to work under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances, they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation only.”
13. Insurance. Each Party agrees to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. This insurance requirement may be satisfied by the purchase of insurance or through the provisions of a self-insurance program.
14. Indemnification. Each Party (as “Indemnitor”) agrees to indemnify, defend, and hold harmless the other Partnering Agencies (as “Indemnitees”) for, 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 or personal injury (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee(s) are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
15. Conflict of Interest. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.
16. Further Acts. Each Party shall execute and deliver all such documents and perform all such acts as reasonably necessary and mutually agreed upon by the Partnering Agencies, from time to time, to carry out the matters contemplated by this Agreement.
17. Nondiscrimination. The Partnering Agencies agree to comply with all applicable provisions of state and federal non-discrimination laws and regulations including, but not limited to Executive Order 75-5, as modified by Executive Order 99-4, which mandates that all persons, regardless of race, religion, sex, age, national origin, or political affiliation shall have equal access to employment opportunities and all other federal and state employment and educational opportunity laws, rules and regulations, including the Americans with Disabilities Act. No Party shall engage in any form of illegal discrimination.

18. E-Verify Requirements. To the extent applicable under A.R.S. § 41-4401, the Partnering Agencies warrant compliance, on behalf of themselves and any and all subcontractors, with all federal immigration laws and regulation that relate to their employees and compliance with the E-Verify requirements under A.R.S. § 23-214(A). Each Partnering Agency has the right to inspect the documentation of the other Partnering Agencies to ensure compliance with this paragraph. A Party's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in the termination of the Agreement by the non-breaching Partnering Agencies.
19. Notice. All notices, claims, requests, and demands under this Agreement shall be in writing and served in person by U.S. Mail, registered or certified, return receipt, postage prepaid, to the addresses set forth below or at such other address as shall be indicated in writing by such Party. Service by certified mail shall be deemed to occur three (3) business days after being placed in the U.S. Mail, properly addressed with sufficient postage. In-person notice shall be deemed received when delivered to such Party. Any notice required to be given under this Agreement shall be provided to all Partnering Agencies.

If to Goodyear:	City of Goodyear 190 N. Litchfield Road Goodyear, AZ 85338 Attn.: Julie Arendall, City Manager Copy to: Roric Massey, City Attorney
If to Peoria:	City of Peoria 8401 W. Monroe Street Peoria, AZ 85345 Attn: Jeff Tyne, City Manager Copy to: Vanessa Hickman, City Attorney
If to Surprise:	City of Surprise 16000 N. Civic Center Plaza Surprise, AZ 85374 Attn: Michael Frazier, City Manager Copy to: Robert Wingo, City Attorney

20. Governing Law. The laws of the State of Arizona shall govern this Agreement. Any suit or action pertaining to this Agreement shall be brought in the Maricopa County Superior Court.
21. Arbitration. In accordance with ARS § 12-1518, the Partnering Agencies to agree to resolve all disputes arising out of or relating to this Agreement through arbitration after exhausting applicable administrative review, except as may be required by other applicable statutes.
22. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A counterpart being brought forward by a Party for approval by its legislative body or equivalent shall be signed and executed in accordance with that Party's practice. Neither a

signature nor a signature line for every Party shall be required in each counterpart. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Partnering Agencies may be physically attached to a single document.

23. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon the application of a Party, the Agreement will promptly be physically amended to make such insertion or correction.
24. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
25. Entire Agreement; Interpretation; Parole Evidence. This Agreement represents the entire agreement of the Partnering Agencies with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any party except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement.
26. Assignment. No right or interest in this Agreement shall be assigned or delegated by a Party to this Agreement without prior, written permission of each Party, signed by persons duly authorized to enter into contracts on behalf of the Partnering Agencies.
27. Legal Obligations. This Agreement does not relieve any Party of any obligation or responsibility imposed upon it by law.

[SIGNATURES ON FOLLOWING PAGES]

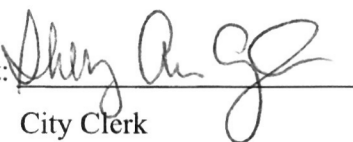
PASSED AND ADOPTED this 15th day of September, 2020.

CITY OF SURPRISE

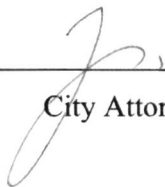
By: 

Its: Mayor

Date: 9-15-20

Attest: 
City Clerk

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.


City Attorney

PASSED AND ADOPTED this 14th day of September, 2020.

CITY OF GOODYEAR

By: [Signature]

Its: City Manager

Date: September 14, 2020

Attest: [Signature]
City Clerk



In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

[Signature]
City Attorney

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this 5th day of January, 2020.

CITY OF PEORIA

By: Cathy Carlat

Its: Mayor

Date: 1-12-21

Attest: [Signature]
City Clerk



In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Emily Gurnea for Vanessa Hickman
City Attorney

[SIGNATURES ON FOLLOWING PAGES]

RESOLUTION # 2020-109

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AN AMENDMED AND RESTATED INTERGOVERNMENTAL AGREEMENT WITH LOCAL FIRE DEPARTMENTS TO CONTINUE A COMMUNITY PARAMEDICINE PROGRAM WITH GRANT FUNDING FROM UNITED HEALTHCARE SERVICES INC. AND AMEND THE FISCAL YEAR 2021 BUDGET BY REALLOCATING APPROPRIATIONS OF \$30,200 WITHIN THE GRANTS/CONTINGENCY FUND.

WHEREAS, it is desirable that the City of Surprise and other public agencies are constantly reviewing service delivery and attempting to address health care gaps;

WHEREAS, the cities of Goodyear, Peoria and Surprise ("Participating Agencies") previously developed a regional paramedicine service delivery and education program, addressing patients who are high frequency users of the 911 system;

WHEREAS, United Healthcare Services, Inc. had provided grant funding in the amount of \$175,000 to be allocated between the participating agencies over two years for the reimbursement of overtime and training costs incurred as a result of this cooperative project;

WHEREAS, the portion of grant funding remaining for FY2021 is \$89,000 and the amount allocated to the City of Surprise Fire-Medical department is estimated to be \$50,000;

WHEREAS, the FY2021 budget was adopted by Council Resolution 2020-63 on June 2, 2020;

WHEREAS, this action will necessitate a budget amendment; and

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

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

Section 1. That the statements and schedules attached as *Exhibit A* and incorporated by reference are adopted, amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2020 through June 30, 2021.

Section 2. The City is hereby authorized to enter into an Intergovernmental Agreement to continue the development, training and operations relative to the Community Paramedicine Program. The City Manager or his designees is authorized to

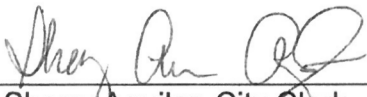
conduct all negotiations and to execute and submit all documents and other necessary or desirable instruments in connection with said agreements.

APPROVED AND ADOPTED this 15th day of September, 2020.



Skip Hall, Mayor

Attest:



Sherry Aguilar, City Clerk

Approved as to form:



Robert Wingo, City Attorney

RESOLUTION # 2019-109
Exhibit A

1. Appropriation - The allocation below represents a reallocation of appropriations in the amount of \$30,200 within the Grants Fund to continue the Community Paramedicine Program with the Cities of Peoria and Goodyear. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Grants	Fire - Medical	#G34160 FY 18 Community Paramedicine	E	19,800	30,200	50,000
Grants	General Operations	Contingency	E	24,636,200	(30,200)	24,606,000
Grants	Fire - Medical	#G34160 FY 18 Community Paramedicine	R	19,800	30,200	50,000
Grants	General Operations	Other	R	24,636,200	(30,200)	24,606,000
Expense Total				24,656,000	-	24,656,000
Revenue Total				24,656,000	-	24,656,000

15

CITY OF SURPRISE
Regular City Council Meeting



Council Meeting Date: September 15, 2020
Submitting Department: Fire - Medical
Staff Recommendations: None

Contact Person: Tom Abbott, FIRE CHIEF
District: Citywide

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

Agenda Wording:

Consideration and action pertaining to approval of an amendment to the Fiscal Year 2021 budget by reallocating appropriations of \$30, 200 within Grants Contingency Fund and approving the Amended and Restated Intergovernmental Agreement with the Cities of Peoria and Goodyear to continue the Community Para-medicine program with grant funding from United Healthcare Inc.; Resolution # 2020-109.

Motion:

I move to approve Resolution 2020-109.

Background:

In FY2017, with Resolution 2016-84, the City of Surprise Fire-Medical Department entered into an IGA with the cities of Goodyear, Avondale, Peoria, and Sun City Fire and Medical Department to establish a community paramedicine program that would provide support to frequent 911 callers (use more than three times per month). At that time, the program was funded by a grant awarded to the City of Goodyear from Vitalyst Health Foundation. Since the Vitalyst grant closed out at the end of FY2017, the involved agencies have applied for several different grants to get the program started up again. The City of Peoria Fire-Medical Department was since awarded a grant from United Healthcare, Inc. to establish a similar program. The cities involved were Peoria, Goodyear and Surprise in FY2020. This funding also developed a community paramedicine program among participating cities to support frequent 911 callers in their communities.

Objective Analysis:

The objective of this cooperative agreement is to serve individuals in the community that frequently use the 911 system, and to develop a regional community standard paramedic training curriculum.

Policy Compliant:

The IGA is compliant with all City, Council and departmental policies and protocols.

Financial Impact:

This one-time \$175,000 FY2020 grant award has a balance of \$89,000, of which the Surprise Fire-Medical Department's portion is estimated to be \$50,000 for overtime salary expenses. At the time the original IGA was presented to Council in FY2020, it was unclear whether or not the Cities would be required to absorb the associated ERE. To be conservative, it was assumed that the ERE would need to

be absorbed by the City, however, it is now known that the grant will cover associated ERE. There is no city match requirement.

Budget Impact:

The FY2021 adopted budget included a carryforward appropriation of \$36,100 in grant project G34160. Based on current FY2020 expenses, the carryforward appropriation will be adjusted down to \$19,800. Therefore, the proposed budget amendment would reallocate only \$30,200 within the Grants/Contingency Fund to make the total FY2021 appropriation match the estimated expense of \$50,000.

FTE Impact:

There is no FTE impact.

ATTACHMENTS:

1. FD IGA Goodyear Peoria Surprise Community Paramedicine 2020 FINAL (1)
 2. RES 2020-109 FY21MIHP-CP Grant (1)_JG
-

Renewal of IGA

This letter serves as the written mutual consent of the Parties to renew the Intergovernmental Agreement ("Agreement") for the Regional Community Paramedicine Program between the City of Surprise, City of Goodyear, and the City of Peoria, (collectively "Parties") for an additional year as specified in Paragraph 9 of the Agreement.

The Parties entered into the Agreement on September 15th, 2020. Pursuant to Section 9 of the Agreement, the Agreement may be renewed for successive one (1) year periods upon mutual consent of the Parties in writing, and signed by persons with contractual signing authority for each agency.

In accordance with Paragraph 9 of the Agreement, the Parties hereby renew the Agreement for a term of one (1) year beginning on September 16, 2021. The Parties represent and warrant, respectively, that the individual signing this renewal on their behalf has the proper authority to bind that party. All terms and conditions contained in the Agreement shall remain in full force and effect for the duration of the renewed term.

The Parties have executed this renewal as of the date the last party signs.

Date: _____

APPROVED AS TO FORM:

Emily Quenneville for
City Attorney's Office - Vanessa Hickman

Date: _____

APPROVED AS TO FORM:

City Attorney's Office

Date: _____

APPROVED AS TO FORM:

City Attorney's Office

CITY OF PEORIA, ARIZONA,
An Arizona Municipal Corporation

By: [Signature]
Jeff Tyne, City Manager

Attest:

[Signature]
Rhonda Gerimink, City Clerk

CITY OF SURPRISE, ARIZONA,
An Arizona Municipal Corporation

By: _____
Michael T. Frazier, City Manager

CITY OF GOODYEAR, ARIZONA,
An Arizona Municipal Corporation

By: _____
Julie Karins, City Manager

LCON03619B

Renewal of IGA

This letter serves as the written mutual consent of the Parties to renew the Intergovernmental Agreement ("Agreement") for the Regional Community Paramedicine Program between the City of Surprise, City of Goodyear, and the City of Peoria, (collectively "Parties") for an additional year as specified in Paragraph 9 of the Agreement.

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The Parties have executed this renewal as of the date the last party signs.

CITY OF PEORIA, ARIZONA,
An Arizona Municipal Corporation

Date: _____

By: _____

APPROVED AS TO FORM:

City Attorney's Office

CITY OF SURPRISE, ARIZONA,
An Arizona Municipal Corporation

Date: _____

By: _____

Michael T. Frazier

APPROVED AS TO FORM:

City Attorney's Office

CITY OF GOODYEAR, ARIZONA,
An Arizona Municipal Corporation

Date: 9/14/2021

By: Julie Karins

Julie Karins, City Manager

APPROVED AS TO FORM:

FOR
City Attorney's Office



ATTEST:

Darwin McCracken
City Clerk

Renewal of IGA

This letter serves as the written mutual consent of the Parties to renew the Intergovernmental Agreement ("Agreement") for the Regional Community Paramedicine Program between the City of Surprise, City of Goodyear, and the City of Peoria, (collectively "Parties") for an additional year as specified in Paragraph 9 of the Agreement.

The Parties entered into the Agreement on September 15th, 2020. Pursuant to Section 9 of the Agreement, the Agreement may be renewed for successive one (1) year periods upon mutual consent of the Parties in writing, and signed by persons with contractual signing authority for each agency.

In accordance with Paragraph 9 of the Agreement, the Parties hereby renew the Agreement for a term of one (1) year beginning on September 16, 2021. The Parties represent and warrant, respectively, that the individual signing this renewal on their behalf has the proper authority to bind that party. All terms and conditions contained in the Agreement shall remain in full force and effect for the duration of the renewed term.

The Parties have executed this renewal as of the date the last party signs.

CITY OF PEORIA, ARIZONA,
An Arizona Municipal Corporation

Date: _____

By: _____
Jeff Tyne, City Manager

APPROVED AS TO FORM:

City Attorney's Office

CITY OF SURPRISE, ARIZONA,
An Arizona Municipal Corporation

Date: _____

By: Diane Arthur, Deputy City Manager
Michael T. Frazier, City Manager

APPROVED AS TO FORM:

Hart Wingo
City Attorney's Office for Robert Wingo

CITY OF GOODYEAR, ARIZONA,
An Arizona Municipal Corporation

Date: _____

By: _____
Julie Karins, City Manager

APPROVED AS TO FORM:

City Attorney's Office

MEMORANDUM

Date: August 31, 2021

To: Mayor & Council and All-City Directors

From: The Office of the City Manager

CC: Michael T Frazier, City Manager, Diane Arthur, Mike Gent, and Tracy Montgomery, Deputy City Managers

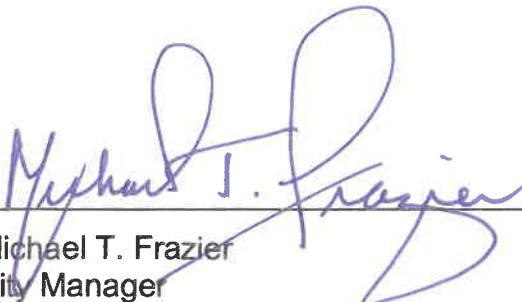
Re: Out of Office

City Manager Michael T. Frazier will be out of the country on vacation from Wednesday, September 1st returning on Thursday, September 16, 2021.

Deputy City Manager Mike Gent will assume City Manager responsibilities and signature authority from September 1st through September 6, 2021.

Diane Arthur will assume City Manager responsibilities and signature authority on Tuesday, September 7th, until Michael's return on September 16th. Mike can be reached at ext 2-6223 or cell 623-980-0546, email at Mike.Gent@surpriseaz.gov

Diane can be reached at ext. 2-1422 or cell 623-986-8007, email at Diane.arthur@surpriseaz.gov.



Michael T. Frazier
City Manager

8/30/2021
Date

RESOLUTION # 2023-154

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITIES OF PEORIA AND GOODYEAR FOR THE DEVELOPMENT OF A COMMUNITY PARAMEDICINE PROGRAM AND AMENDING THE FISCAL YEAR 2024 BUDGET BY MOVING BUDGET AUTHORITY OF \$25,000 FROM CONTINGENCY TO PROJECT G34160 WITHIN THE GRANTS FUND FOR PERSONNEL, SUPPLIES AND SERVICES COSTS TO RUN THE PROGRAM.

WHEREAS, pursuant to Arizona Revised Statute §11-951, *et seq.*, the City of Surprise has the authority to enter into intergovernmental agreement with other governmental entities for the purposes set forth within;

WHEREAS, the City of Surprise, City of Peoria, and City of Goodyear entered into an "Intergovernmental Agreement" on September 24, 2019 to develop and implement a Community Paramedicine Program;

WHEREAS, the Intergovernmental Agreement requires each party thereto agree in writing to renew the Intergovernmental Agreement and extend the term for an additional 1-year term;

WHEREAS, due to clerical error, the City of Surprise's written agreement to renew the Intergovernmental Agreement has lapsed; nonetheless, the City of Surprise wishes to continue its participation in and receive the benefits of the Intergovernmental Agreement; the Cities of Peoria and Goodyear have renewed the Intergovernmental Agreement and are currently members of the Intergovernmental Agreement as of the date this Resolution is being considered;

WHEREAS, the City of Surprise now wishes to re-confirm its entry into the Intergovernmental Agreement and ratify qualified purchases made during the lapsed period;

WHEREAS, United Healthcare Services, Inc. had provided grant funding in the amount of \$175,000 to be allocated between the participating agencies for the reimbursement of overtime and training costs incurred as a result of this cooperative project;

WHEREAS, the portion of grant funding remaining for FY2024 is \$35,000 and the amount allocated to the City of Surprise Fire-Medical department is estimated to be \$25,000;

WHEREAS, the FY2024 budget, including the FY2024 Contract Awarding Authority List, was adopted by Council Resolution #2023-85 on June 6, 2023;

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 Intergovernmental Agreement between the City of Surprise and the Cities of Peoria and Goodyear, attached as Exhibit A, is hereby approved. Such approval will serve to allow the City of Surprise to ratify and “re-enter” the Intergovernmental Agreement.

Section 2. That the statements and schedules attached as Exhibit B and incorporated by reference are adopted, amending the Fiscal Year 2024 budget of the City of Surprise, Arizona for the fiscal year July 1, 2023 through June 30, 2024.

Section 3. The City Manager, or his designee, is hereby authorized to execute and submit all documents and other necessary or desirable instruments in connection with said agreement.

APPROVED AND ADOPTED this ____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2023-154
Exhibit A

INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF SURPRISE AND PEORIA AND GOODYEAR

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF PEORIA , the CITY OF GOODYEAR,
AND the CITY OF SURPRISE,
TO
DEVELOP A COMMUNITY PARAMEDICINE PROGRAM**

THIS INTERGOVERNMENTAL AGREEMENT for the development of a grant-funded community paramedicine project ("Agreement") is entered into as of _____, 2019 by and among the City of Goodyear, an Arizona municipal corporation ("Goodyear"), , the City of Peoria, an Arizona municipal corporation ("Peoria"), and the City of Surprise, an Arizona municipal corporation ("Surprise") Goodyear, Peoria, and Surprise are collectively referred to in this Agreement as the "Partnering Agencies" and each individually as a "Party."

RECITALS

- A. Mobile integrated healthcare is the provision of healthcare using patient-centered, mobile resources in an out-of-hospital environment. Community Paramedicine is a locally designed, community-based, collaborative model of care that leverages the skills of paramedics and EMS systems to address health care gaps identified through a community-specific needs assessment.
- B. The Partnering Agencies desire to work cooperatively to create a regional approach to Mobile Integrated Healthcare and Community Paramedicine ("MIHP-CP") service delivery and education development.
- C. The Partnering Agencies desire to work collaboratively to develop a regional Community Paramedicine program that addresses patients who are high frequency users of the 911 system ("Program"), as well as to develop a regional community standard paramedic training curriculum ("Curriculum").
- D. The Partnering Agencies desire to enter into this Agreement to set forth the responsibilities and obligations of the Partnering Agencies with respect to the Program and the Curriculum.
- E. The Partnering Agencies are authorized and empowered to enter into this Agreement pursuant to A.R.S. §§ 11-951 and 11-952.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Partnering Agencies agree as follows:

1. Program Components. The Program will consist of the following components: training and curriculum development, data collection, patient interactions, data analysis, and development of performance measures.
2. Curriculum Development and Training. The Partnering Agencies' first task will be to develop the Curriculum and provide training to selected employees from each Party. To accomplish this task the Partnering Agencies will form a committee ("Training Committee").
 - 2.1 Each Party shall designate one employee to serve on the Training Committee. In addition, Gail H. Bradley, M.D., the contracted medical director for Peoria and Goodyear ("Medical Director"), shall serve on the Training Committee.
 - 2.2 The Training Committee shall determine the training modules to be included in the Curriculum. Notwithstanding the foregoing, the Curriculum shall include, but not be limited to, the following modules: electronic patient care reporting (ePCR) system and data collection; high frequency user (as defined in Section 4) patient list and selection; approaching patients safely and scripting the approach to the patient; stages of behavioral change and accessing crisis intervention; hospice/palliative care; community paramedic quality assurance; triggers for referral; and home safety, health and environment.
 - 2.3 The Curriculum shall be no less than eight (8) hours in duration but not more than forty (40) hours.
 - 2.4 In developing the Curriculum, the Training Committee shall seek input from all Fire Department based MIHP-CP programs within the Phoenix Metro west region.
 - 2.5 The Curriculum shall be a standardized curriculum suitable for use by all current and future MIHP-CP providers within Arizona.
 - 2.6 The Training Committee shall designate at least three paramedics from each Party to attend the initial training class.
 - 2.7 The Training Committee shall determine the location at one of the Party's facilities where the training will be conducted. The Partnering Agencies agree to work cooperatively to identify and make available suitable space at one of the Party's facilities for the training to be held.
 - 2.8 The training shall be provided by the Medical Director and other qualified individuals selected by the Training Committee.
 - 2.9 The Curriculum shall be developed and the training completed no later than September 1, 2019.
3. Data Collection. The Partnering Agencies will use an electronic patient care reporting system (ePCR) for the field collection of data.
 - 3.1 Before any patient interaction occurs, the Partnering Agencies shall work cooperatively to develop a data collection form that will be used by all Partnering Agencies. The data collection form shall be developed so that it enables the Partnering Agencies to create a database capable of tracking variables such as client demographics, services requested, patient diagnosis, chief complaint, referring physician, referrals to other services by a community paramedic, and outcomes.

- 3.2 The Partnering Agencies will use ZOI software as the data collection tool and will enter their data into one database.
 - 3.3 Each Party shall be responsible for its own data collection.
- 4. Patient Interaction. After the data collection form is developed and training is completed, the Partnering Agencies shall identify and contact the top 10% of high frequency users of 911 services (“Participating Patients”). “High frequency users” are those patients that access the 911 system three or more times during a month or fifteen or more times in a year. Additionally, Community paramedicine teams will be available to respond to requests made by on-scene initial response providers through the 911 system. First responders may also submit referrals to the Community Paramedicine Program.
 - 4.1 The Partnering Agencies will work collaboratively to provide vehicles from their existing resources to be used in the Program. At a minimum, the vehicles should be equipped with a mobile computer terminal (MCT) and a mobile radio and 2 portable radios capable of communication with the Phoenix Regional Dispatch Center.
 - 4.2 A Community Paramedicine response vehicle shall be staffed with two paramedics (“Paramedic Team”). Notwithstanding the foregoing, if the Partnering Agencies are, on occasion, unable to staff a vehicle with two paramedics, a vehicle may be staffed with one paramedic and one emergency medical technician (EMT).
 - 4.3 The Community Paramedicine vehicle will be staffed at a minimum of 24 hours a week, with the exception of recognized Holidays.
 - 4.4 In addition to staffing the vehicles, the Partnering Agencies shall identify and provide each Paramedic Team with medical and diagnostic equipment required for a MIHC-CP paramedic assessment. Such medical and diagnostic equipment may include, but is not limited to, cardiac monitors, thermometers, and blood pressure measuring devices. The Partnering Agencies agree to collaborate to assemble the required equipment from their existing supplies. There is no expectation that any Partnering Agency will purchase additional equipment solely for the use in the Program.
 - 4.5 The Paramedic Teams will contact patients who have been identified as Participating Patients pursuant to Section 4 above to determine their healthcare needs, their access to healthcare services, and the availability of resources to meet their daily needs.
 - 4.6 The Paramedic Teams will also provide information to Participating Patients on available resources in an effort to increase Participating Patients’ understanding and effective utilization of healthcare and community resources.
 - 4.7 The information the Paramedic Teams collect from Participating Patients shall be entered into one database.
- 5. Data Analysis. Following the data collection through patient interaction, the Partnering Agencies will work cooperatively to review and evaluate the data using both patient specific and systematic criteria.
 - 5.1 The Partnering Agencies will evaluate the collected data to determine the Participating Patients’ perception of the Program’s value, and to measure the

Participating Patients' improved understanding and management of their healthcare during the Program as well as the reduction in their reliance on the 911 system.

- 5.2 Using the collected data, the Partnering Agencies will evaluate the efficacy of implementing a regional Program as follows:

- 5.2.1 Correlate the reduction in 911 system use to readmission data for Participating Patients.
- 5.2.2 Determine the overall associated costs for providing the Program and identify a plan for its sustainability.
- 5.2.3 Extrapolate possible savings in healthcare costs.
- 5.2.4 Identify a regional inter-departmental MIHP-CP model that is cost-effective and outcome-driven.
- 5.2.5 Identify partnerships and a resource network for a sustainable regional Program.

6. Development of Performance Measures. Based on the data analysis, the Partnering Agencies shall develop performance measures for MIHP-CP service delivery.
7. Funding and Costs. The Program will be funded by a \$175,00 contribution from United Healthcare to the City of Peoria on behalf of the Peoria Fire Medical Department and the consortium comprised of Peoria, Goodyear, and Surprise that is created by this Agreement. The contribution funds shall be equitably divided among the Partnering Agencies with estimated costs as follows: (1) \$110,000 shall be allocated evenly among the Partnering Agencies to cover staffing costs (2) \$17,000 shall be allocated for initial and ongoing training costs; (3) \$20,000 shall be allocated for payment to the Medical Director for her assistance with the Program; (4) \$8,000.00 shall be allocated for on-call Medical Direction; (5) \$5,000.00 shall be allocated to data analysis and (6) \$15,000 shall be allocated to MCT cost and dispatch fees.
8. Term of Agreement. This Agreement shall be effective upon the date of the last signature below ("Effective Date") and will remain in full force and effect for one (1) year from that date. This Agreement may be renewed for successive one (1) year periods upon mutual consent of the Partnering Agencies in writing and signed by persons duly authorized to enter into contracts on behalf of the Partnering Agencies.
9. Termination. Any Party may terminate its participation in this Agreement with or without cause upon twenty (20) days' written notice to the Partnering Agencies.
10. Amendments. This Agreement may be modified only by a written amendment signed by each Party's authorized designee.
11. Workers' Compensation. Pursuant to A.R.S. § 23-1022 (D) and for the purposes of workers' compensation coverage only, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Partnering Agencies. The primary employer shall be solely liable for any workers' compensation benefits. Pursuant to A.R.S. § 23-1022(E), each Party

shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

“All employees are hereby further notified that they may be required to work under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances, they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers’ compensation only.”

12. Insurance. Each Party agrees to secure and maintain insurance coverage for any and all risks that may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including but not limited to public entity insurance. This insurance requirement may be satisfied by the purchase of insurance or through the provisions of a self-insurance program.
13. Indemnification. Each Party (as “Indemnitor”) agrees to indemnify, defend, and hold harmless the other Partnering Agencies (as “Indemnitees”) for, 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 or personal injury (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee(s) are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.
14. Conflict of Interest. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.
15. Further Acts. Each Party shall execute and deliver all such documents and perform all such acts as reasonably necessary and mutually agreed upon by the Partnering Agencies, from time to time, to carry out the matters contemplated by this Agreement.
16. Nondiscrimination. The Partnering Agencies agree to comply with all applicable provisions of state and federal non-discrimination laws and regulations including, but not limited to Executive Order 75-5, as modified by Executive Order 99-4, which mandates that all persons, regardless of race, religion, sex, age, national origin, or political affiliation shall have equal access to employment opportunities and all other federal and state employment and educational opportunity laws, rules and regulations, including the Americans with Disabilities Act. No Party shall engage in any form of illegal discrimination.
17. E-Verify Requirements. To the extent applicable under A.R.S. § 41-4401, the Partnering Agencies warrant compliance, on behalf of themselves and any and all subcontractors, with all federal immigration laws and regulation that relate to their employees and compliance with the E-Verify requirements under A.R.S. § 23-214(A). Each Partnering Agency has the right to inspect the documentation of the other Partnering Agencies to ensure compliance with this paragraph. A Party’s breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in the termination of the Agreement by the non-breaching Partnering Agencies.

18. Notice. All notices, claims, requests, and demands under this Agreement shall be in writing and served in person by U.S. Mail, registered or certified, return receipt, postage prepaid, to the addresses set forth below or at such other address as shall be indicated in writing by such Party. Service by certified mail shall be deemed to occur three (3) business days after being placed in the U.S. Mail, properly addressed with sufficient postage. In-person notice shall be deemed received when delivered to such Party. Any notice required to be given under this Agreement shall be provided to all Partnering Agencies.

If to Goodyear:	City of Goodyear 190 N. Litchfield Road Goodyear, AZ 85338 Attn.: Julie Arendall, City Manager Copy to: Roric Massey, City Attorney
If to Peoria:	City of Peoria 8401 W. Monroe Street Peoria, AZ 85345 Attn: Jeff Tyne, City Manager Copy to: Vanessa Hickman, City Attorney
If to Surprise:	City of Surprise 16000 N. Civic Center Plaza Surprise, AZ 85374 Attn: Michael Frazier, City Manager Copy to: Robert Wingo, City Attorney

19. Governing Law. The laws of the State of Arizona shall govern this Agreement. Any suit or action pertaining to this Agreement shall be brought in the Maricopa County Superior Court.
20. Arbitration. In accordance with ARS § 12-1518, the Partnering Agencies to agree to resolve all disputes arising out of or relating to this Agreement through arbitration after exhausting applicable administrative review, except as may be required by other applicable statutes.
21. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A counterpart being brought forward by a Party for approval by its legislative body or equivalent shall be signed and executed in accordance with that Party's practice. Neither a signature nor a signature line for every Party shall be required in each counterpart. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Partnering Agencies may be physically attached to a single document.
22. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted or is not correctly inserted,

then upon the application of a Party, the Agreement will promptly be physically amended to make such insertion or correction.

23. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
24. Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the Partnering Agencies with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any party except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement.
25. Assignment. No right or interest in this Agreement shall be assigned or delegated by a Party to this Agreement without prior, written permission of each Party, signed by persons duly authorized to enter into contracts on behalf of the Partnering Agencies.
26. Legal Obligations. This Agreement does not relieve any Party of any obligation or responsibility imposed upon it by law.

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this ____ day of _____, 2019.

CITY OF GOODYEAR

By: _____

Its: _____

Date: _____, 20____

Attest: _____

City Clerk

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

City Attorney

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this ____ day of _____, 2019.

CITY OF PEORIA

By: _____

Its: _____

Date: _____

Attest: _____

City Clerk

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

City Attorney

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED this ____ day of _____, 2019.

CITY OF SURPRISE

By: _____

Its: _____

Date: _____

Attest: _____

City Clerk

In accordance with the requirements of A.R.S. § 11-952(D), the undersigned attorney acknowledges: 1) that they have reviewed the above Agreement on behalf of their client; and, 2) that, as to their respective client only, has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

City Attorney

RESOLUTION # 2023-154**Exhibit B**

1. Appropriation- The exhibit below represents a movement of budget authority in the amount of \$25,000 within the Contingency Fund to project G34160 within the Grants Fund to establish a budget to pay for personnel, supplies and services expenses for the Community Paramedicine program. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Grants	Fire - Medical	#G34160 FY20 Community Paramedicine	E	-	25,000	25,000
Contingency	General Operations	Contingency	E	77,694,400	(25,000)	77,669,400
Grants	Fire - Medical	#G34160 FY20 Community Paramedicine	R	-	25,000	25,000
Contingency	General Operations	Other	R	78,479,300	(25,000)	78,454,300
Expense Total				77,694,400	-	77,694,400
Revenue Total				78,479,300	-	78,479,300



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Public Works
Staff Recommendations:

Contact Person: Kristin Tytler, Department Director
District: District 5

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

Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at The Fountains at Surprise Center, generally located east of Bullard Avenue between West Greenway Road and West Tierra Buena Lane; Resolution # 2023-162.

Motion:

I move to approve Resolution # 2023-162.

Background:

The Public Works Department conducted the final inspection of the public improvements for The Fountains at Surprise Center on or about March 14, 2022, totaling 1,462 SY (approximately 387 LF) and determined that the infrastructure was compliant and acceptable to the city. The infrastructure includes asphalt pavement, wastewater lines and water lines. Domestic water lines are located within the City of Surprise water jurisdiction.

Objective Analysis:

The improvements to this property provide access and conveyance to the property, sewer lines to convey wastewater from the property to the city's public system and water lines to convey domestic water to the property. This action will accept the required infrastructure.

Policy Compliant:

The City Code generally requires development to install public infrastructure required to serve the development. Upon completion and acceptance of such infrastructure, the infrastructure becomes the property of the City. Acceptance of this infrastructure will officially transfer ownership and future maintenance to the City.

Financial Impact:

Acceptance of streets, sewer and water infrastructure increases the city's asset base and adds to future maintenance commitments. The total acceptance value of the infrastructure included with this item is \$174,190.00.

Budget Impact:

Funding for the infrastructure maintenance now and in the future will be supported by the city's Transportation Operations, Water Operations and Wastewater Operations Funds. The anticipated incremental additional maintenance expense associated with the acceptance of these infrastructure items will be incorporated into future years' budgets.

FTE Impact:

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

ATTACHMENTS:

1. 01_Res 2023-162 Accept Infrastructure Fountains at Surprise
 2. 02_Notice of Completion Letter Fountains of Surprise
 3. 03_Inspector Project Sign Off Fountains of Surprise
 4. 04_Linear Foot Verification Fountains at Surprise
-

RESOLUTION # 2023-162

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO CONDITIONALLY ACCEPT THE PUBLIC IMPROVEMENTS AND COMMENCE MAINTENANCE AFTER TWO YEAR WARRANTY AT THE FOUNTAINS AT SURPRISE CENTER, GENERALLY LOCATED AT EAST OF BULLARD AVENUE BETWEEN WEST GREENWAY ROAD AND WEST TIERRA BUENA LANE ROADS.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled "Final Plat for Royals Housing at Surprise Center" on, March 17, 2020;

WHEREAS, as a condition of the preliminary plat, approval of the final plat, and in compliance with the City Code, the developer installed certain public improvements, including roadway improvements which consist of concrete sidewalks, curbs and gutters, as well as asphalt/paving, and the developer also installed water lines and sewer lines. The roadway improvements, sewer lines and water lines infrastructure are all collectively referred to as "Public Improvements";

WHEREAS, The Fountains at Surprise Center LLC the developer of The Fountains at Surprise Center, dedicated to the City the Public Improvements, generally located at east of Bullard Avenue between West Greenway Road and West Tierra Buena Lane;

WHEREAS, on or about March 14, 2022, the City of Surprise Public Works Department Engineering Division completed an inspection of the Public Improvements described in this resolution and found the improvements to be in substantial compliance with the approved plans and specifications;

WHEREAS, the City of Surprise notes that the two-year warranty period will commence upon conditional acceptance by the City; and

WHEREAS, after the conclusion of the two-year warranty period, the City of Surprise will release the warranty and begin maintenance of the Public Improvements.

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

Section 1. The City of Surprise conditionally accepts the Public Improvements generally located as depicted on the map attached as Exhibit A and listed on Exhibit B.

Section 2. Upon final acceptance by the City Engineer, the City Council hereby directs the City to release warranty and begin maintenance of the Public Improvements.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this _____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

Exhibit A

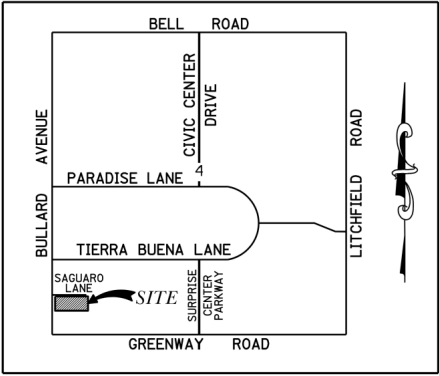
Map of Infrastructure

EXHIBIT A

The Fountains at Surprise Center

INFRASTRUCTURE TO BE ACCEPTED:

- SEWER
- WATER
- ROADWAY
Asphalt/Pavement,
Concrete (Curb &
Gutter, Sidewalk)



VICINITY MAP
N.T.S.

North Bullard Avenue

West Saguardo Lane

EXHIBIT B

List and Cost of Improvements



EXHIBIT B

ENGINEERING DIVISION
PUBLIC WORKS
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-6150

Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 10/5/2023
Re: The Fountains at Surprise Center

The public improvements for the above project have been completed and are tentatively scheduled for conditional acceptance by Council. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting:

City Paving	\$49,780.00
City Concrete	\$89,000.00
City Sewer	\$ 5,550.00
City Water	\$29,860.00
Total	\$174,190.00

May 6, 2022

Harvey Badger Construction LLC
943 W 23 St
Tempe, AZ 85282

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR THE FOUNTAINS AT
SURPRISE CENTER – FS19-868**

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

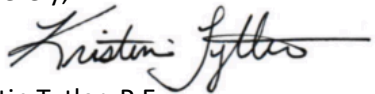
- A copy of all lien releases or a title report
- Actual construction cost for related civil permits issued
- Warranty assurance in a format acceptable by the City

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

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

If you have any questions or concerns, you can reach me at 623-222-6153 or at kristin.tytler@surpriseaz.gov.

Sincerely,



Kristin Tytler, P.E.
Public Works Director

cc: Nuning Lemka, PW Engineering Manager
John McFarland, PW Streets Manager
Michael Boule, Water Resource Management

David Mobley, PW Field Engineering Supervisor
Amanda Correia, Finance
Warren Bert, GIS



12/14/2021 Date of Punch-List Walk 3/4/2022 Date Punch-List Completed

943 W 23 St, Tempe AZ 85009

Street Name	Classification	Begin Limits	End Limits	# Lanes	Length to nearest ¼ mi.	Features
Sauaro Lane	Local	Bullard Ave	STA. 5+90.62	1	1/4	

Asphalt:	Vulcan Materials			Supplier	1/4	Total Lane Miles	1,363	Total Square Yards
Water:	8" DIP	Size/Type	184'	Total LF		Size/Type		Total LF
		Size/Type		Total LF		Size/Type		Total LF
Sewer:	8" SDP 35 PVC	Size/Type	87'	Total LF		Size/Type		Total LF
		Size/Type		Total LF		Size/Type		Total LF
Storm:	6" HDPE	Size/Type	200'	Total LF	12" HDPE	Size/Type	370'	Total LF
	18" HDPE	Size/Type	172'	Total LF		Size/Type		Total LF
Fire Ln:	6" DIP	Size/Type	393'	Total LF		Size/Type		Total LF

<u>X</u> Copy of Punch List	<u>X</u> AOC
<u>N/A</u> Final Certification Letter from Engineer of Record	<u>X</u> Asphalt Concrete Ticket w/ Name of Contractor
<u>X</u> Complete Geotechnical Testing Packet	<u> </u> Streetlight Energize Letter
<u>X</u> Sewer Pressure Testing Results	<u>X</u> As built Documents (PDF copy on CD)
<u>X</u> Sewer Manhole Vacuum Testing Certification	<u> </u> Updated asbuilt CAD base files (copy on CD)
<u>X</u> Sewer Manhole Insecticide Certification	
<u>X</u> Sewer Videos with Operators Notes (inc. re-videos)	
<u> </u> Other _____	(Specify)

Date: 10/4/2023

	A	B	C	D	E	K	L	M	N	O	P	Q	R	S
	FS Case	Project Name	Private/Public	Classification	Roadway	Median Width (ft)	Length (ft)	Length (mile)	Length (Nearest 1/4 mile)	Lane Miles	Width (pavement)	Pavement Area (ft²)	Pavement Area (Sq ft)	Inspector
21	19-868	Fountains at Surprise	Public	Local	W. Saguaro Lane	0	387.0	0.07	0.25	0.15	34.0	13,158	1,462	3/14/2024
44						Total	387.0					Total	1,462	
45														
46														
47														
48														
49														



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Public Works
Staff Recommendations:

Contact Person: Kristin Tytler, Department Director
District: District 1

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

Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Sunrise ROW Improvements on 171st Avenue, generally located at 171st Avenue between Jomax Road and West Bajada Road. Case FS19-599; Resolution # 2023-156.

Motion:

I move to approve Resolution # 2023-156.

Background:

The Public Works Department conducted the final inspection of the public improvements for Sunrise ROW Improvements on 171st Avenue on or about January 30, 2023, totaling 7,763 SY (approximately 2,409 LF) and determined that the infrastructure was compliant and acceptable to the city. The infrastructure includes asphalt pavement and water lines. Domestic water lines are located within the City of Surprise water jurisdiction.

Objective Analysis:

The improvements to this property provide access and conveyance to the property and water lines to convey domestic water to the property. This action will accept the required infrastructure.

Policy Compliant:

The City Code generally requires development to install public infrastructure required to serve the development. Upon completion and acceptance of such infrastructure, the infrastructure becomes the property of the City. Acceptance of this infrastructure will officially transfer ownership and future maintenance to the City.

Financial Impact:

Acceptance of streets and water infrastructure increases the city's asset base and adds to future maintenance commitments. The total acceptance value of the infrastructure included with this item is \$662,699.76.

Budget Impact:

Funding for the infrastructure maintenance now and in the future will be supported by the city's Transportation Operations and Water Operations. The anticipated incremental additional maintenance expense associated with the acceptance of these infrastructure items will be incorporated into future years' budgets.

FTE Impact:

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

ATTACHMENTS:

1. 01_Res 2023-156 Accept Infra Sunrise 171 ROW
 2. 02_Notice of Completion Sunrise 171 ROW
 3. 03_Inspector Project Sign Off Sunrise 171 ROW
 4. 04_Linear Foot Verification Sunrise 171 ROW
-

RESOLUTION # 2023-156

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO CONDITIONALLY ACCEPT THE PUBLIC IMPROVEMENTS AND COMMENCE MAINTENANCE AFTER TWO YEAR WARRANTY AT SUNRISE ROW IMPROVEMENTS ON 171ST AVENUE, GENERALLY LOCATED ON 171ST AVENUE BETWEEN JOMAX ROAD AND WEST BAJADA ROAD.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled "Sunrise - Parcel A" on, September 1, 2020 and approved a Development Agreement between the City of Surprise and Metro Oasis, LLLP recorded at Maricopa County Recorder Number 2020-0606454 on or about July 8, 2020;

WHEREAS, as a condition of the preliminary plat, approval of the final plat, and in compliance with the City Code and as a condition of the Development Agreement, the developer installed certain public improvements, including roadway improvements which consist of concrete sidewalks, curbs and gutters, as well as asphalt/paving and the developer also installed water lines. The roadway improvements and water lines are all collectively referred to as "Public Improvements";

WHEREAS, Metro Oasis, LLLP the developer of Sunrise ROW Improvements on 171^{sr} Avenue, dedicated to the City the Public Improvements, generally located at 171st Avenue between Jomax Road and West Bajada Road;

WHEREAS, on or about January 30, 2023, the City of Surprise Public Works Department Engineering Division completed an inspection of the Public Improvements described in this resolution and found the improvements to be in substantial compliance with the approved plans and specifications;

WHEREAS, the City of Surprise notes that the two-year warranty period will commence upon conditional acceptance by the City; and

WHEREAS, after the conclusion of the two-year warranty period, the City of Surprise will release the warranty and begin maintenance of the Public Improvements.

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

Section 1. The City of Surprise conditionally accepts the Public Improvements generally located as depicted on the map attached as Exhibit A and listed on Exhibit B.

Section 2. Upon final acceptance by the City Engineer, the City Council hereby directs the City to release warranty and begin maintenance of the Public Improvements.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this _____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

Exhibit A

Map of Infrastructure

EXHIBIT A

Sunrise ROW Improvements on 171st Avenue

INFRASTRUCTURE TO BE ACCEPTED:

-  WATER
-  ROADWAY
Asphalt/Pavement,
Concrete (Curb &
Gutter, Sidewalk)

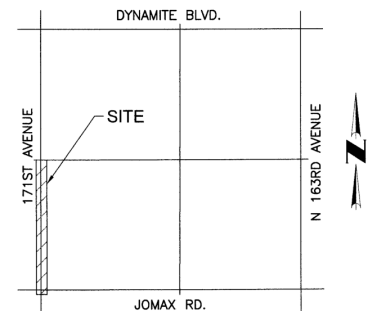


EXHIBIT B

List and Cost of Improvements



EXHIBIT B

ENGINEERING DIVISION
PUBLIC WORKS
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-6150

Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 09/21/2023
Re: Sunrise ROW Improvements on 171st Avenue

The public improvements for the above project have been completed and are tentatively scheduled for conditional acceptance by Council. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting:

City Paving	\$474,026.66
City Concrete	\$118,894.10
City Water	\$ 69,779.00
Total	\$662,699.76

April 11, 2023

Landsea Homes
7600 E. Doubletree Ranch Rd., Suite 240
Scottsdale, AZ 85258

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR SUNRISE ROW
IMPROVEMENTS ON 171 AVE – FS19-599**

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

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

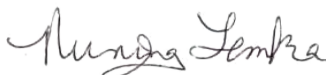
*For the Warranty Assurance, a notice of the required assurance amount and acceptable formats will be sent via email once actual construction costs have been submitted by the applicant.

The warranty period starts upon council acceptance for a period of two (2) years; please ensure warranty assurance will not expire prior to this date. The applicant will be notified of the council date as soon as it is scheduled and the warranty financial assurance is required to be submitted to the city 10 calendar days prior to the council date. If a warranty financial assurance is not received within 10 calendar days, council action and start of the warranty period will be delayed, at a minimum, an additional two (2) weeks.

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

If you have any questions or concerns, you can reach me at 623-222-6148 or at nuning.lemka@surpriseaz.gov.

Sincerely,



Nuning Lemka, P.E.
City Engineer

cc: Robert Fields, PW Field Engineering Supervisor
Amanda Correia, Finance
Michael Boule, Water Resource Management

John McFarland, PW Streets Manager
Warren Bert, GIS



PROJECT SIGN OFF FORM
PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 1/4/2023 ☐ Commercial ☐ Commercial w/Offsite ☒ Residential

☒ COMP[LETION ACCEPTANCE (End of Construction) ☐ FINAL ACCEPTANCE (End of Warranty)

5/17/2022 Date of Punch-list Walk 11/9/2022 Date Punch-list Completed

FS Number: FS19-599 Permit Number(s): E20P-0986; 0293; 0294; 0295; 0296; 0297
Project Name: Sunrise 171st Ave
Project Developer/Builder: (Name/Email, Address)
Gene Strojek (gstrojek@landseahomes.com)
1838 W PARKSIDE LN 200, PHOENIX AZ 85027

MAG TIP Reporting:

Street Name	Classification	Beging Limits	End Limits	# Lanes	Length to nearest 1/4 mile	Features
171st Ave	Collector	Jomax Rd	STA 34+74.81	2	1/2	Median

MATERIALS:

Asphalt:	<u>Norterra Materials</u>	Supplier	<u>1</u>	Total Lane Miles	<u>9,386</u>	Total Square Yards
Water:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
		Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
Sewer:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
		Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
Storm:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
		Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
Fire Ln:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF

Additional Comments: _____

SUPPORTING DOCUMENTATION REQUIRED:

☒ Copy of Punch List	☒ AOC
☐ Final Certification Letter from Engineer of Record	☒ Asphalt Concrete Ticket w/Name of Contractor
☒ Complete Geotechnical Testing Packet	☒ Streetlight Energize Letter
☐ Sewer Pressure Testing Results	☒ As built Documents (PDF copy on CD)
☐ Sewer Manhole Vacuum Testing Certification	☐ Updated asbuilt CAD base files (copy on CD)
☐ Sewer Manhole Insecticide Certification	
☐ Sewer Videos with Operators Notes (inc. re-videos)	
☐ Other _____	(Specify)

APPROVAL:

Civil Inspector: Jose Belman
Civil Engineering Supervisor: D. Mahley

Date: 1/4/2023
Date: 1/30/23

	A	B	C	D	E	K	L	M	N	O	P	Q	R	
1	FS Case	Project Name	Private/Public	Classification	Roadway	Median Width (ft)	Length (ft)	Length (mile)	Length (Nearest 1/4 mile)	Lane Miles	Width (pavement)	Pavement Area (ft²)	Pavement Area (Sq ft)	Ins
819	19-599	Sunrise ROW Improvements on 171st Avenue	Public	Collector	171st Avenue	0	2409.3	0.46	0.5	0.91	29.0	69,870	7,763	
938						Total	2409.3					Total	7,763	
939														
940														
941														



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Public Works
Staff Recommendations:

Contact Person: Kristin Tytler, Department Director
District: District 1

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

Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Sunrise ROW Improvements on Jomax Road, generally located at Jomax Road between 171st Avenue and North 163rd Avenue. Case FS19-601; Resolution # 2023-157.

Motion:

I move to approve Resolution # 2023-157.

Background:

The Public Works Department conducted the final inspection of the public improvements for Sunrise ROW Improvements on Jomax Road on or about January 30, 2023, totaling 8,505 SY (approximately 2,640 LF) and determined that the infrastructure was compliant and acceptable to the city. The infrastructure includes asphalt pavement and water lines. Domestic water lines are located within the City of Surprise water jurisdiction.

Objective Analysis:

The improvements to this property provide access and conveyance to the property and water lines to convey domestic water to the property. This action will accept the required infrastructure.

Policy Compliant:

The City Code generally requires development to install public infrastructure required to serve the development. Upon completion and acceptance of such infrastructure, the infrastructure becomes the property of the City. Acceptance of this infrastructure will officially transfer ownership and future maintenance to the City.

Financial Impact:

Acceptance of streets and water infrastructure increases the city's asset base and adds to future maintenance commitments. The total acceptance value of the infrastructure included with this item is \$384,688.01.

Budget Impact:

Funding for the infrastructure maintenance now and in the future will be supported by the city's Transportation Operations and Water Operations. The anticipated incremental additional maintenance expense associated with the acceptance of these infrastructure items will be incorporated into future years' budgets.

FTE Impact:

This action does not change the full time equivalent count.

ATTACHMENTS:

1. 01_Res 2023-157 Accept Infra Sunrise Jomax ROW
 2. 02_Notice of Completion Sunrise Jomax ROW
 3. 03_Inspector Project Sign Off Sunrise Jomax ROW
 4. 04_Linear Foot Verification Sunrise Jomax ROW
-

RESOLUTION # 2023-157

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO CONDITIONALLY ACCEPT THE PUBLIC IMPROVEMENTS AND COMMENCE MAINTENANCE AFTER TWO YEAR WARRANTY AT SUNRISE ROW IMPROVEMENTS ON JOMAX ROAD, GENERALLY LOCATED AT JOMAX ROAD BETWEEN 171ST AVENUE AND NORTH 163RD AVENUE ROADS.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled "Final Plat for Sunrise - Parcel A" on, September 1, 2020;

WHEREAS, as a condition of the preliminary plat, approval of the final plat, and in compliance with the City Code, the developer installed certain public improvements, including roadway improvements which consist of concrete sidewalks, curbs and gutters, as well as asphalt/paving and the developer also installed water lines. The roadway improvements and water lines are all collectively referred to as "Public Improvements";

WHEREAS, Metro Oasis, LLLP the developer of Sunrise ROW Improvements on Jomax Road, dedicated to the City the Public Improvements, generally located at Jomax Road between 171st Avenue and North 163rd Avenue;

WHEREAS, on or about January 30, 2023, the City of Surprise Public Works Department Engineering Division completed an inspection of the Public Improvements described in this resolution and found the improvements to be in substantial compliance with the approved plans and specifications;

WHEREAS, the City of Surprise notes that the two-year warranty period will commence upon conditional acceptance by the City; and

WHEREAS, after the conclusion of the two-year warranty period, the City of Surprise will release the warranty and begin maintenance of the Public Improvements.

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

Section 1. The City of Surprise conditionally accepts the Public Improvements generally located as depicted on the map attached as Exhibit A and listed on Exhibit B.

Section 2. Upon final acceptance by the City Engineer, the City Council hereby directs the City to release warranty and begin maintenance of the Public Improvements.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this _____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

Exhibit A

Map of Infrastructure

EXHIBIT A

Sunrise ROW Improvements on Jomax Road

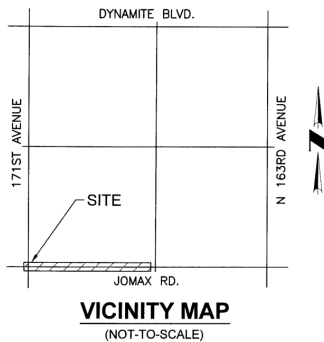


EXHIBIT B

List and Cost of Improvements



EXHIBIT B

ENGINEERING DIVISION
PUBLIC WORKS
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-6150

Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 09/22/2023
Re: Sunrise ROW Improvements on Jomax Road

The public improvements for the above project have been completed and are tentatively scheduled for conditional acceptance by Council. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting:

City Paving	\$237,013.33
City Concrete	\$ 77,895.68
City Water	\$ 69,779.00
Total	\$384,688.01

April 11, 2023

Landsea Homes
7600 E. Doubletree Ranch Rd., Suite 240
Scottsdale, AZ 85258

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR SUNRISE ROW
IMPROVEMENTS ON JOMAX – FS19-601**

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

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

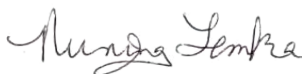
*For the Warranty Assurance, a notice of the required assurance amount and acceptable formats will be sent via email once actual construction costs have been submitted by the applicant.

The warranty period starts upon council acceptance for a period of two (2) years; please ensure warranty assurance will not expire prior to this date. The applicant will be notified of the council date as soon as it is scheduled and the warranty financial assurance is required to be submitted to the city 10 calendar days prior to the council date. If a warranty financial assurance is not received within 10 calendar days, council action and start of the warranty period will be delayed, at a minimum, an additional two (2) weeks.

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

If you have any questions or concerns, you can reach me at 623-222-6148 or at nuning.lemka@surpriseaz.gov.

Sincerely,



Nuning Lemka, P.E.
City Engineer

cc: Robert Fields, PW Field Engineering Supervisor
Amanda Correia, Finance
Michael Boule, Water Resource Management

John McFarland, PW Streets Manager
Warren Bert, GIS



PROJECT SIGN OFF FORM
PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 1/4/2023 Commercial Commercial w/Offsite XX Residential

XX COMPLETION ACCEPTANCE (End of Construction) FINAL ACCEPTANCE (End of Warranty)

5/17/2022 Date of Punch-list Walk 11/9/2022 Date Punch-list Completed

FS Number: FS19-601 Permit Number(s): E20P-0287; 0288; 0289; 0290; 0291; 0292

Project Name: Sunrise Jomax Rd

Project Developer/Builder: (Name/Email, Address)
Gene Strojek (gstrojek@landseahomes.com)
1838 W PARKSIDE LN 200, PHOENIX AZ 85027

MAG TIP Reporting:

Street Name	Classification	Beginning Limits	End Limits	# Lanes	Length to nearest 1/4 mile	Features
W Jomax Rd	Arterial	STA 36+39.69	N 171st Ave	2	1/2	

MATERIALS:

Asphalt:	<u>Norterra Materials</u>	Supplier	<u>1</u>	Total Lane Miles	<u>7,118</u>	Total Square Yards
Water:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
		Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
Sewer:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
		Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
Storm:	<u>18" HDPE</u>	Size/Type	<u>211</u>	Total LF	<u> </u>	Total LF
		Size/Type	<u> </u>	Total LF	<u> </u>	Total LF
Fire Ln:	<u>N/A</u>	Size/Type	<u> </u>	Total LF	<u> </u>	Total LF

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

<u>XX</u> Copy of Punch List	<u>XX</u> AOC
<u>N/A</u> Final Certification Letter from Engineer of Record	<u>XX</u> Asphalt Concrete Ticket w/Name of Contractor
<u>XX</u> Complete Geotechnical Testing Packet	<u>XX</u> Streetlight Energize Letter
<u>N/A</u> Sewer Pressure Testing Results	<u>XX</u> As built Documents (PDF copy on CD)
<u>N/A</u> Sewer Manhole Vacuum Testing Certification	<u>N/A</u> Updated asbuilt CAD base files (copy on CD)
<u>N/A</u> Sewer Manhole Insecticide Certification	
<u>N/A</u> Sewer Videos with Operators Notes (inc. re-videos)	
<u>N/A</u> Other <u> </u>	(Specify)

APPROVAL:

Civil Inspector: Jose Belman
Civil Engineering Supervisor: D. D. Mably

Date: 1/4/2023
Date: 1/30/23

A	B	C	D	E	K	L	M	N	O	P	Q	R	S
FS Case	Project Name	Private/Public	Classification	Roadway	Median Width (ft)	Length (ft)	Length (mile)	Length (Nearest 1/4 mile)	Lane Miles	Width (pavement)	Pavement Area (ft²)	Pavement Area (Sq ft)	Inspector
19-601	Sunrise ROW Improvements on Jomax Road	Public	Arterial	Jomax Road	0	2639.5	0.50	0.5	1.00	29.0	76,546	8,505	1/30,000
					Total	2639.5					Total	8,505	



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Public Works
Staff Recommendations:

Contact Person: Kristin Tytler, Department Director
District: District 3

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

Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Toll at Prasada Unit G, generally located at the northwest corner of West Peoria Road and Cotton Road; Resolution # 2023-158.

Motion:

I move to approve Resolution # 2023-158.

Background:

The Public Works Department conducted the final inspection of the public improvements for Toll at Prasada Unit G on or about September 6, 2023, totaling approximately 3,224 LF and determined that the infrastructure was compliant and acceptable to the city. The infrastructure includes wastewater lines. Domestic water lines are located within the Epcor water jurisdiction.

Objective Analysis:

The improvements to this property provide sewer lines to convey wastewater from the property to the city's public system. This action will accept the required infrastructure. The domestic water serving the property is within the Epcor water jurisdiction.

Policy Compliant:

The City Code generally requires development to install public infrastructure required to serve the development. Upon completion and acceptance of such infrastructure, the infrastructure becomes the property of the City. Acceptance of this infrastructure will officially transfer ownership and future maintenance to the City.

Financial Impact:

Acceptance of sewer infrastructure increases the city's asset base and adds to future maintenance commitments. The total acceptance value of the infrastructure included with this item is \$446,996.40.

Budget Impact:

Funding for the infrastructure maintenance now and in the future will be supported from the city's Wastewater Operations Funds. The anticipated incremental additional maintenance expense associated

with the acceptance of these infrastructure items will be incorporated into future years' budgets.

FTE Impact:

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

ATTACHMENTS:

1. 01_Res 2023-158 Accept Infra Toll Prasada Unit G.jtm
 2. 02_Notice of Completion Letter Toll at Prasada Unit G
 3. 03_Inspector Project Sign Off Toll at Prasada Unit G
 4. 04_Linear Foot Verification Toll at Prasada Unit G
-

RESOLUTION # 2023-158

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO CONDITIONALLY ACCEPT THE PUBLIC IMPROVEMENTS AND COMMENCE MAINTENANCE AFTER TWO YEAR WARRANTY AT TOLL AT PRASADA UNIT G GENERALLY LOCATED AT THE NORTHWEST CORNER OF WEST PEORIA ROAD AND COTTON ROAD.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled “Final Replat Toll at Prasada, Unit G – Phase 3” on, November 16, 2021;

WHEREAS, as a condition of the preliminary plat, approval of the final plat, and in compliance with the City Code, the developer installed certain public improvements, namely sewer lines. The sewer lines are referred to as “Public Improvements”;

WHEREAS, Toll Prasada, LLC the developer of Toll at Prasada Unit G, dedicated to the City the Public Improvements, generally located at the northwest corner of West Peoria Road and Cotton Road;

WHEREAS, on or about September 6, 2023, the City of Surprise Public Works Department Engineering Division completed an inspection of the Public Improvements described in this resolution and found the Public Improvements to be in substantial compliance with the approved plans and specifications;

WHEREAS, the City of Surprise notes that the two-year warranty period will commence upon conditional acceptance by the City; and

WHEREAS, after the conclusion of the two-year warranty period, the City of Surprise will release the warranty and begin maintenance of the Public Improvements.

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

Section 1. The City of Surprise conditionally accepts the Public Improvements generally located as depicted on the map attached as Exhibit A and listed on Exhibit B.

Section 2. Upon final acceptance by the City Engineer, the City Council hereby directs the City to release warranty and begin maintenance of the Public Improvements.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this _____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

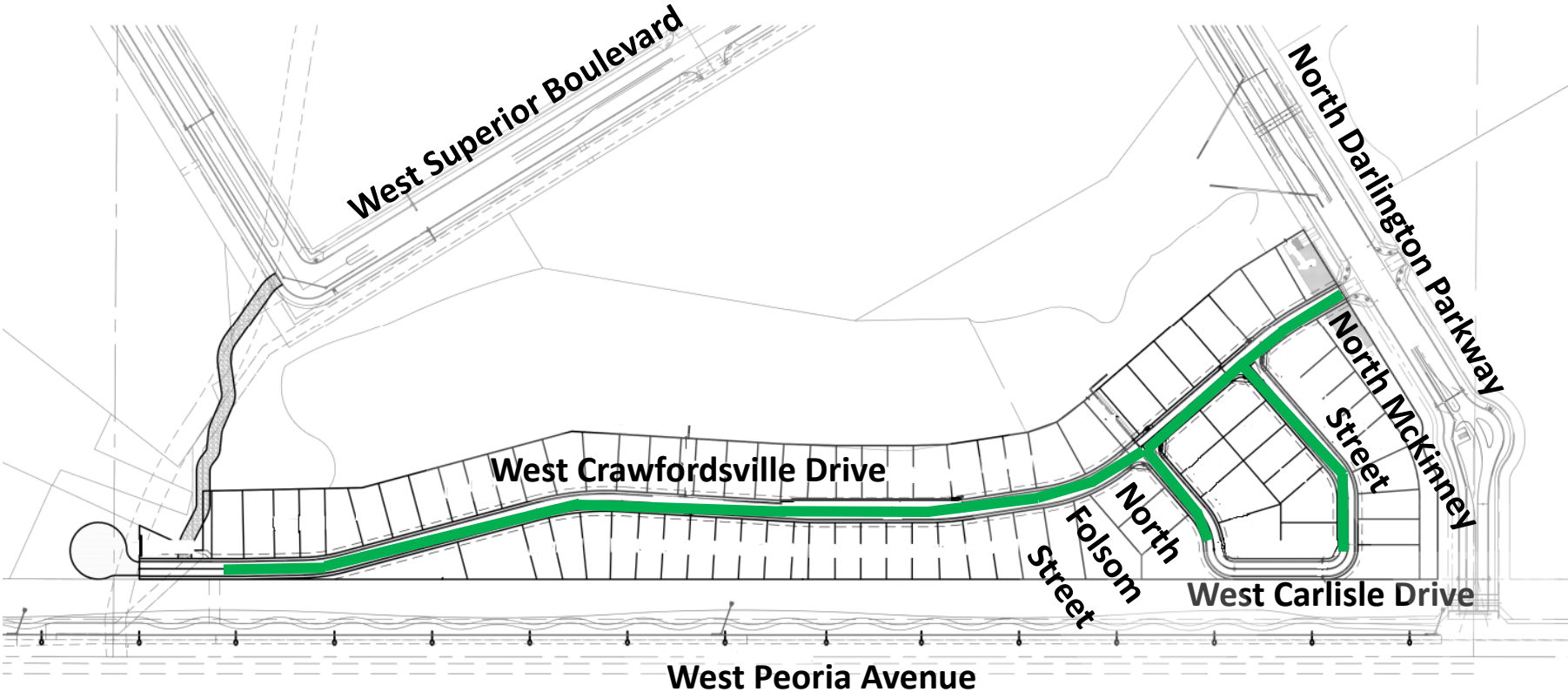
Exhibit A

Map of Infrastructure

EXHIBIT A

Toll at Prasada Unit G

INFRASTRUCTURE TO
BE ACCEPTED:
 SEWER



VICINITY MAP

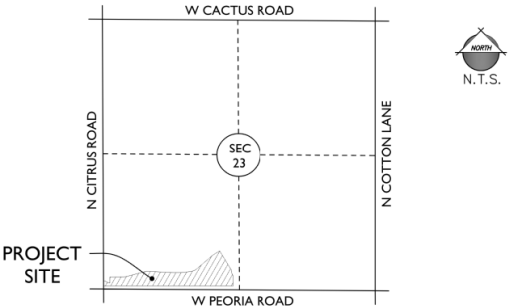


EXHIBIT B

List and Cost of Improvements



EXHIBIT B

ENGINEERING DIVISION
PUBLIC WORKS
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-6150

Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 09/25/2023
Re: Toll at Prasada Unit G

The public improvements for the above project have been completed and are tentatively scheduled for conditional acceptance by Council. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting:

City Sewer	\$446,996.40
Total	\$446,996.40

September 7, 2023

Toll Brothers
8767 E. Via de Ventura #390
Scottsdale, AZ 85258

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR TOLL AT PRASADA UNIT G
FINAL PLAT – FS21-429**

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

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

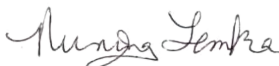
*For the Warranty Assurance, a notice of the required assurance amount and acceptable formats will be sent via email once actual construction costs have been submitted by the applicant.

The warranty period starts upon council acceptance for a period of two (2) years; please ensure warranty assurance will not expire prior to this date. The applicant will be notified of the council date as soon as it is scheduled and the warranty financial assurance is required to be submitted to the city 10 calendar days prior to the council date. If a warranty financial assurance is not received within 10 calendar days, council action and start of the warranty period will be delayed, at a minimum, an additional two (2) weeks.

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

If you have any questions or concerns, you can reach me at 623-222-6148 or at nuning.lemka@surpriseaz.gov.

Sincerely,



Nuning Lemka, P.E.
City Engineer

cc: Ravi Sharma, PW Engineering Manager
Eric Boyles, Transportation
Michael Boule, Water Resource Management

Robert Fields, PW Field Engineering Supervisor
Amanda Correia, Finance
Warren Bert, GIS

✓



PROJECT SIGN OFF FORM
PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 9/6/23 ☐ Commercial ☐ Commercial w/Offsite ☒ Residential

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

3-2-23 Date of Punch-List Walk 6-15-23 Date Punch-List Completed

Case Number: FS21-429

Project Name: Prasda Toll Brother Unit G

Project Developer/Builder: (Name/Email, Address)

Toll Brothers

8767 E Via De Ventura Suite 390 Scottsdale AZ 85258

Permit No: <u>E21P-1067</u>	Permit Type: <u>SWPPP</u>
Permit No: <u>E21P-1173</u>	Permit Type: <u>City Sewer</u>
Permit No: <u>E21P-1174</u>	Permit Type: <u>Private Water</u>
Permit No: <u>E21P-1175</u>	Permit Type: <u>Grading</u>
Permit No: <u>E21P-1176</u>	Permit Type: <u>Private Paving</u>
Permit No: <u>E21P-1177</u>	Permit Type: <u>Storm Drain</u>
Permit No: <u>E21P-1179</u>	Permit Type: <u>Signing an Striping</u>
Permit No: <u>E21P-1178</u>	Permit Type: <u>Private Concrete</u>
Permit No: _____	Permit Type: _____
Permit No: _____	Permit Type: _____

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

- | | |
|--|---|
| ☒ Copy of Punch List | ☒ AOC |
| ☒ Final Certification Letter from Engineer of Record | ☒ Asphalt Concrete Ticket w/ Name of Contractor |
| ☒ Complete Geotechnical Testing Packet | ☒ As built Documents (PDF copy) |
| ☒ Sewer Pressure Testing Results | ☒ Updated asbuilt CAD files |
| ☒ Sewer Manhole Vacuum Testing Certification | ☐ Fireline Sign-off (commercial) |
| ☒ Sewer Manhole Insecticide Certification | |
| ☒ Sewer Videos with Operators Notes (inc. re-videos) | |

Other _____ (Specify)

APPROVAL:

Civil Inspector: _____

Civil Engineering Supervisor: _____

Date: 9-6-23

Date: 9/6/23

20

INSTALL 8" DIP (4' MIN. COVER) MEGALUG RESTRAINED PER
MAG. STD. DET. 303-2; P.E. WRAPPED PER MAG SEC 610.6
& EPCOR STD. DET. 350-1 & 100-3

537 LF

SEWER NOTES

1A

8" PVC (SDR 35) SEWER LINE. TRENCH BACKFILL PER MAG
STD DTL 200-1

3224 LF

2A

4' DIA SEWER MANHOLE MAG STD DTLS 420-1. 24" FRAME &
COVER PER COS STD DTL 7-01

8 EA

2B

5' DIA SEWER MANHOLE MAG STD DTLS 420-1. 30" FRAME &
COVER PER COS STD DTL 7-01; MANHOLE TO BE LINED WITH
CITY APPROVED PRODUCT

7 EA



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Public Works
Staff Recommendations:

Contact Person: Kristin Tytler, Department Director
District: District 1

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

Consideration and action pertaining to the conditional acceptance and maintenance of certain streets and public utility improvements at Bungalows at Asante, generally located at the northwest corner of West Pat Tillman Boulevard and North 163rd Avenue; Resolution # 2023-159.

Motion:

I move to approve Resolution # 2023-159.

Background:

The Public Works Department conducted the final inspection of the public improvements to Bungalows at Asante on or about August 24, 2022 and May 17, 2023, totaling 2,123 SY (approximately 1,592 LF) and determined that the infrastructure was compliant and acceptable to the city. The infrastructure includes asphalt pavement, wastewater lines and water lines. Domestic water lines are located within the City of Surprise water jurisdiction.

Objective Analysis:

The improvements to this property provide access and conveyance to the property, sewer lines to convey wastewater from the property to the city's public system and water lines to convey domestic water to the property. This action will accept the required infrastructure.

Policy Compliant:

The City Code generally requires development to install public infrastructure required to serve the development. Upon completion and acceptance of such infrastructure, the infrastructure becomes the property of the City. Acceptance of this infrastructure will officially transfer ownership and future maintenance to the City.

Financial Impact:

Acceptance of streets, sewer and water infrastructure increases the city's asset base and adds to future maintenance commitments. The total acceptance value of the infrastructure included with this item is \$224,679.00.

Budget Impact:

Funding for the infrastructure maintenance now and in the future will be supported from the city's Transportation Operations, Water Operations and Wastewater Operations Funds. The anticipated incremental additional maintenance expense associated with the acceptance of these infrastructure items will be incorporated into future years' budgets.

FTE Impact:

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

ATTACHMENTS:

1. 01_Resolution 2023-159 -Infrastructure Acceptance-2023 Bungalow Asante
 2. 02_Notice of Completion Bungalows Asante
 3. 03_Inspector Project Sign Off Bungalow Asante
 4. 04_Linear Foot Verification Bungalows at Asante
-

RESOLUTION # 2023-159

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, TO CONDITIONALLY ACCEPT THE PUBLIC IMPROVEMENTS AND COMMENCE MAINTENANCE AFTER ONE YEAR WARRANTY AT BUNGALOWS AT ASANTE, GENERALLY LOCATED AT THE NORTHWEST CORNER OF WEST PAT TILLMAN BOULEVARD AND NORTH 163RD AVENUE ROADS.

WHEREAS, the Mayor and City Council of the City of Surprise approved a final plat entitled "Asante Phase One" on, September 15, 2007;

WHEREAS, as a condition of the preliminary plat, approval of the final plat, and in compliance with the City Code, the developer installed certain public improvements, including roadway improvements which consist of concrete sidewalks, curbs and gutters, as well as asphalt/paving, and the developer also installed water lines and sewer lines. The roadway improvements, sewer lines, water lines and drainage infrastructure are all collectively referred to as "Public Improvements";

WHEREAS, Double AA Builders LTD the developer of Bungalows at Asante, dedicated to the City the Public Improvements, generally located at the northwest corner of West Pat Tillman Boulevard and North 163rd Avenue;

WHEREAS, on or about August 24, 2022 and May 17, 2023, the City of Surprise Public Works Department Engineering Division completed an inspection of the Public Improvements described in this resolution and found the improvements to be in substantial compliance with the approved plans and specifications;

WHEREAS, the City of Surprise notes that the one-year warranty period will commence upon conditional acceptance by the City; and

WHEREAS, after the conclusion of the one-year warranty period, the City of Surprise will release the warranty and begin maintenance of the Public Improvements.

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

Section 1. The City of Surprise conditionally accepts the Public Improvements generally located as depicted on the map attached as Exhibit A and listed on Exhibit B.

Section 2. Upon final acceptance by the City Engineer, the City Council hereby directs the City to release warranty and begin maintenance of the Public Improvements.

SIGNATURES ON THE FOLLOWING PAGE

APPROVED AND ADOPTED this _____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

Exhibit A

Map of Infrastructure

EXHIBIT A

Bungalows at Asante

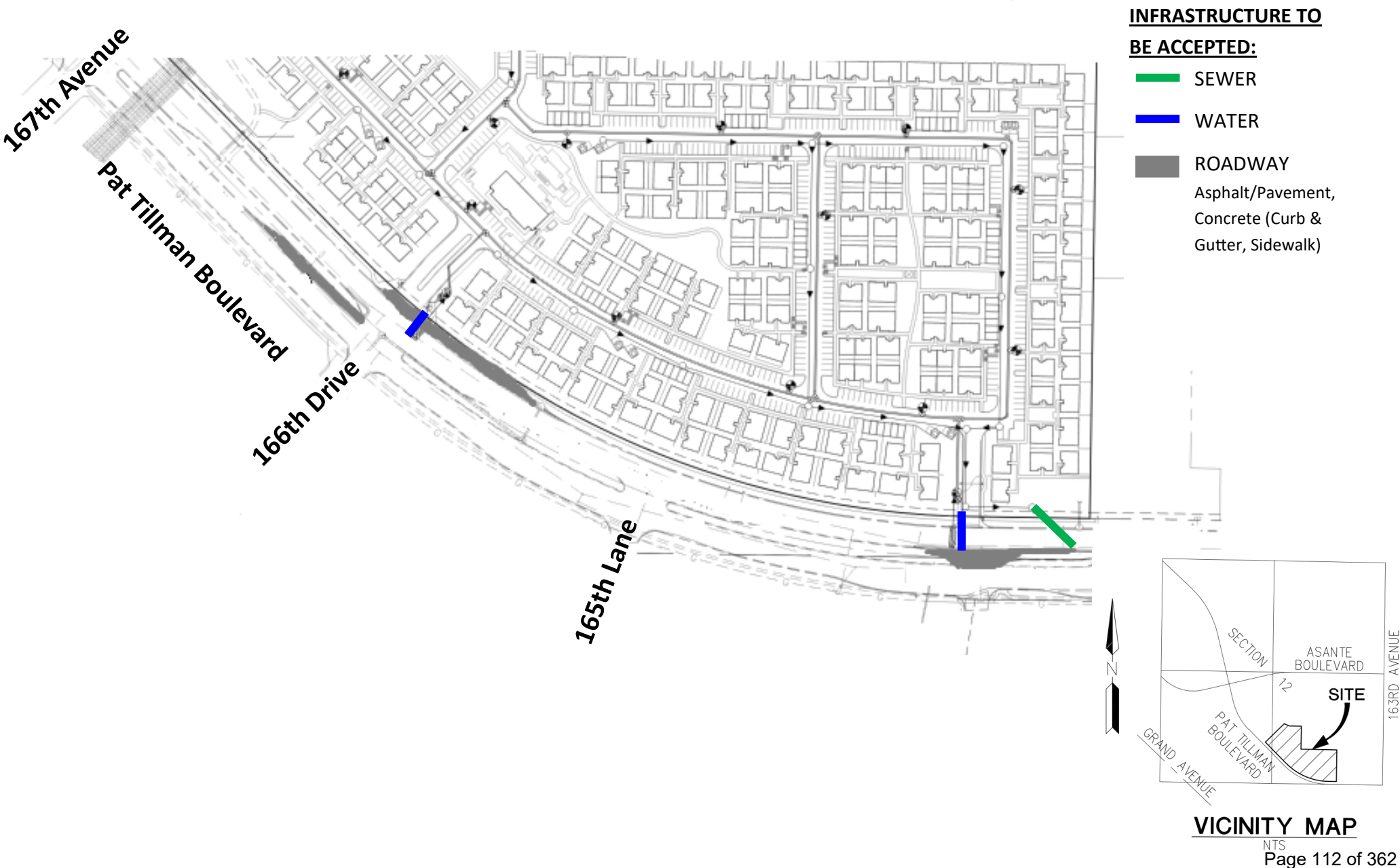


EXHIBIT B

List and Cost of Improvements



EXHIBIT B

ENGINEERING DIVISION
PUBLIC WORKS
CITY OF SURPRISE
16000 N. CIVIC CENTER PLAZA
SURPRISE, AZ 85374
T. 623-222-6150

Memorandum

To: City of Surprise City Council
From: Public Works – Engineering Services
Date: 09/27/2023
Re: Bungalows at Asante

The public improvements for the above project have been completed and are tentatively scheduled for conditional acceptance by Council. The amounts for the infrastructure have been provided by a third party and not the City of Surprise. The following are the infrastructure improvements included with this acceptance and the corresponding valuation that the City will be accepting:

City Paving	\$93,900.00
City Concrete	\$71,163.00
City Sewer	\$ 5,158.00
City Water	\$54,458.00
Total	\$224,679.00

April 27, 2023

Double AA Builders
6040 E Thomas Rd
Scottsdale, AZ 85251

**RE: NOTICE OF COMPLETION AND COUNCIL ACTION REQUIREMENT FOR BUNGALOWS AT ASANTE
– FS20-126**

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

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

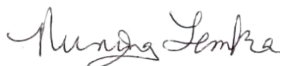
*For the Warranty Assurance, a notice of the required assurance amount and acceptable formats will be sent via email once actual construction costs have been submitted by the applicant.

The warranty period starts upon council acceptance for a period of two (2) years; please ensure warranty assurance will not expire prior to this date. The applicant will be notified of the council date as soon as it is scheduled, and the warranty financial assurance is required to be submitted to the city 10 calendar days prior to the council date. If a warranty financial assurance is not received within 10 calendar days, council action and start of the warranty period will be delayed, at a minimum, an additional two (2) weeks.

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

If you have any questions or concerns, you can reach me at 623-222-6148 or at nuning.lemka@surpriseaz.gov.

Sincerely,



Nuning Lemka, P.E.
City Engineer

cc: Robert Fields, PW Field Engineering Supervisor
Amanda Correia, Finance
Michael Boule, Water Resource Management

John McFarland, PW Streets Manager
Warren Bert, GIS



PROJECT SIGN OFF FORM
PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 8/15/2022 Commercial Commercial w/Offsite XX Residential

XX COMPLETION ACCEPTANCE (End of Construction) FINAL ACCEPTANCE (End of Warranty)

2/10/2022 Date of Punch-list Walk 4/1/2022 Date Punch-list Completed

FS Number: FS20-126 Permit Number(s): E20P-0632; 0633; 0634; 0635; 0636; 0637; 0638; 0639; (

Project Name: Bungalows at Asante

Project Developer/Builder: (Name/Email, Address)

Tim Ward tim@doubleabuilders.com 480-994-0400

Double AA Builders LTD 6040 E Thomas Rd, Scottsdale AZ 85251

MAG TIP Reporting:

Street Name	Classification	Beginning Limits	End Limits	# Lanes	Length to nearest 1/4 mile	Features
Private						

MATERIALS:

Asphalt:	Double AA Builders	Supplier	Total Lane Miles	Total Square Yards
Water:	4" PVC	Size/Type	519	Total LF
		Size/Type		Total LF
Sewer:	8" PVC	Size/Type	26	Total LF
		Size/Type		Total LF
Storm:		Size/Type		Total LF
		Size/Type		Total LF
Fire Ln:	8" C-900	Size/Type	4,705	Total LF
		Size/Type		Total LF

Additional Comments:

SUPPORTING DOCUMENTATION REQUIRED:

N/A	Copy of Punch List	N/A	AOC
N/A	Final Certification Letter from Engineer of Record	N/A	Asphalt Concrete Ticket w/Name of Contractor
XX	Complete Geotechnical Testing Packet	XX	Streetlight Energize Letter
N/A	Sewer Pressure Testing Results	XX	As built Documents (PDF copy on CD)
N/A	Sewer Manhole Vacuum Testing Certification	N/A	Updated asbuilt CAD base files (copy on CD)
N/A	Sewer Manhole Insecticide Certification		
XX	Sewer Videos with Operators Notes (inc. re-videos)		
	Other _____		(Specify)

APPROVAL:

Civil Inspector: Jose Belman

Date: 8/16/2022

Civil Engineering Supervisor: [Signature]

Date: 8/24/22



PROJECT SIGN OFF FORM
PUBLIC WORKS - ENGINEERING SERVICES, INSPECTIONS

Date Submitted: 8/15/2022 ☐ Commercial ☐ Commercial w/Offsite ☒ Residential

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

2/10/2022 Date of Punch-list Walk 4/1/2022 Date Punch-list Completed

FS Number: FS20-126 Permit Number(s): 0634; 0635; 0636; 0637; 0638; 0639; 0640; 0641; 0642;

Project Name: Bungalows at Asante

Project Developer/Builder: (Name/Email, Address)

Tim Ward tim@doubleabuilders.com 480-994-0400

Double AA Builders LTD 6040 E Thomas Rd, Scottsdale AZ 85251

MAG TIP Reporting:

Street Name	Classification	Beginning Limits	End Limits	# Lanes	Length to nearest 1/4 mile	Features
Pat Tillman Blvd	Right Turn Bay	STA 297+00	STA 300+95	1	1/4	
Pat Tillman Blvd	Left Turn Bay	STA 294+55	STA 297+15	1	1/4	
Pat Tillman Blvd	Left Turn Bay	STA 301+15	STA 310+52	1	1/4	

MATERIALS:

Asphalt:	Supplier	Total Lane Miles	Total Square Yards	
Water:	Size/Type	Total LF	Size/Type	Total LF
	Size/Type	Total LF	Size/Type	Total LF
Sewer:	Size/Type	Total LF	Size/Type	Total LF
	Size/Type	Total LF	Size/Type	Total LF
Storm:	Size/Type	Total LF	Size/Type	Total LF
	Size/Type	Total LF	Size/Type	Total LF
Fire Ln:	Size/Type	Total LF	Size/Type	Total LF

Additional Comments:

Page 2

SUPPORTING DOCUMENTATION REQUIRED:

☐ Copy of Punch List	☐ AOC
☐ Final Certification Letter from Engineer of Record	☐ Asphalt Concrete Ticket w/Name of Contractor
☐ Complete Geotechnical Testing Packet	☐ Streetlight Energize Letter
☐ Sewer Pressure Testing Results	☐ As built Documents (PDF copy on CD)
☐ Sewer Manhole Vacuum Testing Certification	☐ Updated asbuilt CAD base files (copy on CD)
☐ Sewer Manhole Insecticide Certification	
☐ Sewer Videos with Operators Notes (inc. re-videos)	
☐ Other _____	(Specify)

APPROVAL:

Civil Inspector: [Signature]

Date: 8/16/2022

Civil Engineering Supervisor: [Signature]

Date: 5/17/23

[illegible]



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023 Contact Person: Lloyd Abrams
Submitting Department: Community Development District: District 3
Staff Recommendations:

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

Consideration and action to accept the Dedication of Public Right-of-Way With Conditions from High Desert Development, Inc. for right of way along Waddell near Cotton Lane.

Motion:

I move to accept the Dedication of Public Right-of-Way with Conditions from High Desert Development, Inc.

Background:

The City has been working with landowners along Waddell and Cotton Lane to obtain right of way in order to widen the roadway in this area. The City has identified this corridor for a Capital Improvement Project (CIP) to improve traffic conditions in this area.

Objective Analysis:

The City will continue to pursue right of way along Waddell Road and Cotton Lane to improve the safety and capacity of the roadway network within the general area of this intersection.

Policy Compliant:

Approval of this item is policy compliant. The proposed dedication will advance the goals and policies of the Surprise General Plan and the City Council's Strategic Plan.

Financial Impact:

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

Budget Impact:

There is currently no budgetary impact related to approval of this item. The City will plan for the future Capital Improvement Project and O&M through the normal budgetary process.

FTE Impact:

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

ATTACHMENTS:

1. High Desert Development Signed Final Agreement
 2. Bradbury RW dedication with conditions - PowerPoint
-

When Recorded Mail To:
City Clerk
City of Surprise
16000 N Civic Center Plaza
Surprise, AZ 85374

DEDICATION OF PUBLIC RIGHT-OF-WAY WITH CONDITIONS

GRANTOR: High Desert Development, Inc., an Arizona corporation

GRANTEE: City of Surprise, an Arizona municipal corporation ("City")

Grantor, for and in consideration of the sum of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby dedicate to Grantee, subject to all matters of record, fee title to that real property containing 0.4248 acres, more or less, as legally described in Exhibit A hereto and as depicted in Exhibit B hereto (herein, the "**Property**") as public right-of-way for the expansion of Waddell Road and utility use. The Property is a portion of Parcel 3 as legally described and depicted in Exhibit C hereto, and Parcel 3 as legally described and depicted in Exhibit C hereto, in combination with Parcel 2 as legally described and depicted in Exhibit C hereto, is herein referred to collectively as the "**Master Parcel**". The Master Parcel is physically located at 14014 North 172nd Avenue, and is within an unincorporated area of Maricopa County, Arizona.

This grant of public right-of-way is subject to the following conditions:

(1) The City shall cause to be constructed any and all improvements, now contemplated or hereafter determined to be necessary, in conjunction with the planned expansion of Waddell Road to the arterial road standards of the City then in effect at the time such construction commences, including, but not limited to, the construction of all travel and turn lanes, traffic control devices, medians and sidewalks, necessary relocation of existing utilities, removal and/or relocation and replacement of the existing adjacent fencing, and the removal and/or relocation of any trees existing within or upon the Property or any other portion of the Master Parcel (all such work being herein referred to collectively as the "**Roadway Expansion Work**").

(a) The City acknowledges that no costs or expenses incurred in conjunction with the performance of the Roadway Expansion Work shall be recoverable from either or both Grantor or Waddell Real Estate GP, LLC, an Arizona limited liability company ("WRE"), or any subsequent owner of either or both the Master Parcel or that real property presently owned by WRE as identified and legally described as Parcel 1 in Exhibit C hereto (herein, the "**Adjacent Ranch Parcel**"). Furthermore, if the obligation to perform all or any part of the Roadway Expansion Work is imposed by the City upon any subsequent owner of either or both the Master Parcel or the Adjacent Ranch Parcel as a condition precedent to the approval by the City of any development or redevelopment plans submitted with respect to either or both of

such parcels, then those costs and expenses incurred by an owner who performs any of the Roadway Expansion Work which the owner is required to perform as a condition precedent to the approval by the City of the owner's redevelopment plans shall be reimbursed by the City for that Roadway Expansion Work which the owner actually performs as soon as practicable after the completion thereof by said owner.

(b) Notwithstanding subpart (a) above, Grantor or WRE, as applicable, or any subsequent owner of either the Master Parcel or the Adjacent Parcel, as applicable, shall be responsible for the construction, at their own cost and expense, of any roadway improvements not contemplated as part of the Roadway Expansion Work, but only to the extent such alternative or additional roadway improvements become necessary as a result of any development or redevelopment of either or both the Master Parcel or the Adjacent Ranch Parcel occurring after the date hereof. By way of illustration and not limitation, such alternative or additional roadway improvements might include driveways, deceleration lanes, acceleration lanes, or turn pockets; *provided, however*, if the development or redevelopment of either the Master Parcel or the Adjacent Parcel renders unnecessary the performance by the City of any portion of the Roadway Expansion Work, then an amount equal to the cost savings achieved by the City as a result of not having to perform the applicable portion of the Roadway Expansion Work shall be paid by the City to the developer responsible for the development or redevelopment of the Master Parcel or the Adjacent Ranch Parcel, as applicable, as soon practicable after the qualifying work has been completed by the developer and accepted by the City Engineer of the City. For purposes of this subpart (b), the amount for which reimbursement is being requested shall be supported by proof of compliance with A.R.S. Title 34 and shall further be supported by paid invoices/contracts for the work and be consistent with the total costs eligible for reimbursement pursuant to Chapter 42 of the Surprise City Code.

(2) Utility service to the Master Parcel shall be continued without interruption during the performance of the Roadway Expansion Work.

(3) Existing access from 172nd Avenue to the Master Parcel shall not be materially altered or relocated without the prior written consent of the Grantor, which prior written consent Grantor shall not unreasonably withhold, condition, or delay. Furthermore, the City shall implement commercially reasonable measures to ensure that access to 172nd Avenue from the intersection of Cotton Lane and Waddell Road is at all times available to the owners of the Master Parcel and the Adjacent Ranch Parcel, and their respective guests and business invitees. Such measures shall include, by way of illustration and not limitation, the creation of temporary roadways along the shoulders of Cotton Lane and Waddell Road, as well as the installation of temporary directional signage from the intersection of Cotton Lane and Waddell Road to the Master Parcel and the Adjacent Ranch Parcel.

(4) If necessary, Grantee shall, at Grantee's sole and absolute expense, coordinate with the United States Postal Service (USPS) for relocation of the existing mail delivery boxes on 172nd Avenue from and after the date upon which the Roadway Expansion work commences until the Roadway Expansion Work is completed to an alternative location reasonably acceptable to Grantor and the USPS so as to ensure uninterrupted mail delivery.

(5) If Grantee fails to commence the performance of the Roadway Expansion Work within seven (7) years from the date of execution of this document by Grantor, Grantee agrees that Grantor, or the then current owner of fee title to the Master Parcel, as applicable, may thereafter at its option, but not if the Roadway Expansion Work has in fact commenced, make written demand upon Grantee that Grantee take all legal action necessary to cause title to the Property to be reconveyed to Grantor, or the then current owner of fee title to the Master Parcel, as applicable. Written demand for such reconveyance shall be served upon Grantee, and Grantee shall thereafter prepare documentation to effectuate the reconveyance reasonably acceptable to Grantor or the then current owner of fee title to the Master Parcel owner, as applicable, with such acceptance not to be unreasonably withheld, conditioned, or delayed. The reconveyance of the Property shall be completed by Grantee as soon as practicable after demand has been made by Grantor, or the then current owner of fee title to the Master Parcel, as applicable, but in no event more than sixty (60) days thereafter. Upon reconveyance, all conditions set forth in this dedication shall be void.

(6) When reference is made to the commencement of the performance of the Roadway Expansion Work anywhere in this document including, without limitation, Paragraph 5 above, such phrase shall, in a circumstance where the City is performing the Roadway Expansion Work, mean the date upon which the City issues a "notice to proceed" to the contractor hired by the City to perform the Roadway Expansion Work. In any circumstance where the City is not performing the Roadway Expansion Work, the commencement of the performance of the Roadway Expansion Work shall mean the date upon which the party responsible for the performances of the Roadway Expansion Work is first issued a permit by the City for the performance of any aspect of the Roadway Expansion Work.

(7) From and after the date hereof until the commencement of the performance of the Roadway Expansion Work, or Grantor no longer is the owner of fee title to any part of the Master Parcel, whichever first occurs, Grantor shall perform to a reasonable standard landscape maintenance on the Property. By way of illustration and not limitation, the obligation to perform landscape maintenance on the Property shall include the obligation to maintain the fence on the Property, as well as irrigate and otherwise maintain the fruit trees located upon the Property. Grantor shall, as part of the landscape maintenance obligation herein agreed to by Grantor, have the right to harvest the fruit which the fruit trees located upon the Property bear, and dispose of such harvested fruit in such manner as Grantor determines in its sole and absolute discretion. Grantor shall have no right, express or implied to be compensated or otherwise reimbursed for performing landscape maintenance upon the Property.

(8) In conjunction with the right of way dedication herein memorialized, the City caused to be prepared that certain Appraisal Report dated August 11, 2023 by the Glover Valuation Group (Troy D. Glover, MAI, AI-GRS) under File No. A23.022L.1.2 (herein, the "Appraisal"). Although reference is made in the Appraisal to a "Proposed Drainage Easement (DE)" which would affect a portion of Parcel 3 as legally described and depicted in Exhibit C hereto other than the Property, the City, by the execution hereof, acknowledges that such reference in the Appraisal does not, either expressly or by implication, obligate or commit Grantor to grant the "Proposed Drainage Easement (DE)" to the City now, or at any time in the

future hereof.

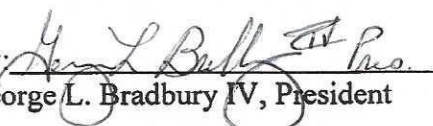
Subject to all matters of record on the date of execution hereof by Grantor, Grantor hereby binds itself and its successors to warrant and defend title to the Property as against all acts of Grantor, and none other.

Dated: October 18, 2023

ACCEPTED BY:

GRANTOR:

HIGH DESERT DEVELOPMENT, INC.,
an
Arizona corporation

By: 
George L. Bradbury IV, President

GRANTEE:

CITY OF SURPRISE, an Arizona
municipal corporation

By: _____
Skip Hall, Mayor

ATTEST:

Kristi Passarelli, City Clerk

(ACKNOWLEDGMENTS)

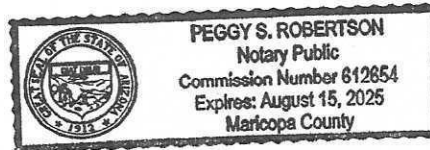
STATE OF ARIZONA

)

) ss.

COUNTY OF MARICOPA

)



This instrument was acknowledged before me on October 18, 2023, by George L. Bradbury IV, the President of High Desert Development, Inc., an Arizona limited an Arizona corporation, on behalf of said corporation.

Peggy S. Robertson
Notary Public in and for the State of Arizona

My Commission Expires:

AUGUST 15, 2025

STATE OF ARIZONA

)

) ss.

COUNTY OF MARICOPA

)

This instrument was acknowledged before me on _____, 2023,
by Skip Hall, the Mayor of the City of Surprise, an Arizona municipal corporation.

Notary Public in and for the State of Arizona

My Commission Expires:

EXHIBIT "A"

DESCRIPTION

ROAD RIGHT OF WAY DEDICATION

A portion of the Southeast Quarter of Section 11, Township 3 North, Range 2 West of the Gila and Salt River Meridian, Maricopa County, Arizona described as follows:

COMMENCING at the Southeast Corner of said Section 11 from which the South $\frac{1}{4}$ Corner of said Section lies South 89°50'28" West 2643.50 feet;

Thence along the south line of said Southeast Quarter South 89°50'28" West 1321.75 feet;

Thence departing said line North 00°13'50"E 40.00 feet to the southeast corner of that real property described in that Special Warranty Deed recorded as entry no. 2006-0537131 records of said County, and the POINT OF BEGINNING;

Thence along the south line of said real property South 89°50'28" West 660.88 feet to the southwest corner of said real property;

Thence along the west line of said real property North 00°13'37" East 28.00 feet;

Thence departing said line North 89°50'28" East 660.88 feet to the east line of said real property;

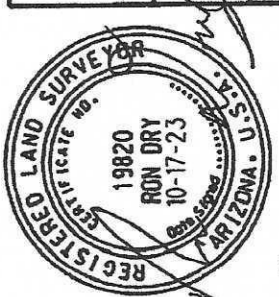
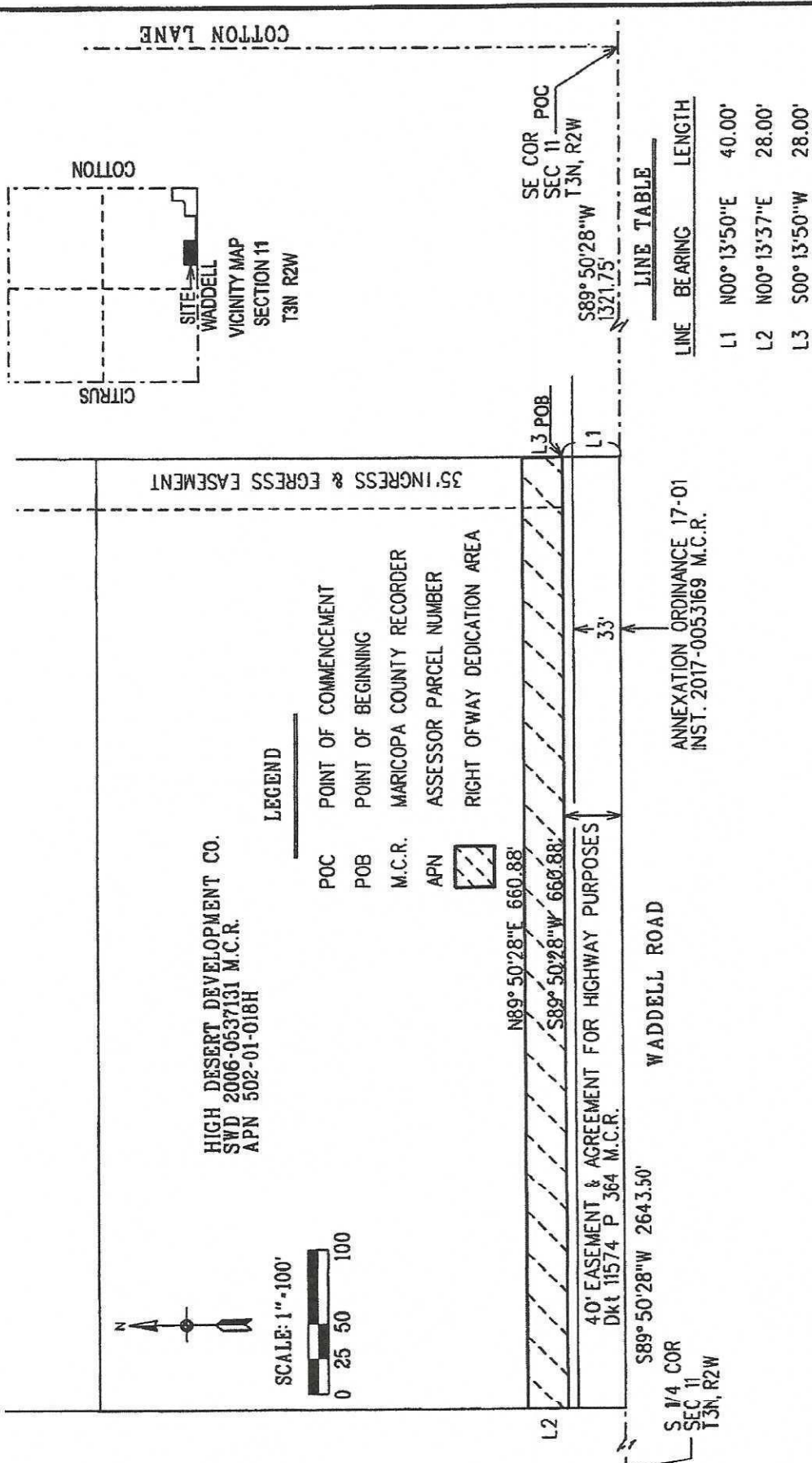
Thence along said east line South 00°13'50" West 28.00 feet to the POINT OF BEGINNING.

Containing 0.42481 acres, more or less.

End of description



EXHIBIT "B"



BASIS OF BEARINGS

Maricopa County Low Distortion Projection
 Linear unit: International foot
 Geodetic Datum: NAD 1983
 Projection type: Lambert Conformal Conic (single parallel)
 Latitude of origin: 33° 15' 00" N
 Central meridian: 112° 15' 00" W
 False northing: 1,500,000.000 ft
 False easting: 2,500,000.000 ft
 Standard parallel scale: 1.000045 (exact)

CITY OF SURPRISE
SURPRISE
 ARIZONA
 LAND SURVEY DEPARTMENT
 16000 N. CIVIC CENTER PLAZA
 SURPRISE AZ. 85374

ROAD RIGHT OF WAY DEDICATION

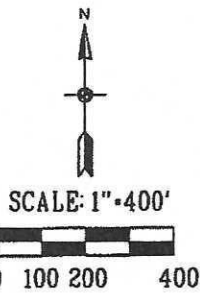
PROJECT # 23007	DRAWN BY RCD	DATE 10-17-23	SHEET 1 OF 1
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CTR 1/4 COR
SEC 11
T3N, R2W

EXHIBIT "C"

E 1/4 COR
SEC 11
T3N, R2W

N LINE OF THE SE 1/4 SECTION 11



W LINE OF THE SE 1/4 SECTION 11

1964.50'

THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTHEAST
QUARTER OF SECTION 11, TOWNSHIP 3 NORTH, RANGE 2 WEST

2276.50'

COTTON LANE

PARCEL 1

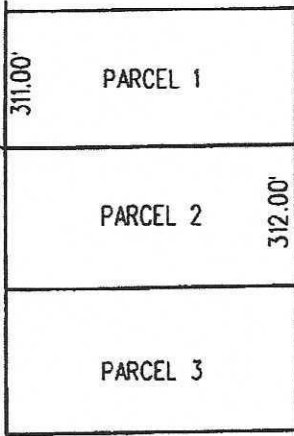
The South 311.00 feet of the North 1,964.50 feet of the East Half of the West half of the Southeast Quarter of Section 11, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

PARCEL 2

The South 312.00 feet of the North 2,276.50 feet of the East Half of the West half of the Southeast Quarter of Section 11, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

PARCEL 3

The East Half of the West half of the Southeast Quarter of Section 11, Township 3 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona
EXCEPT the North 2,276.50 feet thereof.
EXCEPT the South 40 feet thereof.



S 1/4 COR
SEC 11
T3N, R2W

WADDELL ROAD

SE COR
SEC 11
T3N, R2W



CITY OF SURPRISE
LAND SURVEY DEPARTMENT

PROJECT # 23015

DRAWN BY RCD

DATE 10-17-23

SHEET 1 OF 1



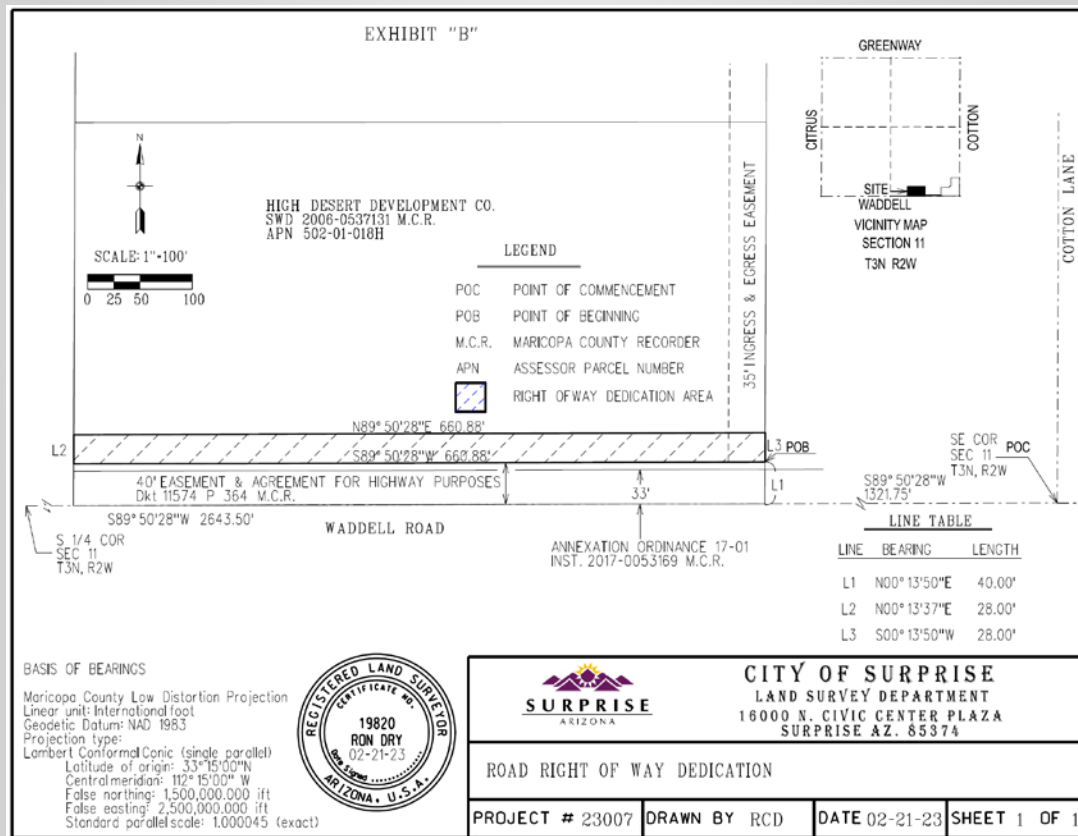
Bradbury Waddell Right-of-Way Dedication With Conditions

City Council – August 1, 2023

VICINITY MAP



EXHIBIT





QUESTIONS / COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Public Works
Staff Recommendations:

Contact Person: Kristin Tytler, Department Director
District: Citywide

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

Consideration and action to grant FirstDigital Communications of Arizona, LLC the non-exclusive revocable license to use public streets, roads and alleys for installation, operation, and maintenance of fiber optic cable; Resolution # 2023-166.

Motion:

I move to approve Resolution #2023-166.

Background:

FirstDigital Communications of Arizona desires the ability to install, operate, maintain and repair cable containing bundles of multiple optical fibers, within the right-of-way for the purpose of providing telecommunication facilities within the city's boundaries. Typically, dry utilities such as fiber optic cable are installed within public utility easements and city right-of-way. A majority of FirstDigital Communications of Arizona's lines will be located within public utility easements (PUEs). There may be areas where PUE's do not exist; in which case, the fiber will be installed in public right-of-way in these areas to enable service to their clients. This resolution will grant FirstDigital Communications of Arizona permission via license agreement to install, operate, maintain, and repair Fiber Optic Cable within the City's right-of-way.

Objective Analysis:

This agreement will allow FirstDigital Communications of Arizona to install fiber optic cable within the city right-of-way, providing customers with telecommunication services such as internet, phone and cable. A majority of FirstDigital Communications of Arizona's lines will be located within public utility easements (PUEs). There may be areas where PUE's do not exist; in which case, the fiber will be installed in public right-of-way in these areas to provide additional service options for residents and businesses. Work within the right-of-way has impacts on traffic flow and the condition of public infrastructure, although traffic control plans and construction inspection are required to mitigate these impacts.

Policy Compliant:

The City is authorized to regulate its streets, alley and public utility easements, and to grant, renew, deny, amend and terminate licenses for and otherwise regulate the installation, operation, repair, and

maintenance of telecommunication facilities within the City's boundaries pursuant to the Surprise City Code, and by virtue of federal (47 U.S.C. § 253) and state statutes (including, but not limited to, A.R.S. §§ 9-581, 9-582, and 9-583), by the City's police powers, its authority over City's public right-of-way, and its other governmental powers and authority.

Financial Impact:

Any financial impact on the City is anticipated to be minimal, as FirstDigital Communications of Arizona will be responsible for maintenance and improvement costs for their facilities.

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

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

ATTACHMENTS:

1. 01_Res. 2023-166 FirstDigital Communications of Arizona
 2. 02_Wired Telecom ROW License Agreement_with applicant signature
-

RESOLUTION # 2023-166

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A WIRED TELECOMMUNICATIONS LICENSE AND RIGHT-OF-WAY USE AGREEMENT BETWEEN THE CITY OF SURPRISE AND FIRSTDIGITAL COMMUNICATIONS OF ARIZONA, LLC.

WHEREAS, the City owns the public street and alley right-of-way public utility easements within the boundaries of the City of Surprise, and, by law, is authorized to regulate its streets, alley and public utility easements, and to grant, renew, deny, amend and terminate licenses for and otherwise regulate the installation, operation, repair, and maintenance of telecommunication facilities within the City's boundaries pursuant to the Surprise Municipal Code, by virtue of federal (47 U.S.C. § 253) and state statutes (including, but not limited to, A.R.S. §§ 9-581, 9-582, and 9-583), by the City's police powers, its authority over City's public right-of-way, and its other governmental powers and authority;

WHEREAS, FirstDigital Communications of Arizona, LLC ("FirstDigital") wishes to use the City's rights-of-way to install, operate, maintain, and repair fiber optic cables and conduit infrastructure for the purpose of providing telecommunications services; and

WHEREAS, the City wishes to license portions of its right-of-way to FirstDigital, and the City shall receive development review and permit fees, transaction privilege tax fees, a right-of-way use fee, fees associated with repairing the right-of-way and affected properties, and the option to offset the right-of-way use fee with an in-kind provision dedicated by FirstDigital.

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

Section 1. The Wired Telecommunications License and Right-of-Way Use Agreement ("License") between the City of Surprise and FirstDigital Communications of Arizona, LLC, attached hereto as Exhibit "A," is hereby approved.

Section 2. The Mayor is hereby directed to execute the License on behalf of the City of Surprise and any other documents necessary to effectuate the intent of this Resolution.

SIGNATURES ON THE FOLLOWING PAGE.

APPROVED AND ADOPTED this ____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

WIRED TELECOMMUNICATIONS LICENSE AND RIGHT-OF-WAY USE AGREEMENT

This Wired Telecommunications License and Right-of-Way Use Agreement ("Agreement") is entered into this 19th day of September, 2023 by and between the City of Surprise, an Arizona municipal corporation ("City") and FirstDigital Communications of Arizona, LLC a Utah Limited Liability Company authorized to conduct business in Arizona ("Licensee").

RECITALS

WHEREAS, City owns public street and alley right-of-way and public utility easements within the boundaries of the City of Surprise;

WHEREAS, Licensee has obtained from the Arizona Corporation Commission ("ACC") a Certificate of Convenience and Necessity ("CC&N") Decision No. 76909, dated 12 October 2018 (the "Certificate");

WHEREAS, Licensee desires the ability to install, operate, maintain and repair cable containing bundles of multiple optical fibers, within the right-of-way for the purpose of providing telecommunication services, as authorized by the Arizona Corporation Commission, subject to the requirements of this Agreement;

WHEREAS, City is authorized to regulate its streets, alley and public utility easements, and to grant, renew, deny, amend and terminate licenses for and otherwise regulate the installation, operation, repair, and maintenance of telecommunication facilities within the City's boundaries pursuant to the Surprise Municipal Code, and by virtue of federal (47 U.S.C. § 253) and state statutes (including, but not limited to, A.R.S. §§ 9-581, 9-582, and 9-583), by the City's police powers, its authority over City's public right-of-way, and its other governmental powers and authority;

WHEREAS, City desires to reserve rights to construct, use, and allow others to construct and use all manner of additional improvements in the right-of-way, while granting Licensee a license to install, operate, maintain and repair Fiber Optic Cable within the City's right-of-way;

WHEREAS, Licensee agrees to provide and maintain accurate maps showing the location of all Fiber Optic Cable owned or used by Licensee in the City right-of-way, and to comply with such other mapping requirements as City may establish from time to time;

WHEREAS, Licensee will secure the appropriate licenses, encroachments and other permits required by the City for the placement of its Conduit Systems, Fiber Optic Networks, and related facilities within City right of way;

WHEREAS, Licensee has agreed to comply with public property use requirements that City has and may establish from time to time.

NOW THEREFORE, for and in consideration of the foregoing, the amounts hereinafter to be paid by Licensee, and the covenants and agreements contained herein to be kept and performed by Licensee, and for other good and valuable consideration, the City hereby grants to Licensee a telecommunication license and permission to use the public right-of-way pursuant to the terms and conditions set forth herein.

DEFINITIONS

Cable Services shall have the same meaning as defined in Chapter 50 of the Surprise City Code, herein incorporated by this reference, and in A.R.S. § 9-581. Cable Services is not a Telecommunications Service.

Conduit means pipes made of varying materials designed to protect buried Fiber Optic Cables.

Conduit System means any combination of Conduits, ducts, inner-ducts, manholes, and hand holes – all joined to form an integrated whole.

Dark Fiber means Fiber Optic Cables that have not been connected to transmission equipment or otherwise part of a Fiber Optic Network. Dark Fiber sales and leasing is not a Telecommunications Service.

Facilities means the plant, equipment, and property used in the provision of communication and Telecommunication Services and not owned by the City, including, but not limited to, poles, wires, pipe, Conduit, pedestals, antenna, Fiber Optic Cables, and other appurtenances placed in, on, or under the ROW.

Fiber Optic Cable means a cable containing bundles of optical fibers used to carry optical signals. Fiber Optic Cables may be part of a Fiber Optic Network.

Fiber Optic Network means a communication system consisting of an optical transmitter used to convert an electrical signal into an optical signal to send into an optical fiber, Fiber Optic Cables routed through conduits and buildings, amplifiers, and an optical receiver to recover the signal as an electrical signal. A Fiber Optic Network contains Fiber Optic Cables and is used for the purpose of Telecommunications Services.

Right-of-Way ("ROW") means the roads, streets, highways, and alleys and all other dedicated public rights-of-way and public utility easements of the City.

Telecommunications means the transmission of information, between or among points specified by a user, of the user's choosing, without change in the form or content of the information as sent and received. Telecommunications does not include commercial mobile radio services, pay phone services, interstate services, Cable Services, information services, or the sale or leasing of Dark Fiber for transmission purposes.

Telecommunications Services means the offering of Telecommunications for a fee directly to the public or to such users as to be effectively available directly to the public. Telecommunications Services does not include commercial mobile radio services, pay phone services, interstate services, Cable Services, information services, the sale or leasing of Dark Fiber for transmission purposes, or the sale or leasing of Conduit.

AGREEMENT

1. LICENSE; TERM

- 1.1. License; Route. The City hereby grants to Licensee a non-exclusive, revocable license to use the designated portion of the ROW ("Route") subject to and conditioned upon Licensee's full, timely, complete, and faithful performance of all obligations required under this Agreement. Such use of the Route will be for the sole purpose of operating and maintaining a wired network as described in this Agreement. The Route will be occupied

by Licensee's Conduit System, Fiber Optic Network, plant, equipment, and property used in the provision of communication and Telecommunication Services, including, but not limited to, poles, wires, pipe, Conduit, pedestals, antenna, Fiber Optic Cables, and other appurtenances placed in, on, or under the ROW (collectively, the "Licensee's Facilities") and is as described in **Exhibit A**, herein incorporated by this reference. Licensee may request modification or expansion of the Route by submitting all required permits for construction to the City. Any modifications or expansions to the Route shall be governed by the terms and conditions of this Agreement and must be approved in writing by the City in its sole discretion. Any modifications or expansions shall become part of the Route. Licensee shall not use any portion of the ROW that is abandoned by the City or removed from the City's legal boundaries or for any purpose other than that expressly stated this Agreement.

- 1.2. Term; Effective Date. This Agreement is effective the date the last party signs ("Effective Date") and shall remain in effect for five (5) years from the Effective Date ("Term"), unless sooner terminated. No provision of this Agreement may be construed to grant any automatic extension, renewal, or replacement thereof.
 - 1.2.1. Holdover. If Licensee's Facilities remain in the Route, and Licensee continues to use such Licensee's Facilities beyond the expiration of the Term, the Agreement shall be considered to be in a "Holdover Term," subject to the terms and conditions of this Agreement. Such Holdover Term, however, shall not exceed sixty (60) days beyond the expiration of the Term, and no permits will be issued to Licensee by the City until a new license agreement has been approved by the City Council.
 - 1.2.2. Failure by Licensee to have a valid license to use the Route or other ROW by the expiration of the Holdover Term shall result in immediate withdrawal and revocation of any existing permits issued by the City to Licensee. If, however, Licensee has timely filed its application and is in active negotiations with the City prior to the expiration of the Agreement, the City may, in its discretion, grant, extend, or take no action on permits issued to Licensee prior to the expiration of the Agreement.
- 1.3. Renewal. The parties may extend the Term of this Agreement for up to three (3) additional five (5) year periods upon the mutual written consent of both parties. Such renewal must be made within one-hundred eighty (180) days prior to the termination of the initial Term of the Agreement. Licensee understands that the City may adopt future code amendments or fee schedules relating to use of the ROW which may become applicable this Agreement upon its initial or subsequent renewal. Licensee acknowledges the right of the City to adopt and implement such lawful code amendments and/or fee schedules.
- 1.4. Amendments. This Agreement may not be amended without the written approval of both parties, except as described herein.
- 1.5. No Real Property Interest. Notwithstanding any provision in this Agreement to the contrary, and notwithstanding any negotiation, correspondence, course of performance or dealing, or other statements or acts by or between the parties, Licensee's rights in the Route is limited to the license rights created by this Agreement, which creates a revocable (subject to the terms and provisions herein), non-exclusive license in the Route. The City and Licensee do not by this instrument intend to create a lease, easement or other real property interest. Licensee shall have no real property interest in the Route or any portion

of the ROW. Licensee's rights hereunder are subject to all covenants, restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title to, the Route. Licensee's rights hereunder are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions and orders of any local, state or federal agency, now or hereafter having jurisdiction over the Route or Licensee's use thereof.

- 1.6. "AS-IS" Condition. Licensee is responsible for the study and inspection of the Route to be used pursuant to this Agreement and for determining the fitness for use intended by Licensee. The City expressly disclaims all warranties of merchantability or fitness for a particular purpose or absence of hazardous conditions associated with the Route and the ROW. Licensee accepts the Route and ROW in "AS-IS" condition, without representation or warranty of any kind by the City, its officers, agents, or employees, and subject to all applicable laws governing the use of the Route for the permitted uses allowed by this Agreement.
- 1.7. Mapping Requirement. Licensee shall maintain as-built drawings of Licensee's Facilities located within the Route and furnish a copy to the City using asbuilts in pdf and AutoCAD. Upon completion of new or relocation construction of Licensee's Facilities in the Route, Licensee shall create and maintain precise, up-to-date maps of any of Licensee's Facilities and the Route using asbuilts in pdf and AutoCAD and will make this information available to the City.
- 1.8. Dark Fiber. To the extent Licensee occupies the ROW with empty Conduit and/or Dark Fiber and/or uses the ROW to provide services other than the Telecommunication Services as defined by A.R.S. § 9-581, such use or occupation of the ROW is subject to the terms and conditions of this Agreement and any applicable fees, permits, and laws.
- 1.9. Cable System. If Licensee obtains or seeks federal, state, or local approval to provide Cable Services over Licensee's Facilities within the City, this Agreement shall remain in effect according to its terms, and Licensee shall continue to pay any fee required by this Agreement, regardless of any legal or regulatory provisions, permits or other processes or rules that might now or hereafter provide otherwise. This Agreement does not allow Licensee to provide one-way transmissions by anyone directly to customers or any other type of video programming or other programming or transmission within the City that may be subject to a cable television license or franchise within the City's boundaries.
 - 1.9.1. Licensee shall not use Licensee's Facilities to provide Cable Services, cable television, or for open video service without the proper formal authorization by the City in separate agreements.
 - 1.9.2. Licensee may enter into User Contracts, as defined in Section 3.8, to allow third-parties to use Licensee's Facilities for Cable Services, cable television, or for open video service only if the third-party has already entered into the proper agreements with the City that allows the third-party to conduct such activities.

2. USE OF THE ROW; PERMITS

- 2.1. Maintenance of Licensee's Facilities. Licensee shall be solely responsible for all maintenance, repair, and provision of all utilities for Licensee's Facilities under this Agreement. Licensee shall at all times repair and maintain Licensee's Facilities and the

Route at Licensee's sole expense in a sound, clean, safe manner, meeting or exceeding the best industry practices.

- 2.2. Liability for Licensee's Work. For purposes of this Agreement, whenever work is done in the ROW or adjacent to the ROW as part of any work Licensee is performing in the ROW, Licensee agrees that it is solely responsible for the acts, errors, omissions, and any negligence of any or all persons, firms, partnerships, corporations, associations or other organization, or a combination of any of them, including any subcontractor hired and/ or used by Licensee, that performs services or provides goods relating to this Agreement and that the obligations of this Agreement are imposed on both Licensee and any of Licensee's contractors (and any subcontractors used thereunder), who will be considered Licensee's representatives and for whom Licensee will be responsible.
- 2.3. Licensee shall ensure that Licensee and its employees, agents, contractors, and representatives comply with all ROW use requirements, including, but not limited to, the following:
 - 2.3.1. Licensee shall ensure that Licensee's Facilities are constructed, installed, operated, repaired, and/or maintained in accordance with the Surprise City Code and established practices with respect to the ROW, including, but not limited to, obtaining the proper permits prior to commencing any work and following all terms and conditions of such permits.
 - 2.3.2. Licensee's use of the ROW shall be according to plans approved by the City Engineer, provided that such approval of plans shall not be unreasonably withheld or delayed.
 - 2.3.3. Licensee's Facilities to be constructed, installed, operated, maintained, upgraded, and/or removed shall be located or relocated as to interfere as little as possible with traffic or other authorized uses within the ROW. Any phases of construction and/or installation relating to traffic control, backfilling, compaction, paving, and/or location or relocation of Licensee's Facilities shall be subject to regulation by the City Engineer.
 - 2.3.4. Provided such guidelines complies with State and Federal law, the City may issue reasonable policy guidelines to all Telecommunications Services licensees/permittees to establish procedures for determining how to control the issuance of engineering permits to multiple licensees/permittees for the same one-mile segments of the ROW. Licensee agrees to cooperate with the City in establishing such policies with procedures established by the City Manager or their designee to coordinate the issuance of multiple engineering permits in the same one-mile segments of the ROW.
 - 2.3.5. Licensee and its employees, agents, contractors, and representatives are subject to the City's exercise of its police, regulatory, and other powers as the City now has or may later obtain, and a license or other agreement may not waive application of the same. The City shall have continuing jurisdiction and supervision over any facilities located within or on the ROW, including, but not limited to, Licensee's Facilities. Daily administrative, supervisory, and enforcement responsibilities are hereby delegated and entrusted to the City Manager or their designee to interpret, administer, and enforce the provisions of this Agreement.

- 2.4. Phasing Plan. License desires to install, operate, maintain and repair Conduit and Fiber Optic Cable within the City's right-of-way. Such Conduit and Fiber Optic Cable shall be installed in phases as agreed upon by Licensee and the City. Licensee will work to minimize the impact of Conduit and Fiber Optic Cable installations, maintenance, restoration, and repairs on the safety, health, comfort, quiet, and good order of the citizens, businesses, and others who use those rights-of-ways impacted by the project by developing segments of the project to be completed in sequence as set forth in this Agreement, as well as mitigating the inconvenience to the public; such sequence shall be phased in accordance with the Phasing Plan, attached as Exhibit B and incorporated herein ("Phasing Plan"). The Phasing Plan may be amended from time to time by mutual written consent of Licensee and the City. Such amendments shall require an updated phasing plan to be reviewed and approved by both parties and such approval shall not be unreasonably withheld.
- 2.5. Permits before Construction/Installation. Licensee may not install, construct, locate, or attach any Licensee's Facilities to any property within the City, including the ROW, until Licensee has applied for and received approval for permits from the City Engineer. Licensee shall be solely responsible for any and all acts, errors, omissions, and negligence of Licensee's contractors (and any subcontractors used thereunder) who are involved in the design, installation, construction, maintenance, repair, location, relocation, and/or any other activity involving Licensee's Facilities subject to this Agreement. Licensee and Licensee's contractors (and any subcontractors used thereunder) shall comply with all provisions of the Surprise City Code, including, but not limited to, off-site construction regarding streets and sidewalks and other applicable City and/or Maricopa County regulations. All rights hereunder are granted under the express condition that the City shall have the power at any time to impose lawful restrictions and limitations upon, and to make regulations as to Licensee's use of the ROW as may be deemed best for the public interest, safety, or welfare, to the same extent that such restrictions and limitations are applied to all non-governmental occupants/users of the ROW.
- 2.6. Monthly Permit Quantity. In order to facilitate plan review, approval, inspections and issuance of permits in accordance with the City's published review time frames, the City and Licensee have agreed that no more than 3 ROW permits may be applied for by Licensee per month and no more than 3 ROW permits may be "open" at any one time. If the amount of "open" permits exceeds 3 in any given month the Licensee shall not submit and the City will not accept any additional permit submittals until such time the "open" permits exceeding the agreed upon amount is cured. "Open Permits" are those permits which have not been finalized by City staff and with such finalization occurring post restoration as defined in this Agreement.
- 2.7. Third Party Plan Review and Inspections. The implementation of this Agreement shall be in accordance with the permit process of the City. Subject to the City's prior written approval, independent consultants and advisors may be retained by the City at its sole discretion if requested by the Licensee, and if approved by the City. If requested and approved by the City, in addition to the City's standard fee, Licensee shall pay all costs incurred by the City for any private, independent consultants and advisors retained by the City, at Licensee's request and City's approval, for assistance in the permit process. Any such consultants and advisors utilized shall take instruction from, be controlled by, and be responsible to the City, not Licensee.

- 2.8. Details/Specifications for Permits. Licensee shall submit all applicable permit applications together with the details, plans, and specifications for City review and approval, and pay all applicable application, review, and inspection fees, prior to any and all construction work to be performed pursuant to this Agreement.
- 2.9. Stipulations. Licensee and its contractors shall abide by all stipulations of all licenses and permits issued.
- 2.10. Permits for Relocation. If Licensee desires to change the location of any portion of Licensee's Facilities from the initial permit application(s), Licensee shall apply for and obtain approval for an amendment to the permit prior to installation or construction, which approval shall not be unreasonably withheld or delayed.
- 2.11. Criteria for Approval. The City will approve or deny applications based on the availability of space at the location(s) sought by Licensee, safety, and other considerations in accordance with the Surprise City Code, the City's practice, applicable ROW construction regulations, and other applicable laws.
- 2.12. Construction Standards. Any of Licensee's Facilities placed in the ROW shall be constructed using industry standard boring and trenching construction methods. Other material placed in the ground may include concrete manholes, generally 4x4x4, pull boxes/handholes (#7s and #9s) and HDPE couplings and elbows, fiber optic cable, splice cases, tracer wire, grounding material, mule tape, jet string and conduit plugs. Licensee and/or its contractors shall install any new Conduit and access points (e.g. manholes, pull boxes) using industry standard practices and in full compliance with the Uniform Standard Specifications for Public Works Construction sponsored and distributed by the Maricopa Association of Governments ("MAG") as amended, the City's supplements to MAG, and the City's Engineering Development Standards ("EDS").
- 2.12.1. Aerial Facilities. In accordance with the EDS, Licensee may place Fiber Optic Cables above ground along the Route where there are existing aerial/aboveground facilities. If such existing aerial/aboveground facilities are subsequently relocated underground, Licensee shall relocate its then-existing aerial/aboveground Fiber Optic Cables underground in those locations and locate any new Fiber Optic Cables underground in those locations.
- 2.13. Written Approval for Changes. Licensee shall obtain written approval from the City Engineer or their designee if Licensee desires to change any components of any Licensee's Facilities, which shall not be unreasonably withheld, delayed, or denied.
- 2.14. Work Restrictions/Requirements. Licensee shall comply with and ensure that its contractors comply with the City of Surprise Temporary Work Zone Traffic Management Policy ("Surprise Work Policy"), as amended from time to time, herein incorporated by this reference. All of Licensee's work under this Agreement shall follow the Surprise Work Policy, which includes, but is not limited to, defined road types, allowable hours of work and holiday/event restrictions, and other work requirements and restrictions. The City will provide the Surprise Work Policy as requested and may be found on the City of Surprise website.
- 2.15. Right to Inspect. The City shall have the right, but not the obligation, to inspect all construction and/or installation work performed subject to the provisions of this Agreement

and to make such tests as the City deems necessary to meet the City's standards, the Surprise Work Policy, the MAG Uniform Standard Specifications and Standard Details for Public Works Construction, and any and all applicable City supplements thereto.

- 2.16. Common Installations. Licensee shall reasonably coordinate the installation of Licensee's Facilities with other utilities and the City to accommodate opportunities for common installation. Nothing herein shall require Licensee to incur any material additional expense to accommodate common installations.
- 2.17. Boring; Street Openings. Although the exact placement and location of Licensee's Facilities shall be determined by the City through the permitting process, Licensee has expressed its intent and the City has expressed its desire to have such Licensee's Facilities installed outside of the paved street area whenever such location is feasible and reasonable. If Licensee intends to place Licensee's Facilities by directional boring under such streets when feasible and reasonable, said bore profiles based on vacuum pothole information shall be part of the engineered plans to be submitted to the City. Arterial streets shall not be bored, unless approved by the City Engineer in writing. In the event that a street opening in the pavement cannot be avoided, Licensee agrees to pay a fee in accordance with the City's Development Services Fee Schedule, as amended, and the Surprise City Code.
- 2.18. Dedicated Personnel. Licensee shall provide and identify a representative (e.g. project manager) who shall be the contact person for the City during any construction periods.
- 2.19. Adjacent Property-Owners. Licensee shall provide written notice to adjacent property-owners, or other individuals or entities having lawful control of adjoining property, of any activity by Licensee that may interfere with access to said property during all construction activities or other operations, except to the extent that this requirement of maintain access is waived in writing by the adjacent property-owner or other individual or entity having lawful control of such adjoining property. If an emergency requires activity without such written notice, Licensee shall use commercially reasonable efforts to provide timely actual notice to the adjacent property-owner or other individual or entity having lawful control of such adjoining property. Upon request, Licensee shall promptly provide the City with the documentation of such permission from such affected property owner.
- 2.20. Opening/Alteration. Whenever Licensee or Licensee's contractors (and any subcontractors used thereunder) shall cause any opening or alteration to be made for any purpose in any public streets or public places the opening or alteration shall be completed and restored with due diligence within seven (7) business days following completion of Licensee's work which necessitated such opening or alteration, weather permitting. Licensee shall upon the completion of the opening or alteration, restore the property, improvements or landscaping disturbed by Licensee or Licensee's contractors (and any subcontractors used thereunder) to a condition substantially comparable to the condition before the opening or alteration and the restoration shall be performed with due diligence within a reasonably prompt time.
- 2.21. Restoration. After any work, installation, repair, maintenance, replacement, or relocation work performed in the Route, Licensee shall restore all disturbed areas of the Route, affected ROW, and any affected surrounding property to the same condition or better that existed immediately prior to the commencement of the installation, repair, maintenance, replacement or relocation work. Such restoration includes, but is not limited to, repairing

and/or replacing to the City's standards, rules, and policies (as amended from time to time) all pavement, sidewalks, curbs, landscaping, or other City improvements that may be disturbed or damaged by Licensee's activities or work under this Agreement.

- 2.22. Clean; Removal of Debris. Licensee and/or its contractors shall, during construction and upon completion of the work, remove all temporary construction facilities, debris, and unused materials provided for in the work, and put the work site, the Route, and the ROW in a safe, neat, and clean condition.
- 2.23. Safety. Licensee and its contractors shall be solely and completely responsible for the conditions of any job site, including safety of all individuals (including employees) and property, during performance of the work. This requirement shall apply continuously and is not limited to normal working hours. The safety provisions herein shall conform to all applicable federal (including OSHA), state, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the stricter requirement shall be followed. Licensee's failure to thoroughly familiarize itself with the aforementioned safety provisions shall not relieve Licensee from compliance with these provisions.
- 2.24. Traffic Control. Licensee shall comply with the following traffic control requirements:
- 2.24.1. Licensee's traffic control shall comply with the City of Surprise Temporary Work Zone Traffic Management Policy, herein incorporated by this reference. Licensee shall follow the guidelines contained in the latest editions of the Manual on Uniform Traffic Control Devices ("MUTCD"), herein incorporated by this reference, and the City of Phoenix Traffic Barricade Manual, herein incorporated by this reference. Licensee shall additionally comply with any special provisions herein.
- 2.24.2. At the time of the pre-construction conference, Licensee shall designate an individual who is well qualified and experienced in construction traffic control and safety, to be responsible for implementing, monitoring, and altering traffic control measures as necessary to insure that traffic is carried through the work area in an effective manner and that motorists, pedestrians, bicyclists, and workers are protected from hazards and accidents. Any entity wishing to obtain a permit to place, maintain, and/or remove temporary traffic control within the City of Surprise shall obtain an annual traffic control permit from the City per the City of Surprise Temporary Work Zone Traffic Management Policy. At the same time, the City shall designate a representative who will be responsible for ensuring that all traffic control and traffic control alterations are implemented per the traffic control specifications as defined in the approved traffic control plan.
- 2.24.3. Licensee shall have the full responsibility and liability for traffic control for a project. Licensee shall submit a traffic control plan ("Traffic Control Plan") to Traffic Engineering for approval – five (5) business days prior to beginning work under this Agreement. The Traffic Control Plan shall include all motor vehicles, bicyclists, and pedestrians. Licensee shall not begin construction until the Traffic Control Plan is approved by the City. An approved Traffic Control Plan shall be maintained onsite during all phases of construction; otherwise, construction will cease until the Traffic Control Plan is approved. During construction it may be necessary to alter traffic control as approved by Traffic Engineering. Alterations to traffic control shall be in accordance with City of Surprise Temporary Work Zone Traffic Management Policy, the latest edition of the MUTCD, or the latest edition of the City of Phoenix

Traffic Control Manual. The most restrictive manual shall apply. Licensee shall pay any and all applicable barricade fees.

2.24.4. In the event Licensee or Licensee's contractors (and any subcontractors used thereunder) damages any traffic signal equipment, traffic signal conduit, loop detectors, and/or circuits, Licensee shall have them repaired immediately at its expense by an electrical contractor that has had traffic signal experience which is pre-approved by the City. Any damage repaired by the City will be billed to Licensee at cost.

2.24.5. Licensee shall notify all adjacent and/or affected residents and/or businesses in advance of any street, alley, sidewalk, and driveway closures per the Temporary Work Zone Traffic Management Policy so that they can make suitable arrangements to have all vehicles moved to a satisfactory location outside the closed area.

2.24.6. Pedestrian access shall be maintained along the length of the project at all times per the requirements of the ADA and as approved by Traffic Engineering.

2.25. Blue Stake. Licensee and Licensee's contractors (and any subcontractors used thereunder) shall comply with A.R.S. §§ 40-360.21 through 40-360.32 and participate as a member of the Arizona Blue Stake Center with the necessary records and persons to provide location service of Licensee's Facilities upon receipt of a locate call or as promptly as possible, but in no event later than two (2) working days. A copy of the agreement or proof of membership shall be filed with the City Engineer. Notwithstanding the foregoing, the City and Licensee may enter into an agreement to extend such 2-day response time, subject to the terms of this Agreement.

2.26. Compliance with Laws. Licensee shall comply with all applicable laws as amended from time to time, including but not limited to, the Surprise City Code, Arizona law, and federal law in the exercise and performance of its rights and obligations under this Agreement. If it is necessary for Licensee to comply with any law or regulation of the Federal Communications Commission ("FCC") or the ACC) to engage in the business activities anticipated by this Agreement, Licensee shall comply with such laws or regulations. Provided, however, no such law or regulation of the FCC or ACC shall enlarge or modify any of the rights or duties granted by this Agreement without a written modification to this Agreement.

3. **NON-EXCLUSIVITY; THIRD-PARTY CONTRACTS**

3.1. Non-Exclusive. This Agreement is non-exclusive and nothing herein shall prevent the City from granting like or similar privileges to any other individual or entity.

3.2. City's Control of ROW. Any and all rights granted to Licensee shall be subject to the prior and continuing right of the City to use and manage the ROW exclusively or concurrently with any individuals and/or entities and to manage the City's own conduit, fiber optic cables, or facilities. Any and all rights granted to Licensee shall be subject to all deeds, easements, dedications, covenants, restrictions, encumbrances, and claims to title which may affect public property. Nothing in this Agreement shall be construed to grant, convey, create, or vest any real property interest in land to Licensee, including any fee or leasehold interest, easement, or any franchise rights. The City shall have full authority to regulate,

on a non-discriminatory basis, use of the Route and the ROW and to resolve competing demands and preferences regarding use of the Route and the ROW and to require Licensee to cooperate and participate in implementing such resolutions. Without limitation, the City may take any or all of the following into account in regulating use of the Route and the ROW:

3.2.1. All timing, public, operational, financial, and other factors affecting existing and future proposals, needs, and plans for Competing Activities, as defined in Section 3.6;

3.2.2. All other factors the city may consider relevant, whether or not mentioned in this Agreement; and/or

3.2.3. Differing regulatory regimes and/or laws applicable to claimed rights, public benefits, community needs, and all other factors relating to Competing Activities, as defined in Section 3.6.

3.3. Accommodate City's Activities. Nothing in this Agreement shall be construed to prevent the City from abandoning, altering, improving, repairing, or maintaining its facilities and/or the ROW, and for that purpose to require Licensee, at no expense to the City, to remove, relocate, or abandon in place Licensee's Facilities in order to accommodate the activities of the City. The City shall not be liable for lost revenues sustained by Licensee, however caused, because of damage, modification, alteration, or destruction of Licensee's Facilities in the ROW, when such costs or lost revenues result from the construction, operation, and/or maintenance of City facilities and/or the ROW, provided that the activities resulting in such costs or lost revenues are conducted in accordance with applicable laws and regulations.

3.4. City's Rights. There is hereby reserved to the City every right and power required pursuant to this Agreement to be herein reserved or provided by any lawful ordinance or law, and Licensee by its execution of this Agreement agrees to be bound thereby and to comply with any lawful action or lawful requirements of the City in its exercise of such rights or power, heretofore or hereinafter enacted or established. Neither the granting of any agreement nor any provision hereof shall constitute a waiver or bar to the exercise of any lawful governmental right or power of the City.

3.5. Interference with Communications Operations. Licensee shall not install, operate, or allow the use of any equipment, methodology, or technology that may or would interfere with the optimum effective use or operation of the City's existing or future fire, emergency, or other communications equipment, methodology, or technology. Licensee shall be responsible to ensure compliance with this requirement by all persons using the Route through or under Licensee. If such interference should occur, Licensee shall immediately discontinue using the equipment, methodology, or technology that causes the interference until Licensee takes corrective measures to alter the Route

3.6. Competing Activities. Licensee accepts the risk that there may exist, now or in the future, all manner of work and improvements upon the ROW ("Competing Activities"). Competing Activities include, but are not limited to, laying construction, erection, installation, use, operation, repair, replacement, removal, relocation, raising, lowering, widening, or realigning, whether above, upon, or below the surface of the ROW and whether occasioned by the existing or proposed uses of the ROW or existing or proposed uses of

adjoining or nearby land, (i) all manner of streets, sidewalks, alleys, trails, ways, and traffic control devices of every description, (ii) all manner of other transportation facilities and their appurtenances, (iii) all manners of pipes, wires, cables, conduits, sewers, storm drains, pumps, valves, switches, conductors, connectors, poles, supports, access points and guys of every description, (iv) all manner of other utility facilities and their appurtenances, (v) all manner of canals, drains, bridges, underpasses, culverts and other encroachments of every description and all manner of other facilities and their appurtenances, and (vi) all other uses of the ROW that the City may permit from time to time.

- 3.7. Subordinate Rights. Any right or privilege claimed pursuant to this Agreement by Licensee for any use of the ROW shall be subordinate to: (i) any prior or subsequent lawful occupancy or use thereof by the City or any other governmental entity; (ii) any prior lawful occupancy or use thereof by any other individual or entity; and (iii) any prior easements therein, provided however, that nothing herein shall extinguish or otherwise interfere with the property rights established independent of this Agreement. Licensee shall not obstruct, impede, disrupt, or interfere with or prevent any Competing Activities or any person or entity that has prior or subsequent rights to use the Route and/or ROW.
- 3.8. Third-Party Contracts. Licensee may enter into contracts with third-parties ("ROW Users") in the ordinary course of Licensee's business for use of Licensee's Facilities within the Route, subject to this Agreement. Such contracts ("User Contracts") are subject to all terms and conditions of this Agreement, including, but not limited to, the following:
- 3.8.1. No ROW User shall transmit data over Licensee's Fiber Optic Network, use Licensee's Facilities, or use the Route for any purpose, except under a User Contract with Licensee;
- 3.8.2. ROW Users shall not perform any construction, maintenance, repair, or any other work in the ROW, unless a ROW Users has a separate agreement with the City to do so; and
- 3.8.3. Identities of ROW Users shall be disclosed to the City, upon reasonable request, but will be deemed confidential if consistent with Arizona public records laws.
- 3.9. Disruption by Others. The City and its officials, agents, employees, or contractors shall not be liable to Licensee or its customers, the ROW Users, or other contractors for any service disruption or for any other harm caused to them or the Route due to Competing Activities.
- 3.10. Compliance with Agreement. Licensee shall cause all persons and/or entities using the ROW through or under Licensee or this Agreement to comply with all terms and conditions of this Agreement. Licensee is responsible for any and all violations of this Agreement by persons and/or entities using the ROW through or under Licensee or this Agreement.

4. FEES

- 4.1. City's Right of Fair and Reasonable Compensation. By entering into this Agreement, neither party waives any current or future rights reserved under the law or the Telecommunications Act of 1996, including, but not limited to, those rights pursuant to

Section 253(c) that reserve the City's right to manage the ROW and to require fair, non-discriminatory and reasonable compensation from Licensee for use of the ROW.

4.2. Licensee's Payments. Licensee shall pay to the City each of the following separate and cumulative amounts (collectively, the "Fee Payment"):

4.2.1. An amount (the "Annual Fee Payment") based on Licensee's use of the Route to provide interstate telecommunications services as such services are defined by A.R.S. § 9-583(C)(2), for any leasing/licensing of fiber to third-parties, the placement or leasing/licensing of empty conduit, the placement or leasing/licensing of any dark fiber, and/or as otherwise described in section 4.3.

4.2.2. An amount (the "Permit Fee Payment") based on Licensee's permit review and other costs as set out below.

4.2.3. An amount (the "Violation Fee Payment") based on certain breaches by Licensee of this Agreement as set out below.

4.2.4. An amount (the "Transaction Privilege Tax") based on any qualifying services under the Surprise Tax Code.

4.2.5. All applicable fees as set forth in the City of Surprise Citywide Fee Schedule, as amended and adopted by the Surprise City Council, which is hereby incorporated by reference. (The Citywide Fee Schedule may be found on the City's website, under the Finance Department page. The current link to the Finance Department page containing the Citywide Fee Schedule may be found at: <https://surpriseaz.gov/240/Finance>.)

4.2.6. All other amounts required by this Agreement.

4.3. Annual Fee Payment Amount. The amount of the Annual Fee Payment shall be eighty-nine cents (\$0.89) per linear foot of trench in the ROW.

4.3.1. On annual anniversary of the Effective Date, Licensee will report to the City the amount of linear feet of trench permitted and installed in the ROW or on other City-owned property. The Annual Fee Payment for the coming year is calculated by multiplying the current annual per linear foot fee, as adjusted by annual CPI under section 4.6 for the year of payment, by the linear footage of trench permitted or installed in the ROW or on other City-owned property. The City must receive the Annual Fee Payment before the City will issue any new encroachment permits for additional facilities or equipment in the ROW or other City-owned property.

4.3.2. The Annual Fee Payment shall be adjusted annually as set forth in this Section. Commencing on the first anniversary of the Commencement Date (being the start of Year 2), and during the Term on each anniversary thereafter, the adjusted fee payment amount shall be the Annual Fee Payment established for the immediately preceding Year as increased by the percentage increase, if any, in the CPI-U (as defined below) from the Base Year 1st Half (as defined below) to the Current Year 1st Half (as defined below). The "CPI-U" means the Consumer Price Index, All Items, for All Urban Consumer, Phoenix Area, published by the Bureau of Labor Statistics of the United States Department of Labor (the "Bureau"). The period from

January to June immediately preceding the then-current anniversary of the Commencement Date shall be the "Current Year 1st Half," and the period from January to June for the year before that shall be "Base Year 1st Half." (For example, if the Commencement Date were September 1, 2017 and the increase in the Annual Fee Payment were being calculated for the Year beginning September 1, 2018, then the increase would be the increase in the CPI-U from 1st Half 2017 to 1st Half 2018). In no event may the adjusted fee be less than the Annual Fee Payment for the prior year. If the Bureau ceases publishing the Consumer Price Index, or materially changes the method of its computation or other features thereof, the City shall substitute therefore a comparable index that is reasonably acceptable to both parties and is based upon changes in the cost of living or purchasing power of the consumer dollar published by any governmental agency, responsible financial periodical, trade association, or educational institution. For example, which shall be used only as an example:

Linear Foot Fee

YEAR	1st Half CPI-U		2017 Fee		2018 Adjusted Fee	% of change
2018	137.828	X	0.89	=	0.92	3.9%
2017	132.653					

- 4.3.3. In the event Licensee cancels or returns a permit and does not construct or install the Licensee's Facilities approved by such a permit, the fees Licensee previously paid for the respective permit may be applied as a credit to a future Annual Fee Payment or may be refunded to Licensee by the City.
- 4.4. Appropriate Taxes. Licensee shall pay any applicable city, county and state transaction privilege and use taxes. Such taxes are in addition to any non-tax amounts owed by Licensee pursuant to this Section.
- 4.5. Permit Fee Payment Amount. Licensee shall pay all applicable construction permit fees, including, but not limited to, charges for encroachment permit applications, issuance, inspection, testing, plan review, and any other fees adopted by the City and applicable to persons doing work or encroaching in the ROW. A general list of such fees may found in the City's Citywide Fee Schedule, as incorporated in Section 4.2.5.
- 4.6. Adjustments. All fixed dollar amounts stated in this Agreement shall be automatically adjusted upward annually on July 1st. The adjustment shall be made on the basis of changes in the United States Consumer Price Index for all Urban Consumers (CPI-U), Phoenix Area, all items, published by the United States Bureau of Labor Statistics (the "Cost of Living Index"). The amount of each adjusted amount shall be calculated as described in Section 4.3.2. This computation is expressed by the following formula:

$$\frac{\text{Current Year 1st Half}}{\text{Base Year 1st Half}} \times \text{Current Amount} = \text{Adjusted Fee}$$

provided, that in no event shall any amount be adjusted downward from any previous period. If the Cost of Living Index has not been published on any adjustment date, the City shall have the right to estimate the Cost of Living Index and to make the adjustments

based on such estimate, subject to adjustment when the actual figures become known. If such Cost of Living Index shall, for any reason whatsoever, not be published or readily identifiable at the adjustment date, an index published by any state or federal agency or an index, formula or table accepted generally by the real estate profession shall be used as chosen by the City in the City's reasonable discretion. Any delayed adjustment shall be effective retroactively. For example, which shall be used only as an example:

Fee for Failure to properly restore public ROW

YEAR	1st Half CPI-U		2017 Fee		2018 Adjusted Fee	% of change
2018	137.828	X	600.00	=	623.41	3.9%
2017	132.653					

- 4.7. Fee Payment Cumulative. All items of Fee Payment shall be cumulative and separate from each other.
- 4.8. Fee Payment Schedule. Except as specifically provided elsewhere for Violation Fee Payment, Licensee shall pay all Fee Payment on the following schedule:
 - 4.8.1. Licensee shall pay Annual Fee Payment by the anniversary date of each year of this Agreement.
 - 4.8.2. Licensee shall pay Permit Fee Payment at the times and in the amounts specified by the City's normal processes for permitting, including, but not limited to, construction permits, encroachments, issuances, inspections, testing, plan review, and other processes applicable to persons doing work or encroaching in the ROW.
 - 4.8.3. All other Fee Payment shall be payable quarterly in arrears on the last calendar day of the first month of the next calendar quarter. For example, the Violation Fee Payment for the first calendar quarter of a year shall be payable on or before April 30.
- 4.9. Fee Payment Amount Report. Each installment of Fee Payment by Licensee, other than Permit Fee Payment, shall include a report showing the manner in which each component of the Fee Payment was calculated. The report shall summarize the transactions giving rise to the License Fee Payment.
- 4.10. Damage Fees. Licensee shall pay all reasonable costs associated with any damage caused by Licensee or its subcontractors, employees, or agents to the ROW or other public property.
- 4.11. Violation Fee Payment. During the Term of this Agreement, the City may suffer certain money damages in the form of administrative cost and inconvenience, disharmony among Competing Activities, and general inconvenience in ROW use by the City, Competing Activities, and the public as a result of an uncured violation of this Agreement by Licensee ("Inconvenience Costs"). Assessing the actual damages for these Inconvenience Costs may be impracticable to determine. In lieu of paying the actual damages for these Inconvenience Costs, the City may assess Violation Fee Payments against Licensee to cover the damages that caused the Inconvenience Costs and is as described in Section 4.11.1. The Violation Fee Payments will be assessed with the processes described in Section 4.11.2. The Violation Fee Payments are only intended to remedy the

Inconvenience Costs that the City suffers. Licensee's payment of Violation Fee Payment does not in any way excuse any breach by Licensee of this Agreement or limit in any way the City's obtaining any other legal or equitable remedy provided by this Agreement or otherwise for such breach. For example, Licensee's obligation to pay Violation Fee Payment does not in any way detract from Licensee's indemnity and insurance obligations under this Agreement, which shall apply according to their terms in addition to Licensee's obligation to pay Violation Fee Payment. Provided however, that if the City determines to exercise any other legal or equitable remedy provided by this Agreement or otherwise, City may not, in addition to such remedy, assess a Violation Fee Payment. Except for any failure to properly restore the public ROW under 4.11.1.1, or other violation of this Agreement by Licensee that in the City's sole determination may impact the health, safety, or welfare of the public, City shall use reasonable efforts to notify Licensee of any violation of this Agreement and permit Licensee an opportunity to cure such violation in accordance with the applicable cure period in this Agreement or as otherwise agreed by City.

4.11.1. The Violation Fee Payments per calendar day or part thereof are as follows:

- 4.11.1.1. The amount of Six Hundred Dollars (\$600.00) per calendar day for Licensee's failure to properly restore the public ROW or to correct related violations of specifications, code, ordinance or standards within ten (10) calendar days after the City's notice to correct such defects except where such curative efforts by Licensee are precluded by a force majeure event. Such Violation Fee Payment shall be in addition to any cost the Licensor may incur to restore the ROW or correct the violation.
- 4.11.1.2. Following a ten (10) day notice to cure, the amount of Two Hundred Fifty Dollars (\$250.00) per calendar day for each failure to make Licensee's books and records available as required by this Agreement.
- 4.11.1.3. The amount of Five Thousand Dollars (\$5,000.00) for any unauthorized partial or total assignment of this Agreement.
- 4.11.1.4. The amount of Five Hundred Dollars (\$500.00) per instance of any other action or non-action by the Licensee in violation of this Agreement that causes Inconvenience Costs and that is not cured after three (3) calendar days' notice.

4.11.2. Process for assess a Violation Fee Payment:

- 4.11.2.1. If the City determines that Licensee is liable for Violation Fee Payment, then the City shall issue to Licensee a notice of the City's assessing a Violation Fee Payment. The notice shall set forth the nature of the violation and the amount of the assessment.
- 4.11.2.2. Licensee shall pay the Violation Fee Payment within ten (10) calendar days after the City's notice. The following shall apply for any Violation Fee Payment:
- 4.11.2.3. Licensee shall have thirty (30) calendar days after the notice to pay the Violation Fee Payment or give Licensor notice contesting the assertion of noncompliance.

- 4.11.2.4. If Licensee fails to respond to the notice, Licensee shall pay the Violation Fee Payment.
- 4.11.3. Except as may be expressly stated in this Section 4, no cure period applies to the accrual of Violation Fee Payment.
- 4.11.4. Licensee may elect to draw upon the letter of credit to collect the Violation Fee Payment
- 4.12. Deadlines for Annual Fees. For any annual payment(s) owed, Licensee shall make such payment(s) to the City within ten (10) business days of the Effective Date and by the anniversary of the Effective Date for the duration of the Term.
- 4.13. Late Fees. Licensee agrees that if it fails to pay any amounts owed to the City by the time prescribed for payment, Licensee shall pay interest on the amounts owed at the rate of one percent (1%) per month.
- 4.14. Requirement of Insurance, Performance Bond, and Letter of Credit. Prior to any work being performed in the ROW, Licensee shall secure all performance bond requirements in this Agreement and provide the City with all insurance requirements prior to the commencement of any work, including, but not limited to, all certificates of insurance required by this Agreement.
- 4.15. Performance Bond.
- 4.15.1. Prior to receiving any permit to construct, install, maintain or perform any work on public property, Licensee shall cause to be filed and maintain until completion of the construction, a faithful performance bond in favor of City in the sum of One Hundred Thousand Dollars (\$100,000.00) or 125% of the amount of the construction costs (whichever is greater) to guarantee that Licensee shall observe, fulfill and perform each and every term of this Agreement. In case of any breach of any condition of this Agreement, any amount of the sum of the bond, up to the whole thereof, may be forfeited to compensate the City for any damages it may suffer by reason of such breach. Said bond shall be acknowledged by Licensee, as principal, and shall be issued by a surety with an AM Best rating of A-VII or better for the last four quarters. The City and Licensee agree that the process and procedure for drawing upon, curing, and replenishing the performance bond shall be the same as set forth below for the security fund.
- 4.15.2. If Licensee has completed the above construction and wants the bond released, the City will need to inspect and approve the construction prior to such release. However, a performance bond will be required for each subsequent or additional construction project and/or work on public property.
- 4.16. Letter of Credit.
- 4.16.1. Prior to applying for any permit to construct, install, maintain or perform any work in the ROW which requires a construction permit from the City pursuant to applicable Surprise Municipal Codes, Licensee shall provide either a cash deposit into a suitable interest-bearing account, established by the City, or a domestic irrevocable standby letter of credit, in the sum of not less than Fifty Thousand

Dollars (\$50,000.00) as security for the faithful performance by it of all the provisions of this Agreement, and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under the Agreement and license issued pursuant thereto, and the payment by the Licensee of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the Fiber Optic Network (the "security fund"). The City shall have the full power of withdrawal of funds from the account or letter of credit except that all interest accrued shall be payable to the Licensee on demand. No withdrawals shall be made from the security fund without the prior written approval of the City Engineer and ten (10) days' prior written notice of intent to withdraw to Licensee.

4.16.2. Within twenty (20) days after notice to Licensee that any amount has been withdrawn by the City from the security fund, Licensee shall deposit a sum of money or present to the City an additional irrevocable letter of credit sufficient to restore such security fund account to the original amount.

4.16.3. If Licensee fails, within ten (10) business days of a notice of intent to draw on the security fund, to either dispute the notice in writing; or pay the City any taxes or fees due and unpaid; or fails to repay to City, within such ten (10) business days of such notice, any damages, costs or expenses which City shall be compelled to pay by reason of any act or default of Licensee in connection with this Agreement; or fails, within thirty (30) days of such notice of failure by the City to dispute the notice in writing, or comply with any provision of this Agreement which the City reasonably determines can be remedied by an expenditure of funds from the security fund, the City may immediately withdraw the amount thereof from the security fund. Upon such withdrawal, the City shall notify Licensee of the amounts and date thereof.

4.16.4. The rights reserved to the City, with respect to the security fund, are in addition to all other rights of the City whether reserved by this Agreement or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right City may have.

4.16.5. Licensee shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the Agreement or upon termination of the Agreement at an earlier date, provided that there is then no outstanding default on the part of the Licensee. Any funds that the City erroneously or wrongfully withdraws shall be returned to Licensee, within thirty (30) business days of such a determination.

4.17. In Kind. This Agreement does not currently require any in-kind payment to City by Licensee. However, if Licensee has not paid any fees required under Section 4, the Parties may agree in writing to new in-kind payments to offset to any fees not paid by Licensee to the extent permitted by law. This subsection imposes no obligation on the City to agree to offset any fees in this Agreement or in any future agreement.

4.18. Audits. The City shall have the right to audit or otherwise inspect any and all customer contracts, subleases, sublicenses, or otherwise subcontracts, including without limitation, all ROW User agreements with Licensee, to the extent reasonably necessary to confirm compliance with this Agreement, including proper payment of all fees under this Section

4. The City may conduct such audits as often as reasonably necessary in order to justify the necessary payments, but no less than one (1) time per annual term, beginning on the Effective Date.

5. RELOCATION

- 5.1. Licensee shall relocate, at no expense to the City, any of Licensee's Facilities, or other encroachment installed or maintained in, on or under any public place or ROW, as may be necessary to facilitate any public purpose or any City or other governmental project whenever directed to do so by City. Such relocations shall be accomplished in accordance with the directions from City and shall be pursuant to the same terms and conditions as the initial installation allowed pursuant to this Agreement and any applicable issued permits. Within ninety (90) days after service of notice by the City, Licensee shall remove the designated portions of Licensee's Facilities, or in the event that, by the nature of the removal such removal cannot be performed within the ninety-day period, Licensee shall take reasonable steps to remove Licensee's Facilities and diligently prosecute the removal to completion, and, if requested, restore the sidewalks and other ROW to a condition comparable to the condition before the construction of the public improvement at no cost and expense to the City.
- 5.2. Licensee agrees to obtain a permit as required by this Agreement prior to removing, abandoning, relocating, or reconstructing any portion of Licensee's Facilities on public property or ROW. Notwithstanding the foregoing, the City understands and acknowledges there may be instances when Licensee is required to make repairs that are of an emergency nature or in connection with an unscheduled disruption of Licensee's Facilities. Licensee will maintain any annual permits required by the City for such maintenance and emergency repairs. Licensee will notify the City before the repairs and will apply for and obtain the necessary permits in a reasonable time after notification.
- 5.3. If the City needs to perform any part of the necessary relocation or removal work that has not been done within the time required by the City, it shall be entitled to seek payment for such actual relocation costs by drawing upon the letter of credit or security fund required by this Agreement pursuant to Section 4.16 or the performance bond pursuant to Section 4.15.
- 5.4. The City has no obligation to relocate or otherwise move Licensee's Facilities, any City-owned facilities, Conduit, or Fiber Optic Cables, ROW Users' Facilities, or any other Facilities of persons or entities lawfully using the ROW. The City shall require that third parties be responsible for relocation work of Licensee's prior existing Licensee Facilities in the ROW not necessitated by the City.
- 5.5. Any relocation work performed by Licensee or its contractors shall be subject to and comply with this Agreement.

6. DAMAGE TO PUBLIC PROPERTY

- 6.1. In addition to any indemnity obligation under this Agreement, whenever the installation, use, maintenance, removal, or relocation of any of Licensee's Facilities is required or permitted hereunder, and such installation, removal, or relocation damages or disturbs the surface or subsurface of any ROW or public property or any public improvement that may be located thereon, therein, or thereunder, however such damage or disturbance was

caused, Licensee, at its sole cost and expense, shall promptly restore the surface or subsurface of the ROW or public property and/or repair or replace the surface, subsurface and/or public improvement therein, or thereunder, in as good a condition as before in accordance with applicable laws, normal wear and tear excepted, reasonably satisfactory to the City Engineer. If Licensee does not repair the damage or disturbance as just described, then City shall have the option, upon ten (10) business days' prior written notice to Licensee, to perform or cause to be performed such reasonable and necessary work on behalf of Licensee and to charge Licensee for the actual costs incurred by the City at City's standard rates.

- 6.2. Notwithstanding the notice provision above, in the event of a public emergency, the City shall have the right to immediately perform, without prior written notice to Licensee, such reasonable and necessary work on behalf of Licensee to repair and return public property to a safe and satisfactory condition in accordance with applicable laws, normal wear and tear excepted, reasonably satisfactory to the City Engineer. The City shall provide written notice to Licensee of the repairs as soon as practicable after the work has begun. Licensee agrees that any damage to City fiber, conduit, or other property must be replaced or repaired and restored with new or like-new materials. If the City needs to perform any part of the necessary repairs, relocation and/or removal work, it shall be entitled to seek payment for such repairs and/or relocation and/or removal costs from Licensee and may draw upon the performance bond and/or letter or credit or security fund required by this Agreement in full or partial satisfaction of such costs, if payment is not made by Licensee as required by Section 6.3 below.
- 6.3. Upon the receipt of a demand for payment by the City, Licensee shall, within thirty (30) days, reimburse the City for such costs.
- 6.4. For any pavement cuts by Licensee, Licensee agrees to restore the pavement.

7. PENALTIES FOR VIOLATION OF TERMS

- 7.1. The City's Remedies. The City may pursue any remedy at law, including but not limited to injunctive relief, civil trespass, and withholding other City permits and authorizations until Licensee complies with the terms of this Agreement or any applicable law. Such City remedies are cumulative and may be pursued in the alternative. The City's remedies set forth in this Agreement are not exclusive. Except as otherwise set forth in this Agreement, Election of one remedy by the City, including assessment of liquidated damages, does not preclude the use of other remedies.
- 7.2. Licensee's Remedies. Licensee sole remedy for any breach or threatened breach of this Agreement by the City shall be an action for equitable or injunctive relief.

8. TERMINATION

- 8.1. The City Manager has the authority to terminate, subject to Licensee's right to notice and cure where provided, this Agreement.
- 8.2. Nonbinding Arbitration Procedures. Pursuant to Ariz. Rev. Stat. § 9-582(A)(3), the parties shall submit to nonbinding outside arbitration to attempt to resolve disputes over recovery of reasonable, proportionate, and attributable costs of certain fees set forth in A.R.S., Title 9, Chapter 5, Article 7. Per A.R.S. § 9-582(A)(3), the parties specifically agree to comply

with the City Public Works Department's procedure entitled *Arbitration Procedure for Telecommunications Fee Disputes under A.R.S. § 9-582(A)(3)*, which is hereby incorporated by reference and will be provided to Licensee upon request.

- 8.3. Immediate Termination. The City may terminate this Agreement upon thirty (30) days' notice and Licensee's failure to remedy any of the following to the reasonable satisfaction of the City:

8.3.1. Licensee ceases doing business in the City;

8.3.2. If Licensee shall be the subject of a voluntary or involuntary bankruptcy, receivership, insolvency or similar proceeding or if any assignment of any of Licensee's or such other person's property shall be made for the benefit of creditors or if Licensee or such other person dies or is not regularly paying its debts as they come due (collectively a "Licensee Insolvency");

8.3.3. Licensee fails to keep the Certificate in effect following any right of appeal or due process of the ACC;

8.3.4. Licensee fails to maintain any insurance required by this Agreement;

- 8.4. Cure of Defect; Termination. The following instances are defects in performance by Licensee shall be deemed instances of "Default" by Licensee:

8.4.1. Licensee fails to comply with the material terms and conditions of this Agreement or applicable law, including, but not limited to, failing to maintain any insurance, security fund, or performance bond;

8.4.2. Licensee fails to make payments to the City in the amounts and at the times specified in this Agreement;

8.4.3. Licensee fails to comply with the Surprise Work Policy and any other construction, design, or other related requirement under this Agreement;

8.4.4. Licensee fails to construct in the designated, approved path of the Route;

8.4.5. Licensee fails to provide the current, accurate as-built plans and maps showing the Route, including all of Licensee's Facilities in the Route; and

8.4.6. Licensee fails to obtain or maintain the required licenses, permits, or other approvals pertaining to the ROW or timely pay any taxes pertaining to the ROW.

- 8.5. Curing Default. The City may terminate this Agreement if Licensee does not cure the defect in performance, as listed as Section 8.4 as instances of Default, within sixty (60) days (or such longer period of time as the City determines is reasonably necessary to cure) following the City's written notice of Licensee's defective performance. Upon the occurrence of Default or at any time thereafter, the City may do any of the following:

8.5.1. Pay or perform for Licensee's account, in Licensee's name, and at Licensee's expense, any and all payments or performances required to be paid or performed by Licensee;

- 8.5.2. Require an additional security deposit adequate in the City's sole discretion to protect the City and the ROW in light of Licensee's history of performance under this Agreement;
- 8.5.3. Abate at Licensee's expense any violation of this Agreement; and/or
- 8.5.4. Be excused without any liability to Licensee from further performance of any and all obligations under this Agreement.
- 8.6. No Need to Cure. The City will not need to provide Licensee with a cure period prior to termination if the City finds the defect in performance is due to intentional misconduct, a violation of law, or is part of a pattern of repeated and persistent violations where Licensee has already had notice and an opportunity to cure.
- 8.7. Licensee's Termination. Licensee may terminate this Agreement by providing the City with ninety (90) days' written notice and only upon making arrangements satisfactory with the City Engineer to remove all Licensee's above ground Licensee's Facilities from public property and the ROW, unless the City Engineer agrees in writing to allow Licensee to abandon part or all of Licensee's Facilities in place. If the City Engineer agrees to allow Licensee to abandon Licensee's Facilities in place, the ownership of such Licensee's Facilities, including everything permitted by City to be abandoned in place, shall transfer to City and Licensee shall cooperate to execute any documents necessary to accomplish such transfer within thirty (30) days of such allowance of abandonment.
- 8.8. Restoring the Route. Upon termination or revocation of this Agreement, Licensee shall cease using the Route. Licensee shall return the Route and any affected portions of the ROW or surrounding property affected by Licensee's Facilities and/or work to the same condition or better condition prior to the commencement of this Agreement, reasonable wear and tear excepted. Licensee shall remove all of Licensee's Facilities if requested by the City upon termination of this Agreement and/or revocation of the license granted herein, including, but not limited to, all above ground and subsurface portions of Licensee's Facilities.

9. GOVERNING LAW

It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Arizona, both as to interpretation and performance, without giving effect to its principles of conflicts of laws. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the federal or state courts located within or within the jurisdiction of Maricopa County, Arizona.

10. COMPLIANCE WITH LAWS

- 10.1. Compliance with A.R.S. § 38-511. Pursuant to A.R.S. § 38-511, the City may cancel this Agreement within three (3) years after execution of the Agreement without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City is or becomes at any time while this Agreement or an extension of this Agreement is in effect an employee of or a consultant to Licensee with respect to the subject matter of this Agreement. The cancellation shall be effective when Licensee receives written notice of the cancellation, unless the notice specifies a later time.

- 10.2. The Parties shall comply with all federal, state and local laws, codes, rules and regulations.
- 10.3. Compliance with A.R.S. § 35-393.01. Licensee hereby certifies that it does not, and will not, participate in during the term of this Agreement, a boycott of Israel in accordance with Arizona Revised Statute §35-393.01. Licensee hereby agrees to indemnify and hold harmless the City, its agents and employees from any claims or causes of action relating to the City's action based upon reliance upon this representation, including the payment of all costs and attorney fees incurred by the City in defending such an action.
- 10.4. Compliance with Federal Immigration Laws and Regulations. Licensee warrants that it complies with all federal immigration laws and regulations that relate to its employees and that it complies with A.R.S. § 23-214(A). Licensee acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this Agreement subject to penalties up to and including termination of this Agreement, and that the City retains the legal right to inspect the papers of any employee who works on the Agreement to ensure compliance with this warranty.

11. INDEMNIFICATION

- 11.1. Licensee acknowledges that it has liability for any and all of Licensee's Facilities installed in the public ROW and in the Route, its use and/or occupation of the ROW and the Route, for any work that is done in or adjacent to the ROW and/or the Route, for any loss or liability incurred by reason of any Toxic Substance (as defined in section 19) on or affecting the portion of the ROW and/or the Route used that is attributable to or caused by Licensee and/or its contractor(s), the failure to comply with the request for information and laws pertaining to public records (as further described in section 20.9), and for its exercise of its rights under this Agreement directly or through its contractor(s), except for the intentional or solely negligent acts on the part of the City or its agents. To the fullest extent permitted by law, Licensee, shall defend, indemnify and hold harmless the City, and its officials, boards, commissions, agents, contractors, subcontractors, or employees, individually and collectively, from and against any and all losses, claims, damages, suits, actions, payments, judgments, demands, expenses and costs, including but not limited to, reasonable attorney's fees incurred through all appeals ("Claims") arising out of or alleged to have resulted from or materially related to: (i) the acts, errors, mistakes, or omissions of Licensee, its employees, representatives, or any tier of contractors and/or subcontractors or any other person for whose acts, errors, mistakes, and/or omissions Licensee may be legally liable; (ii) for any loss or liability incurred by reason of any Toxic Substance on or affecting the portion of the ROW and/or the Route used that is attributable to or caused by Licensee and/or its contractor(s); (iii) the failure to comply with the request for information and laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments assessed against the City; and/or (iv) the City entering into this Agreement, or the acts or omissions of the City or its officials, boards, commissions, agents, contractors, subcontractors, or employees acting pursuant to or in furtherance of this Agreement. This defense and indemnification requirement includes any Claims or amounts arising or recovered under worker's compensation laws or any other law, bylaw, or ordinance, order or decree related to any failure on the part of Licensee, its agents, employees or representatives to fulfill Licensee's obligations under this Agreement, whether resolution of the above Claim(s) proceeds to judgment or not. The provisions of this Section shall survive termination of this Agreement. This Section applies even if the party seeking damages makes a claim against the City or brings a claim against the City based on vicarious liability or non-delegable duty.

- 11.1.1. In the event that a notice of claim is served on the City or litigation is commenced against the City for which Licensee has a duty to indemnify and defend the City pursuant to this Agreement, the City must tender the defense of the litigation to Licensee. Licensee shall have the right to retain counsel of its own choice, to settle all or any part of the litigation on terms acceptable to Licensee (and, where such terms directly obligate or affect the City, acceptable to the City). City may retain counsel to assist in the defense, at City's sole cost and expense. Licensee must consult with the City while conducting its defense of the City and must keep the Surprise City Attorney's Office informed of the status and progress of all litigation involving the City that has been tendered to Licensee or its insurance carrier.
- 11.1.2. The parties shall promptly notify each other in writing of any claims, demands, or lawsuits which may involve the City and provide copies of all accident reports, incident reports, statements or other documents that are relevant to the claims, demands or lawsuits or which may lead to the discovery of relevant materials or information, in the possession of the other party, its employees, representatives, contractors, and/or others.
- 11.2. Subject to any privilege and/or confidentiality legal protections, both parties agree to make their employees, representatives, and contractors available to the other party to gather any relevant information relating to an incident from which any claim, demand, or lawsuit arises.
- 11.3. It is the purpose of this Section to provide maximum indemnification to the City under the terms and conditions expressed and, in the event of a dispute, this Section shall be construed (to the greatest extent permitted by law) to provide for the indemnification of the City by Licensee against any and all claims, demands or lawsuits. The sole exception shall be an express determination by a court of competent jurisdiction upon full adjudication of the case that the damages arose either from City's sole negligence or intentional acts or that the City was comparatively at fault for the damages. Only in this event may Licensee then commence an action against the City for damages related to that portion judicially determined to be City's fault.
- 11.4. The provisions of this Section shall not be dependent or conditioned upon the validity of this Agreement, but shall be and remain a binding right and obligation of the City and Licensee, even if part or all of this Agreement is declared null and void in a legal or administrative proceeding. It is the intent of Licensee and the City upon the effective date of this Agreement that this Section serves as any such declaration and shall be a binding obligation of and inure to the benefit of Licensee and the City and their respective successors and assigns, if any.
- 11.5. The amount and type of insurance coverage requirements set forth in this Agreement will in no way be construed as limiting the scope of the indemnity in this Section.
- 11.6. As a condition to City's executing this Agreement, Licensee specifically agrees that to the extent any provision of this Section is not fully enforceable against Licensee for any reason whatsoever, this Section shall be deemed automatically reformed to the minimal extent necessary to cause it to be enforceable to the fullest extent permitted by law.

12. INSURANCE

- 12.1. Limits of Insurance. Licensee shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain commercial general liability insurance against claims for bodily injury (including death) or property damage, products/completed operations and personal and advertising injury, which insurance shall cover claims as may be occasioned by the operations, act, omission or negligence of Licensee or its officers, agents, representatives, or employees during all times that this Agreement is in effect. Limits may be attained by a combination of primary and umbrella liability coverage. Licensee shall maintain limits no less than those stated herein for each type of insurance.
- 12.2. General Requirements. Licensee's insurance of the types and amounts required in this Section shall be from companies possessing a current A.M. Best, Inc. rating of A-VII, or better and legally authorized or permitted to do business in the State of Arizona.
- 12.2.1. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the City, constitute a material breach of this Agreement and may result in termination of this Agreement.
- 12.2.2. The insurance coverage, except workers' compensation and employer's liability, and professional liability, required by this Agreement, shall include the City, its agents, representatives, directors, officials, and employees, as additional insureds as their interest may appear, and shall specify that insurance afforded Licensee shall be primary insurance, and that any self-insured retention and/or insurance coverage carried by the City or its employees shall not contribute to the coverages provided by Licensee. This provision and the inclusion of the City as an additional insured shall not be construed as giving rise to responsibility or liability of the City for applicable deductible amounts under such policy(ies).
- 12.2.3. The insurance policies shall contain a waiver of transfer rights of recovery (subrogation) for workers' compensation against the City, its representatives, officers, directors, officials and employees for any claims arising out of Licensee's acts, errors, mistakes, omissions, work or service.
- 12.2.4. The insurance policies may provide coverage, which contain deductibles or self-insured retentions. Such deductible and/or self-insured retention shall be assumed by and be for the account of, and at the sole risk of Licensee who shall be solely responsible for the deductible and/or self-insured retention.
- 12.2.5. Upon receipt of notice from its insurer(s), Licensee shall use commercially reasonable efforts to provide the City with thirty (30) days' prior written notice of cancelation of any policy required herein.
- 12.2.6. Upon request, Licensee shall furnish separate certificates and additional insured endorsements for each of Licensee's contractors (and any subcontractors used thereunder). All coverages for Licensee's contractors (and any subcontractors used thereunder) shall be subject to the same limits as required for Licensee.

12.2.7. The City reserves the right to periodically review said insurance limits to ensure coverage is based on market and risk requirements throughout the effective term of this Agreement.

12.3. Proof of Insurance – Certificates of Insurance.

12.3.1. Upon execution of this Agreement, Licensee shall furnish to the City Certificates of Insurance issued by Licensee's agent or broker, as evidence that policies providing the required coverages, conditions and limits required by this Agreement are in full force and effect and obtain from the City's Risk Management Division approval of such Certificates. Such Certificate(s) shall include the blanket additional insured endorsement including the City as an Additional Insured pursuant to Section 12.2.2 and shall be attached as Exhibit C to this Agreement.

12.3.2. If a policy does expire during the life of this Agreement, a renewal certificate must be sent to the City five (5) business days prior to the expiration date.

12.3.3. All Certificates of Insurance shall identify the policies in effect on behalf of Licensee, their policy period(s), and limits of liability required herein. Coverage shown on the Certificate of Insurance must coincide with the requirements in this Agreement. Information required to be on the Certificate of Insurance may be typed on the reverse of the Certificate and countersigned by an authorized representative of the insurance carrier or agent. Copies of the initial Certificate of Insurance and any and all subsequent renewals that are required under this Agreement shall be sent to:

City of Surprise
Attn: Risk Manager
16000 N. Civic Center Plaza
Surprise, AZ 85374

With copy to:
City of Surprise
Attn: City Engineer
16000 N. Civic Center Plaza
Surprise, AZ 85374

12.3.4. The City reserves the right to review, within at least ten (10) business days, certified copies of any or all of the herein required insurance policies and/or endorsements. Such policies shall be made available for review in Maricopa County, Arizona. The City shall not be obligated, however, to review same or to advise Licensee of any deficiencies in such policies and endorsements, and such receipt shall not relieve Licensee from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Licensee's obligations under this Agreement.

12.4. Required Coverage. Such insurance shall protect Licensee from claims set forth below that may arise out of or result from the operations of Licensee under this Agreement and for which Licensee may be legally liable, whether such operations be by Licensee or by anyone directly employed by Licensee. Coverage under the policy will be at least as broad as ISO forms or equivalent thereof, including but not limited to: severability of interest and waiver of subrogation clauses; claims for damages because of bodily injury, sickness or disease, or death of any person other than the Licensee's employees; claims for damages insured by usual personal and advertising injury liability coverage; claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom; and claims involving contractual liability applicable to Licensee's obligations under the indemnification Section herein.

- 12.5. Commercial General Liability – Minimum Coverage Limits. The Commercial General Liability insurance required herein shall be written in the amount of \$2,000,000 limits per occurrence and \$6,000,000 general aggregate in coverage will be acceptable. The Commercial General Liability additional insured endorsement shall be as broad as the ISO Additional Insured form, and shall include coverage for Licensee's completed operations and products.
- 12.6. Worker's Compensation and Employer's Liability. Licensee shall maintain Worker's Compensation insurance in compliance with the statutory requirements of the state(s) of operation and Employer's Liability insurance with a limit of \$1 million for each accident, \$1 million disease coverage for each employee, and \$1 million disease policy limit.
- 12.7. Automobile Liability. If Licensee owns and/or operates vehicles in Arizona, Licensee shall maintain Commercial Automobile Liability insurance with a combined single limit for bodily injury and property damage of \$1 million each accident covering all owned, hired, and non-owned vehicles assigned to or used in performance of Licensee's work. Any combination between automobile liability and excess/umbrella liability amounting to a minimum of \$5 million per occurrence in coverage will be acceptable. Coverage shall be at least as broad as ISO policy form or equivalent.
- 12.8. The City reserves the right to require additional insurance coverages and/or increase any minimum coverages herein at any time with written notice to Licensee.

13. LIMITATION OF LIABILITY

- 13.1. The City and its officers, agents, elected or appointed officials, employees, departments, boards and commissions, shall not be liable to Licensee or to its affiliates or customers for any interference with or disruption in the operations of Licensee's Fiber Optic Network or the provision of services, or for any damages arising out of or materially related to Licensee's use of the ROW, except to the extent of intentional misconduct or gross negligence on the part of the City its officers, agents, elected or appointed officials, employees, departments, boards and commissions.
- 13.2. Licensee also agrees that it shall have no recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damages arising out of or materially related to any provision or requirement of the City because of the enforcement of this Agreement.
- 13.3. Licensee shall assume the risk of, and hereby relinquishes any claim against the City in connection with any final, non-appealable determination by a court of competent jurisdiction that the City lacked the current statutory authority under Arizona law to issue this Agreement.

14. WARRANTY

- 14.1. The issuance of a license, permit or other authorization by the City is not a representation or warranty that such license, permit, or authorization is a legally sufficient substitute for a franchise, and is not a representation of warranty that a franchise is not required.
- 14.2. LICENSEE ACKNOWLEDGES AND AGREES THAT CITY DOES NOT WARRANT THE CONDITION OR SAFETY OF ITS ROW OR THE PREMISES SURROUNDING THE

SAME, AND LICENSEE HEREBY ASSUMES ALL RISKS OF ANY DAMAGE, INJURY OR LOSS OF ANY NATURE WHATSOEVER CAUSED BY OR IN CONNECTION WITH THE USE OF ANY THE ROW SUBJECT TO THE PROVISIONS OF THIS AGREEMENT.

15. SURVIVAL OF LIABILITY

All obligations of Licensee and the City hereunder and all warranties and indemnities of Licensee hereunder shall survive termination of this Agreement.

16. PUBLIC EMERGENCY

- 16.1. The City shall have the right, because of a public emergency, to sever, disrupt, relocate, remove, tear out, dig-up or otherwise damage and/or destroy Licensee's Facilities of without any prior notice to Licensee, if the action is deemed reasonably necessary by the City. In such event, neither the City nor any agent, contractor or employee of the City shall be liable to Licensee, Licensee's contractors (and any subcontractors used thereunder), or Licensee's customers for any harm so caused to them or Licensee's Facilities. To the extent possible under the circumstances, City will consult with Licensee in advance to assess the necessity of such actions and to minimize to the extent practical under the circumstances damage to and disruption of operation of the Fiber Optic Networks. City shall inform Licensee of any actions taken. Licensee shall be responsible for repair at its sole expense of any of Licensee's Facilities damaged pursuant to any such action taken by City related to the public emergency.
- 16.2. If any of Licensee's Facilities or activities present any immediate hazard or impediment to the public, to the City, to other City improvements or activities within or outside of the Route, or to City's ability to safely and conveniently operate the ROW or perform City's utility, public safety, and/or other public health, safety and welfare functions, then Licensee shall immediately remedy the hazard, comply with the City's request to secure the route area, and otherwise cooperate with the City at no expense to the City to remove any such hazard or impediment.
- 16.3. In the event of a public emergency, neither the City nor any agent, contractor or employee of the City shall be liable to Licensee, Licensee's contractors (and any subcontractors used thereunder), Licensee's customers, or other third parties for any harm so caused to them by the reasonable actions of the City or its agents, contractors or employees in reasonably responding to such public emergency. Where possible, the City will consult with Licensee in advance to assess the necessity of such actions and to minimize, to the extent practical under the circumstances, damage to and disruption of either the public property involved or Licensee's Facilities involved.

17. NOTICE

- 17.1. All notices, which shall or may be given pursuant to this Agreement, shall be in writing and transmitted through the U.S. certified or registered mail, postage prepaid, by means of prepaid private delivery systems, addressed as follows:

THE CITY
City of Surprise
Attn: City Engineer
16000 N. Civic Center Plaza

LICENSEE
FirstDigital Communications Arziona, LLC
Attn: Alex Jackson, COO
357 South 670 West, Suite 300

Surprise, AZ 85374
Phone: (623) 222-6150
Fax: (623) 222-6001

Lindon, UT 84042
Phone: 801-456-1050
Fax: 801-456-1010

With copy to:
Surprise City Attorney's Office
Attn: City Attorney
16000 N. Civic Center Plaza
Surprise, AZ 85374
Phone: (623) 222-1120
Fax: (623)-222-1101

With copy to:
FirstDigital Communications Arizona, LLC
Attn: City Operations Director
3836 S Evans Blvd
Tucson, AZ 85714
Phone: 520-775-0305
Fax: 801-456-1010

- 17.2. Notices shall be deemed sufficiently given and served upon the other party the first business day after deposit if sent by private delivery systems and the fifth business day after deposit in U.S. Mail.
- 17.3. Either party may from time to time designate any other address for this purpose by written notice to the other party in the manner set forth above. Licensee shall notify the City within ten (10) business days of any change in mailing address.

18. TRANSFERABILITY OF LICENSE

- 18.1. This Agreement is personal to Licensee and therefore the rights, privileges and license granted herein shall not be sold, sublet, assigned, conveyed or otherwise transferred, nor shall any of the rights or privileges herein granted or authorized be leased, assigned, sold, conveyed or otherwise transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except Licensee, either by act of Licensee or operation of law, without the express written consent of the City, which consent shall not be unreasonably withheld or delayed. Prior to any proposed transfer of any kind becoming final, Licensee shall seek the consent of the City to the proposed transfer. Approval by the City to a transfer does not constitute a waiver or release of any of the rights of the City under the Surprise Municipal Code or this Agreement, whether arising before or after the date of transfer.
- 18.2. The assignee or transferee as approved by the City shall be equally subject to all the obligations and privileges of this Agreement, including any amendments, which will remain in full effect, as if the assignee or transferee were the original Licensee.
- 18.3. Nothing in this Section shall be deemed to prohibit a pledge or, hypothecation or mortgage or similar instrument transferring conditional ownership of all or part of the Licensee's assets to a lender or creditor in the ordinary course of business. In the event a lender assumes control of the assets and operation of the Licensee through a default of the Licensee in loan obligations, the lender may assume the rights and obligations of the Licensee. The lender may not transfer or change control of the Agreement without submitting the change to the City for consent under this Section. If the lender does continue operation on any basis at any time, it shall be subject to all provisions of the Agreement. No later than three (3) years after assumption of control by the lender, the lender shall apply to the City for the right to continue assumption of control or to transfer the Agreement. Application by the lender for approval of such assumption of control or transfer shall be subject to all provisions set forth herein on consent by the City Council and approval shall not be unreasonably denied or delayed. A "lender" as discussed herein

does not include a Licensee, person or corporation or other entity that operates cable television systems or telecommunications systems as a principal or important business. This Section is intended to prohibit the intentional use of lending and/or foreclosure as a method for effecting change of control or transfer of the Agreement without City Council review and approval.

- 18.4. Any transfer without City's consent shall be void and shall not result in the transferee obtaining any rights or interests in, under or related to this Agreement. The City may, in its sole discretion and in addition to all other lawful remedies available to the City under this Agreement or otherwise, and in any combination, terminate this Agreement, collect any fees owed from Licensee and/or declare the transfer to be void, all without prejudicing any other right or remedy of City under this Agreement. No cure or grace periods shall apply to transfers or assignments prohibited by this Agreement or to enforcement of any provision of this Agreement against an assignee who did not receive the City's consent. Notwithstanding, the above, transfer or assignment to Provider's financially viable parent, subsidiary, successor, or affiliate under common control, shall not require consent and shall be effective upon written notice to the City.

19. HAZARDOUS SUBSTANCES

- 19.1. Licensee's and its contractors' activities upon or about the ROW shall be subject to the following regarding any hazardous or toxic substances, waste or materials, or any substance now or hereafter subject to regulation under the Comprehensive Environmental Response Compensation and Liability Act 42 U.S.C. §§ 9601, et. seq., the Arizona Hazardous Waste Management Act, A.R.S. §§ 49-901, et. seq., the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et. seq., the Toxic Substances Control Act, 15 U.S.C. § 2601, et. seq., or any other federal, state, county or local law pertaining to hazardous substances, waste or toxic substances and their reporting requirements (collectively "Toxic Substances"):
- 19.1.1. Licensee and/or its contractors shall not produce, dispose, transport, treat, use or store any Toxic Substances upon or about the ROW. The prohibitions of the preceding sentence only shall not apply to:
- 19.1.1.1. Ordinary gasoline, diesel fuel or other fuels or lubricants necessary for ordinary use in motor vehicles and ordinary construction machinery permitted upon the ROW. Such materials must be properly and lawfully contained in ordinary quantities in ordinary tanks and receptacles that are permanently installed in such vehicles and machinery, or small portable tanks that are being used for fueling permitted construction machinery; or
- 19.1.1.2. Electric backup batteries.
- 19.1.2. Licensee and/or its contractors shall dispose of any Toxic Substances away from the ROW as required by law and as reasonably required by the City.
- 19.1.3. Licensee and/or its contractors shall not use the ROW in a manner inconsistent with regulations issued by the Arizona Department of Environmental Quality, or in a manner that would require a permit or approval from the Arizona Department of Environment Quality or any other governmental agency. The preceding sentence

does not prohibit ordinary permits for control of dust during construction permitted by this Agreement.

19.1.4. Licensee and/or its contractors shall immediately notify the City of any Toxic Substance at any time discovered or existing upon the ROW. Licensee is not responsible for Toxic Substances that may exist at the ROW if Licensee's contractors (and any subcontractors used thereunder) and/or any other persons using the ROW under this Agreement did not do any of the following:

19.1.4.1. Participate in the Toxic Substance coming to the ROW;

19.1.4.2. Fail to immediately report the Toxic Substance to the City;

19.1.4.3. Knowingly participate in spreading or otherwise disturbing the Toxic Substance; or

19.1.4.4. Knowingly exacerbate the effects of the Toxic Substance or the difficulty or cost of dealing with the Toxic Substance.

19.1.5. Licensee understands the hazards presented to persons, property and the environment by dealing with Toxic Substances. Licensee acknowledges the possibility that the ROW may contain actual or presumed asbestos and other Toxic Substances containing materials.

19.1.6. Within twenty-four (24) hours after any violation by Licensee and/or by its contractors of this Agreement pertaining to Toxic Substances, Licensee shall give the City notice reporting such violation.

19.1.7. Licensee shall be available to staff employees of any City department having jurisdiction over Licensee's activities twenty-four (24) hours a day, seven (7) days a week, regarding problems or complaints resulting from the installation, operation, maintenance, or removal of Licensee's Facilities. The City may contact by telephone the network control center operator at the following phone number 866-236-2824 regarding such problems or complaints, and may use that number in order to reach Licensee at any time for any emergency matter. Licensee shall use reasonable efforts to respond to any issues within the time frames specified in its service level agreements. Licensee shall make arrangements with a local entity to handle any necessary problems or complaints that require a physical presence. In addition, Licensee will immediately notify the City if there is a change in the telephone number listed in this Section.

20. **MISCELLANEOUS**

20.1. **Complete Agreement.** This Agreement, including all Exhibits which are attached, are hereby incorporated into this Agreement and all of which constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous agreements whether written or oral. This Agreement cannot be modified or amended except in writing signed by both parties.

20.2. **Validity.** Licensee shall acknowledge that as a condition of acceptance of this Agreement, Licensee was required to be represented throughout the negotiations of the Agreement

by its own attorneys and Licensee had the opportunity to consult with its own attorneys about its rights and obligations regarding this Agreement. Licensee has reviewed City's authority to execute and enforce this Agreement and has reviewed all applicable law, both federal and state, and, after considering same, Licensee acknowledges and accepts the right and authority of the City to execute this Agreement and to enforce the terms herein.

- 20.3. Partial Invalidity. If any section, paragraph, subdivision, clause, phrase or provision of this Agreement shall be adjudged invalid or unenforceable, or is preempted by federal or state laws or regulations, the same shall not affect the validity of this Agreement as a whole or any part of the provisions of this Agreement other than the part adjudged to be invalid, unenforceable, or preempted. Parties agree if a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that the City did not have the authority to issue a license to Licensee under A.R.S. § 9-581 to § 9-583, as amended or succeeded, then this Agreement shall be considered a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days written notice to the other. The requirements and conditions of such revocable permit shall be the same requirements and conditions as set forth in this Agreement except for conditions relating to the term of the Agreement and the right of termination. If this Agreement shall be considered a revocable permit as provided herein, Licensee acknowledges the authority of the City Council to issue a revocable permit and the power to revoke as provided therein.
- 20.4. Time of Essence. Time is of the essence in each and every provision of this Agreement.
- 20.5. Severability. If any provision of this Agreement shall be ruled by a court or agency of competent jurisdiction to be invalid or unenforceable for any reason, or superseded by other lawful authority including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, the invalidity or unenforceability of such provision shall not affect the validity of any remaining provisions of this Agreement and the parties may agree in writing to amend this Agreement to address such invalid or unenforceable provisions; however, if the parties disagree as to the validity or enforceability of such provisions, the Agreement will not be affected to the extent of such disagreement until a court of competent jurisdiction determines otherwise or the parties later agree in writing. In the event either party seeks such judicial declaration or interpretation of any provision herein, neither party will be liable for the other party's attorney's fees, regardless of which party is deemed the successful party.
- 20.6. Headings. The headings contained herein are for convenience only and not intended to define or limit the scope of any provision of this Agreement.
- 20.7. No Partnership. Each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other under this Agreement.
- 20.8. No third-Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement or shall have any right or cause of action hereunder. The City shall have no liability to third parties for any approval of plans, Licensee's construction of improvements, Licensee's negligence, Licensee's failure to comply with the provisions of this Agreement (including any absence or inadequacy of insurance required to be carried by Licensee), or otherwise as a result of the existence of this Agreement.

- 20.9. Public Records. Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, Licensee acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, Licensee understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event the City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Licensee, the City agrees to provide Licensee with notice of that request. Within ten (10) days of such notice (which shall reference the 10-day requirement), Licensee must inform the City in writing of any objection by Licensee to the disclosure of the requested information. Failure by Licensee to object timely will waive Licensee's ability to object under this section and will waive any remedy against the City for disclosure. In the event Licensee objects to disclosure within the time specified, Licensee agrees to handle all aspects related to the request including properly communicating with the requestor and timely responding with information. This provision will survive the termination of this Agreement.
- 20.10. Force Majeure. With respect to any provision of this Agreement, the violation or non-compliance of which could result in the imposition of a financial penalty, liquidated damages, forfeiture or other sanction upon Licensee, such violation or non-compliance shall be excused where such violation or non-compliance is the result of acts of God; war; terrorist attack; civil disturbance, strike or other labor unrest; plague; pandemics; epidemics; quarantine orders or directives by a governmental entity; outbreaks of infectious disease or other public health crisis, including without limitation, quarantine or other employee restrictions; or other events, the occurrence of which was not reasonably foreseeable by Licensee and is beyond its reasonable control.
- 20.10.1. Government Directives. Any delay or nonperformance of any provision of or obligation under this Agreement caused by a federal, state, and/or local directive, order, or similar requirement, including without limitation, the COVID-19 pandemic and related quarantine orders, shall not constitute a breach of this Agreement or any portion thereof, provided that one party has provided the other party with at least seventy-two (72) hours' written notice of such delay or nonperformance.
- 20.11. Attorneys' Fees. Except as described herein, in the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party is entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will accrue on the commencement of such action and will be enforced whether or not such action is prosecuted through judgment.
- 20.12. Non-Waiver. Licensee shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of City upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date the last party signs.

City of Surprise
An Arizona municipal corporation

By: _____
Skip Hall, Mayor

Date: _____

ATTEST:

By: _____
Kristi Passarelli, City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney's Office

Licensee

By: A-J-

Print Name: Alex Jackson

Title: COO

Date: 13 October 2023

EXHIBIT A

The Route

The Route description/map is on file with the City's Engineering Division. This item is withheld pursuant to A.R.S. § 39-126.01.

EXHIBIT B

Phasing Plan

This project will be completed in one phase.

EXHIBIT C

Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/1/2024

10/19/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 8110 E Union Avenue Suite 100 Denver CO 80237 (303) 414-6000	CONTACT NAME: PHONE (A/C, No. Ext): E-MAIL ADDRESS: FAX (A/C, No): INSURER(S) AFFORDING COVERAGE INSURER A: Atlantic Specialty Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 27154
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COVERAGES **CERTIFICATE NUMBER:** 20003101 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ 1,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	711-01-77-45-0002	10/1/2023	10/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	Y	Y	711-01-77-45-0002	10/1/2023	10/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$	N	N	711-01-77-45-0002	10/1/2023	10/1/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	Y N/A	406-04-82-02-0002	10/1/2023	10/1/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Errors & Omissions	N	N	760-01-09-46-0002	10/1/2023	10/1/2024	Limit: \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Surprise, its agents, representatives, directors, officials, and employees are included as Additional Insured as respects General and Auto Liability if required by written contract. Coverage is Primary and Non-Contributory. Waiver of Subrogation applies in favor of the Additional Insured as respects General Liability, Auto Liability, and Workers Compensation if required by written contract, where permissible by law.

CERTIFICATE HOLDER**CANCELLATION****20003101**City of Surprise
Attn: Risk Manager
16000 N. Civic Center Plaza
Surprise AZ 85374

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

If General Liability, Auto Liability or Workers Compensation is cancelled by the issuing company during the policy term, for other than non-payment of premium, 30 days' notice will be provided to the Certificate Holder named below and 10 days' notice for non-payment of premium.



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023

Contact Person: Trever Fleetham, PLANNER
SENIOR

Submitting Department: Community Development District: Citywide

Staff Recommendations:

Consent: No

Regular: No

Public Hearing: Yes

Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to a Zoning Text Amendment (ZTA) to the Surprise Land Development Ordinances (LDO) to revise standards to update and clarify lighting provisions; Ordinance #2023-25.

Motion:

I move to approve Ordinance #2023-25.

Background:

On December 15, 2020 the City Council approved Ordinance 2020-38, which repealed Chapters 101-122 of the Surprise Municipal Code and adopted “Part II – Land Development Ordinance, Chapters 101-111” under case FS18-296. This action, which became effective in January 2021, was a comprehensive update to the City of Surprise zoning code, replacing the Surprise Unified Development Code (SUDC), to help further implement the Surprise General Plan 2035. Upon real-world application of the new code, staff have identified areas of conflict within the text, and others in need of clarification or updating for outdoor lighting.

Objective Analysis:

The proposed Zoning Text Amendment will clarify the readability and applicability of the outdoor lighting standards within the LDO.

Policy Compliant:

The proposed Zoning Text Amendment is consistent with, and will help implement, the Surprise General Plan 2035.

Financial Impact:

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

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

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

ATTACHMENTS:

1. 00 - FS22-1581 ZTA for Lighting Updates - Staff Report 110623 CC
 2. 01 - FS22-1581 ZTA for Lighting Updates - Narrative
 3. 02 - FS22-1581 ZTA for Lighting Updates - Legislative Edit
 4. 03 - FS22-1581 ZTA for Lighting Updates - Citizen Participation Report
 5. FS22-1581 ZTA for Lighting Updates - 110623 CC
 6. 04 - FS22-1581 ZTA for Lighting Updates - Ordinance
-

ZONING TEXT AMENDMENT

REPORT TO THE CITY COUNCIL

Case: FS22-1581

Project Name: Zoning Text Amendment for Lighting Updates

Council District: Citywide

Meeting Date: November 6, 2023

Planner: Trever Fleetham, Senior Planner

Applicant: City of Surprise

Request: Zoning Text Amendment to the Surprise Land Development Ordinances to revise standards to update and clarify lighting provisions

General Plan Conformance: The proposal is consistent with the Surprise General Plan 2035

Support/Opposition: See attached Citizen Participation Report.

PROJECT DESCRIPTION:

Upon real-world application of the Land Development Ordinances (LDO) since its adoption in January 2021, staff has identified areas of conflict within the text and compared to industry standards. The City has initiated this Zoning Text Amendment (ZTA) to the LDO to update and clarify those lighting standards.

BACKGROUND:

On December 15, 2020, City Council approved Ordinance 2020-38, which repealed Chapters 101-122 of the Surprise Municipal Code and adopted "Part II – Land Development Ordinance, Chapters 101-111" under case FS18-296. This action, which became effective in January 2021, was a comprehensive update to the City of Surprise zoning code, replacing the Surprise Unified Development Code (SUDC), to help further implement the Surprise General Plan 2035. Upon real-world application of the new code, staff has identified areas of conflict within the text, and others in need of clarification or updating for outdoor lighting.

ANALYSIS AND DISCUSSION

While applying the LDO lighting standards to new development proposals, staff has made note of several provisions that require clarity. There exists language within the code that is technical in nature and difficult for staff to apply or for applicants to navigate. Additionally, the lighting provisions are currently spread throughout multiple sections of the LDO, some with incorrect references or conflicting language. The proposed amendments aim to reduce that redundancy and conflict and improve the readability and applicability of outdoor lighting provisions.

Additionally, Surprise's Engineering Division recently updated their Street Light Design Guidelines with assistance from a lighting consultant. This contracted consultant also provided feedback on the LDO provisions related to on-site outdoor lighting. The proposed amendments incorporate some of their suggested edits, as well as remove street light standards from the LDO. This removal will eliminate conflict with the Engineering standards since street light reviews and approvals are a function of the Engineering Division.

The full extent of the proposed changes are outlined in the attached Legislative Edit, but some of the key changes include the following:

- Address scrivener's errors and conflicting language
- Removal of International Dark Sky Association seal requirement
- Removal of "narrow spectrum amber" requirement
- Remove street light standards and add reference to Street Light Design Guidelines
- Return pole height maximums to from the current 16 feet to the previous 25 feet requirement, with a 16 feet maximum when within 50 feet of residential
- Introduce a 20:1 ratio for lighting intensity
- Lower minimum allowed lighting levels
- Retain maximum lighting levels at property lines
- Reincorporate inadvertently removed language regarding Street Light Improvement Districts (SLID)
- Incorporate Community Development Director discretion for deviations from standards
- Remove allowance for searchlights for advertising purposes

The affected code sections for the proposed amendment include 107-3 Outdoor Lighting Regulations, 101-2 Rules of Interpretation and Glossary of Terms, 106-10 Use Specific Standards, and 108-2 Land Division and Subdivision Regulations.

CONFORMANCE WITH ADOPTED PLANS:

Surprise General Plan 2035: The subject request is consistent with the Surprise General Plan 2035

CITIZEN PARTICIPATION:

81 An in-person neighborhood meeting was held at City Hall in the Community Room on July
82 25, 2023 at 6 p.m. There were approximately 15 members of the public in attendance and
83 the meeting lasted for approximately one (1) hour. Staff provided an overview presentation
84 of the proposed changes and attendees asked questions throughout. Topics of concern
85 included fixture shielding, street lighting, excessive glare, pole heights, mounting heights,
86 sports field lighting, Community Development Director discretion, and searchlights. A full
87 summary of the discussions is included in the attached Citizen Participation Report.
88

89 After receiving these questions and feedback, staff conducted additional research that was
90 incorporated into staff's presentation.
91

92 **SUMMARY:**

93 The proposed Zoning Text Amendment to the Land Development Ordinances (LDO) will
94 clarify the readability and applicability of the outdoor lighting standards within the LDO.
95

96 **RECOMMENDATION:**

97 Based on the findings noted above, the Planning & Zoning Commission Commission
98 recommended **approval** of the subject Zoning Text Amendment request to the Mayor and
99 City Council.
100

101 However, should the Council wish to **deny** the request, the Council should make its own
102 findings and base its decision on those alternative findings.
103

104 **ATTACHMENTS:**

105 01 Narrative
106 02 Legislative Edit
107 03 Public Participation Report
108 04 Ordinance
109 PowerPoint

Land Development Ordinance Zoning Text Amendment for Lighting

Narrative – September 19, 2023 – FS22-1581

PROJECT DESCRIPTION

Upon real-world application of the Land Development Ordinances (LDO) since its adoption in January 2021, staff has identified areas of conflict within the text and compared to industry standards. The City has initiated this Zoning Text Amendment (ZTA) to the LDO to update and clarify those lighting standards.

LDO SECTIONS

Section 101-2: Rules of Interpretation and Glossary of Terms

This section includes various definitions for terms related to outdoor lighting. Several of these terms were not used, conflicting, or unnecessary and are proposed to be deleted or revised accordingly.

Section 106-10: Use Specific Standards

This section includes development standards specific to certain allowed uses. Some of these subsections included use-specific lighting standards. Staff found that having these located outside of the Outdoor Lighting section caused conflict and confusion for applicants. Staff is proposing that these provisions be deleted and replaced with references to the lighting code in order to provide clarity and consistency.

Section 107-3: Outdoor Lighting Regulations

This section includes the regulations for outdoor lighting within the city. Proposed changes to this section include addressing scrivener's errors, including and correcting references to other sections, adding details or clarifications, deleting redundant or unnecessary provisions, building in more flexibility, and revising regulations to better match industry standards.

Section 108-2: Reports, Plans, and Design Standards

This section includes requirements for ensuring that all development conforms to the goals, objectives, and requirements adopted and contained in the city General Plan. When the LDO was adopted to replace the SUDC, the language regarding Street Light Improvement Districts (SLID) was inadvertently left out. The proposed change includes reincorporating and updating that language.

Draft Zoning Text Amendment to the Land Development Ordinances for Lighting (FS22-1581)

Chapter 101 - ADMINISTRATIVE PROVISIONS

ARTICLE II. RULES OF INTERPRETATION AND GLOSSARY OF TERMS

Sec. 101-2.2. Glossary of terms.

Outdoor lighting. Artificial illuminating device that includes the complete lighting unit of a *lamp* or *lamps* and ballast(s) (when applicable) together with the parts designed to distribute the light, to position and protect the *lamps*, and to connect the *lamps* to the power supply; whether permanent or portable, a device used for illumination or advertisement including, but are not limited to, search, spot or flood lights for *buildings* and *structures*, recreational areas, parking *lot* lighting, landscape lighting, *signage* and *street* lighting.

1. **Adaptive controls.** Devices such as motion sensors, timers and dimmers used in concert with *outdoor lighting* equipment to vary the intensity or duration of operation of lighting.
2. ~~**Ambient light level.** The general overall level of background lighting in an area.~~
3. ~~**Bulb or lamp.** The source of electric light; to be distinguished from the whole assembly (see luminaire). *Lamp* often is used to denote the bulb and its housing.~~
4. ~~**Cut-off angle of a luminaire.** The angle, measured up from the nadir (i.e. straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or lamp) is not visible.~~
5. **Direct illumination.** Illumination resulting from light emitted directly from a *lamp* or *luminaire*, not light diffused through translucent *signs* or reflected from other surfaces (such as the ground, *building* faces, or artistic *structure*).
6. **Fixture.** The assembly that holds the *lamp* in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.
7. ~~**Floodlight.** A fixture designed to "flood" a well-defined area with light.~~
8. **Full cut-off.** Attribute of a *luminaire* from which no light is emitted by the *fixture*, either directly from the *lamp* or indirectly from the *fixture*, at or above a horizontal plane drawn through the highest light-emitting portion of the *luminaire* and no more than ten (10) percent of the *lamp*'s intensity is emitted at or above an angle ten (10) degrees below that horizontal plane, at all lateral angles around the *luminaire*. A *full cut-off luminaire*, by definition, also is "fully shielded."
9. ~~**Fully shielded luminaire.** A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.~~
10. ~~**HID lamp.** In a discharge lamp, the emitted energy (light) is produced by the passage of an electric current through a gas. High-intensity discharge (HID) include metal halide and high-pressure sodium lamps. Other discharge lamps are low pressure sodium (LPS) and fluorescent. Some such lamps have internal coatings to convert some of the ultraviolet energy emitted by the gas discharge into visual output.~~
11. ~~**High-pressure sodium (HPS) lamp.** A HID lamp where radiation is produced as a "point source" from sodium vapor at relatively high partial pressures (100 torr) commonly used in street lighting; emits an amber color.~~

12. **LED.** Light emitting diode.
- ~~13.—**Light spill.** Unwanted spillage of light onto *adjacent* areas and may affect sensitive receptors particularly residential properties and ecological sites.~~
14. **Light trespass.** Excessive light that spills onto *adjacent* property, typically produced by stray light coming from *street lighting fixtures*, illuminated *signage* and other *outdoor lighting* sources.
- ~~15.—**Low-pressure sodium (LPS) lamp.** A *HID lamp* where the light is produced as a "tube source" by radiation from sodium vapor at a relatively low partial pressure (about 0.001 torr) commonly used in *street lighting*; emits a monochromatic light.~~
16. **Lumen.** A measurement of the total amount of ambient light emitted by a source.
17. **Metal halide lamp.** An *HID lamp* where the light source is produced by radiation from metal-halide vapors commonly used for *street lighting*; emits a good quality white light.
- ~~18.—**Nit.** The industry standard for measuring the specific light intensity (brightness) of electronic messaging center (EMC) *signs* or one (1) candela per square meter.~~
19. **Partially shielded.** Fixtures that are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the *lamp* reducing light above the horizontal.
- ~~20.—**Photometry.** The quantitative measurement of light level and distribution.~~
21. **Shield.** An opaque material permanently installed and/or attached that blocks the transmission or emission of light as a means of controlling or directing the light emitted from an *outdoor lighting fixture* to provide for *full cut-off* photometric performance.
- ~~22.—**Spotlight.** A *fixture* designed to light only a small, well-defined area.~~
- ~~23.—**Stray light.** Emitted light that falls away from the area where it is needed or wanted (see also *light trespass*).~~
- ~~24.—**Temporary lighting.** Lighting that is intended for uses that, by their nature are of limited duration, e.g. holiday decorations, civic events or construction projects.~~
- ~~25.—**Wallpack.** A *luminaire*, typically affixed to the side of a *structure*, used for area lighting or security lighting.~~

Chapter 106 - ZONING AND USE STANDARDS

ARTICLE X. USE SPECIFIC STANDARDS

Sec. 106-10.39. Schools and universities.

- A. Pre-K through 12 *schools* shall be subject to the following requirements:
1. *School* sites shall not have public *access* directly from a *parkway* or arterial.
 2. *Building setbacks* shall be a minimum of fifty (50) feet for front, side and *rear setbacks*.
 3. Maximum *lot coverage* shall be sixty (60) percent.
 4. *Open space*, including play area, shall be a minimum of twenty-five (25) percent.
 5. Designated and separate bus and parental drop off/pick up areas with separate pedestrian pathways shall be provided. The parental drop off/pick up area shall accommodate a minimum of five (5) cars at a time. The bus drop off/pick up area shall accommodate a minimum of three (3) buses at a time.
 6. Special paving, brick, striping, or other methods shall be *used* for pathway areas that cross vehicular *use* areas.
 7. Dumpster and trash receptacles shall be *screened* and located a minimum of seventy-five (75) feet from any residential property lines.
 8. **Outdoor lighting must comply with Chapter 107, Article 3 of this ordinance.** ~~All lighting shall be directed down and fully shielded. All *building* mounted lighting and freestanding pole mounted lighting shall be a maximum of sixteen (16) feet in *height* above *grade*. All pole lighting *adjacent* to residential districts shall be *setback* a minimum of thirty (30) feet from the property line. All lighting, other than security, shall be turned off by 10:00 p.m., unless otherwise approved through a special event permit.~~
 9. Parking may be allowed in the *front setbacks* of the *lot* for *schools* on a *right-of-way* designated as a collector or greater. There shall be a three (3) foot high landscaped *berm* or *fence/wall* or combination thereof along the *street frontage* where parking occurs. On all other *street* classifications, parking shall meet minimum *setbacks*. A minimum of fifteen (15) percent of all *parking areas* shall be landscaped. A twenty (20) foot minimum landscaped *setback* shall be provided where parking is *adjacent* to residential districts.
 10. Security fencing of the campus and/or outdoor play areas shall be view fencing and shall allow for emergency vehicle *access*.
 11. All *buildings* shall be designed in accordance with the PEDS (see **Chapter 107** herein) and to be compatible with the surrounding residential neighborhood.
 12. New *schools* shall not be located in areas within the 65 DNL noise contours.
 13. *Off-site* improvements may be required to accommodate peak traffic volumes.
- B. University, college or trade *schools* shall be subject to the following requirements:
1. *School* sites may have public *access* from a *parkway* or *major arterial*.
 2. The site shall have pedestrian and bicycle accessibility.
 3. Campus-like development site shall include a minimum of twenty-five (25) percent *open space*.
 4. New *schools* shall not be located in areas within the 65 LDN noise contours.

5. School sites shall provide adequate on-site parking or participate in the improvements of *off-site* parking facilities or *structure(s)* that would adequately serve student needs without impacting the surrounding neighborhoods or *uses*.
6. **Outdoor lighting must comply with Chapter 107, Article 3 of this ordinance.** ~~All outdoor lighting shall be directed down and fully shielded. All building mounted lighting and freestanding pole mounted lighting shall be a maximum of sixteen (16) feet in height above grade. All pole lighting adjacent to residential districts shall be setback a minimum of thirty (30) feet from the property line.~~

Sec. 106-10.44. Sport courts.

- A. Outdoor sport courts in residential and *mixed use zoning districts*, including the enclosure and lighting elements, may be built as follows:
 1. Sport courts and other facilities shall not be permitted in the *front yard* when *accessory* to a *dwelling unit*;
 2. Sport courts other facilities without lighting shall be set back five (5) feet from all *lot lines* (measure from the edge of the playing surface) and when *accessory* to a *dwelling unit* shall maintain *height* limitations defined in **Section 106-10.3**;
 - ~~3. Sport courts with lighting shall be set back twenty (20) feet from all side and rear lot lines (measured from the edge of the playing surface or base of the lighting standard);~~
 - ~~4. Photometric foot-candles shall be zero along property lines and shielded to prevent light spillage;~~
 - 35.** Protective fencing/netting may be allowed along the residential property line that *abuts* a ballfield, sport courts, or golf course.

(Ord. No. 2022-21 , § 1(Exh. A), 10-4-22)

Sec. 106-10.48. Vehicle fueling stations.

- A. All activities and operations shall be conducted entirely within an enclosed *structure*, except as follows:
 1. The dispensing pumps and plug-in stands, water and air facilities;
 2. Trash receptacles and windshield cleaning paraphernalia.
- B. The total site area shall not be less than twenty thousand (20,000) square feet unless it is planned to be part of a functionally integrated commercial complex.
- C. All *structures* shall be of a unique design character that is appropriate to the area. If present, pump island plug-in stand canopies shall be architecturally similar to and compatible with the main *structure* unless otherwise approved through the *site plan* review process.
- D. Landscaping shall account for a minimum of fifteen (15) percent of the site. For sites that are located at intersections, a landscaped area shall be provided at the intersection and shall extend a minimum of one hundred fifty (150) feet in both directions from the *street* corner. Paving shall be limited to functional vehicle and pedestrian areas. All unpaved areas shall be maintained with landscaping.
- E. Sites located on arterial intersections or in other areas of significant pedestrian *use* shall locate pump islands, plug-in stands, and queuing lines away from intersections, driveways, sidewalks and other pedestrian areas.
- F. Site improvements such as *buildings* or *structures* (permanent or temporary) shall be separated from any residential property line by a minimum of seventy-five (75) feet. *Parking areas* shall be separated from any residential property line by at least twenty-five (25) feet.
- G. Pump islands and plug-in stands shall be located a minimum of fifty (50) feet from a *street right-of-way* line or non-residential property line and seventy-five (75) feet from a residential property line.

- H. Outdoor lighting must comply with Chapter 107, Article 3 of this ordinance. All sources of artificial light shall be hidden and all lighting shall be full cut-off and designed so there is no glare or spillover on adjacent properties and roadways. Lighting under canopies shall use flat lenses (rather than drop lenses or refractors) and/or be fully recessed within the canopy.
- I. No vehicle shall be parked on the premises for the purposes of offering the vehicle for sale.
- J. Noise from bells or loudspeakers shall not be audible beyond the property line at any time.
- K. Interior curbs of not less than six (6) inches in height shall be constructed to separate driving surfaces from sidewalks, landscaped areas, and street rights-of-way.
- L. Driveways for fueling stations shall be developed in conjunction with adjacent uses and shall be located as part of the total circulation element of such adjacent uses. Single use driveways for fueling station use will only be allowed when environmental or topographic constraints prohibit such shared driveway access.
- ~~M. Lighting shall not exceed fifty (50) foot-candles under canopies.~~
- MN. No existing fueling station or abandoned fueling station may be converted to any other use unless the following standards are met:
1. All pumps, canopies, signs, insignia, and corporate trademarks, supporting structures, mountings, and foundations, and all other aboveground improvements which are uniquely associated with fueling station operations shall be taken down, dismantled, and removed from the site.
 2. All fuel storage tanks, fuel lines, pumps, and other below ground apparatus related to the delivery or disposal of fuel products shall be excavated and removed from the site or filled in accordance with the provisions of the fire code as currently adopted by the city and all other applicable law.
 3. Upon the removal of the tanks, structures, and apparatus specified in subsections 1 and 2 of this subsection, the proposed converted fuel station site shall be resurfaced and landscaped in a manner appropriate to the proposed commercial or industrial use.

(Ord. No. 2021-17 , § 1(Exh. A), 2-1-22; Ord. No. 2022-21 , § 1(Exh. A), 10-4-22)

Chapter 107 - DESIGN AND DEVELOPMENT REGULATIONS

ARTICLE III. OUTDOOR LIGHTING REGULATIONS

Sec. 107-3.1. Purpose, intent and applicability.

- A. The purposes of this article is to protect the community and its neighborhoods with appropriately regulated and properly installed *outdoor lighting* that will contribute to the safety, security and wellbeing of *persons* engaged in outdoor public activities at night, while maintaining **access** ~~access~~ to the dark night sky. The city will prevent the negative impact created by excessive glare, *light trespass*, and unnecessary waste of energy and resources caused by improper design and installation of *outdoor lighting*.
- B. It is the intent of this article that *outdoor lighting* be installed with the idea of safety and being a "good neighbor" by keeping unnecessary direct light from shining onto *abutting* properties or *streets*. Establishing environmentally responsible lighting regulations that limit the area that certain kinds of *outdoor lighting fixtures* can illuminate will balance the need for safe lighting with the need for dark skies.
- C. All outdoor illuminating devices shall be installed in conformance with the provisions of this article, the PEDS, the sign regulations in **Chapter 109-108**, and the electrical code as adopted by the city under appropriate permit and inspection.
 - 1. The development standards provided herein shall apply to all proposed new land *uses*, developments, *buildings*, *structures*, or *building* additions within the city.
 - 2. Any new or modified *outdoor lighting* on an existing *building*, *structure*, or site shall meet the requirements of this article with regard to shielding and *lamp* type; the total amount of lighting after modifications are complete shall not exceed that on the site before the modification, or that permitted by this article, whichever is more restrictive.
 - 3. Legal non-conforming **existing** *lighting fixtures* may continue to be **used** ~~used~~ provided such *fixtures* are turned off between the hours of 10:00 p.m. and sunrise. This requirement does not apply to *fixtures* **used** ~~used~~ for safety or security purposes. Sign lighting cannot be **used** ~~used~~ for security lighting purposes.
- D. **Lighting-specific terms used in this article are defined in Chapter 101 Article II under "outdoor lighting".**

Sec. 107-3.2. General standards.

- A. All *fixtures* installed anywhere in the city shall at a minimum be *full cut-off fixtures*; excluding seasonal holiday lighting, ~~and~~ decorative string lighting for outdoor seating areas, **low-output ground-mounted lights directed at trees, monument signs, and other decorative features, and landscape light fixtures not exceeding one thousand (1,000) lumens per luminaire**. Other exceptions to *full cut-off fixtures* may be approved on a case-by-case basis by the community development director provided it can be shown that the proposed *fixture* includes **alternative** ~~alternative~~ technology luminaries or artistic attachments/shields that provide similar photometric results as *full cut-off fixtures*.
- B. **Internal or external shields may be required on some installations depending on location and adjacent land uses. Internal shields are preferred on new installations. External shields shall be treated to be non-reflective. Fully shielded fixtures are generally preferred and may be required in some installations depending on location and adjacent land uses. Internally shielded fixtures are required except when retrofitting existing light fixtures with external shields treated to be non-reflective. See Figure 107-3a.**

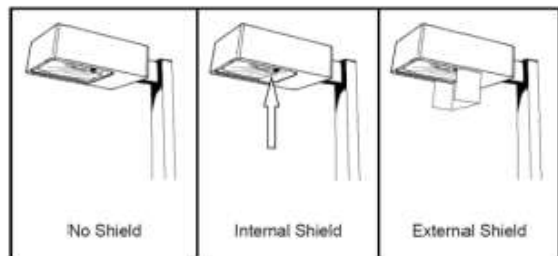


Figure 107-3a

- C. The maximum light output per acre for new commercial, industrial, mixed use, and multi-family residential developments in the LZ2 lighting zone shall not exceed one hundred fifty thousand (150,000) lumens per acre when adjacent to residential and two hundred thousand (200,000) lumens when not adjacent to residential in order to control the amount of visible light on the property and thus reducing the overall brightness. ~~Unshielded fixtures or lighting sources shall not exceed three thousand (3,000) lumens per luminaire.~~
- D. *Outdoor lighting* installations shall be served by underground electrical service and include *adaptive controls*, including but not limited to, timers, dimmers and/or sensors in order to reduce overall energy consumption, eliminate unnecessary lighting, and to comply with the city's automatic lighting reduction requirements of **Section 107-3.4** herein.
- E. The city is not mandating a specific design, material or *lighting fixture* ~~other than all lighting fixtures shall meet the "fixture seal of approval" (FSA) program established by the International Dark-Sky Association (IDA).~~ Below, for illustrative purposes only, are examples of both unacceptable and acceptable *lighting fixtures* for ~~use~~ **use** in the city. See **Figure 107-3b**.
- F. Exceptions to the standards contained herein may be approved at the discretion of the Community Development Director.

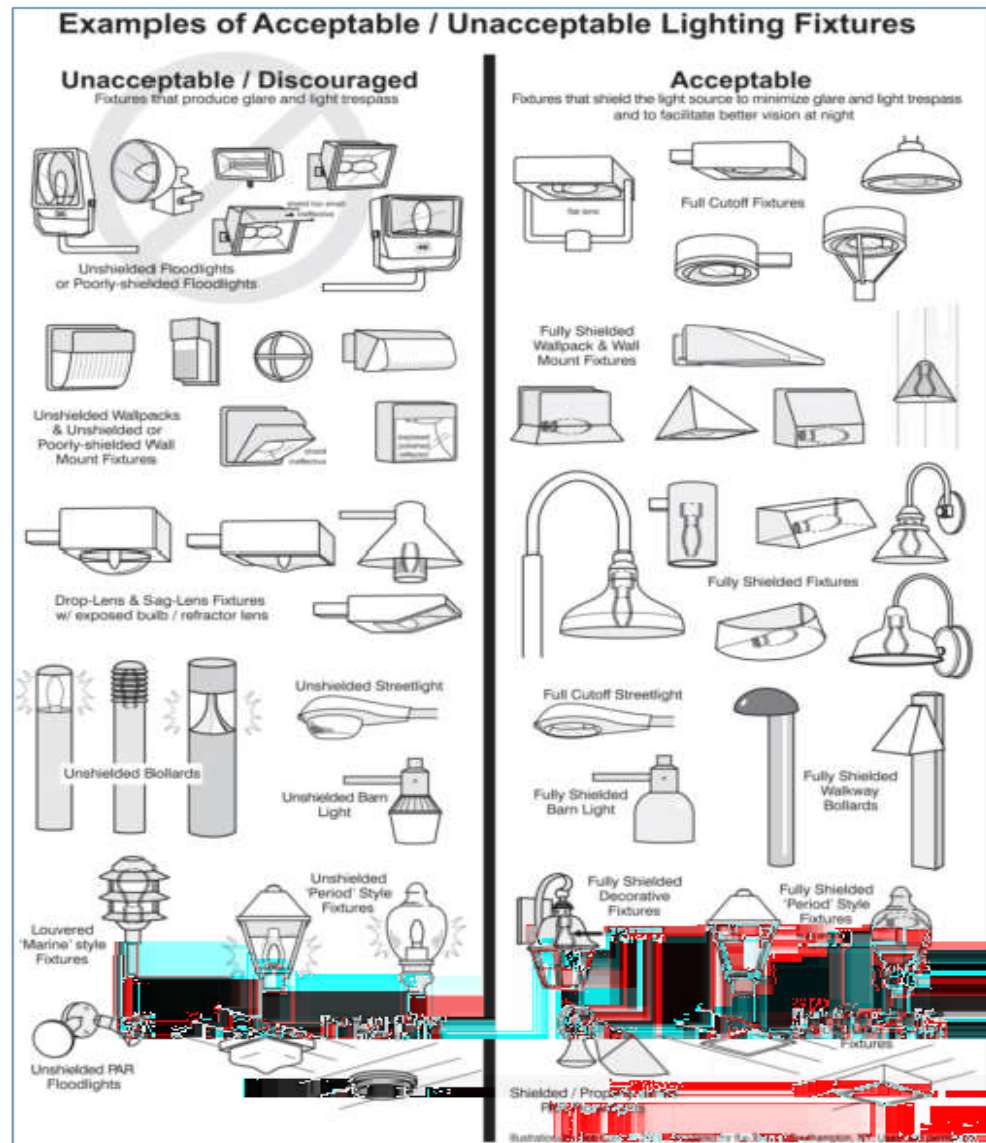


Figure 107-3b

- F. The style of light standards and *fixtures* should be consistent with the style and architectural character of the proposed development site and in compliance with the light source and shielding requirements for the specific lighting zone per **Table 107-3a** below. The pedestals for pole-mounted *fixtures* are to be finished in a manner and with a material that complements the architectural character of the proposed development site.
- G. All *light fixtures*, including security lighting, shall be located, aimed, and shielded so that the *direct illumination* from the *fixture* will be confined entirely within the property boundaries of the source.
- H. The overall height shall be measured from the finished *grade* to the top of the *light fixture*. Any pedestals upon which pole-mounted *fixtures* are placed shall be included in the overall height measurement. Exceptions to the height limitations shall be allowed only for those *structures* and facilities where lighting must be **used** to illuminate potential obstructions and/or hazards to air navigation.
- I. An approved site lighting plan photometric indicating the lighting zone, type of light source, *fixture* detail, and schedule is required prior to the issuance of a *building permit*.

Sec. 107-3.3. Outdoor lighting zones and lighting uses.

- A. There are different lighting zones throughout the city. The lighting source, shielding requirements, and automatic lighting reductions are determined by both the lighting zone and the specific *use* of the property. The lighting zones are further delineated as follows:
1. **Lighting zone 2 (LZ2).** Areas within this lighting zone includes the neighborhood areas that are developed at the suburban and urban level, high *use* recreational and play fields, commerce and *office* areas of the city, and within the transit oriented development district as designated by the city *General Plan*. Lighting levels in the LZ2 are medium to high ambient brightness due to the higher levels of night time activity and the concentration and types of land *uses* allowed by the *zoning district*;i§ particularly where color rendition is important for the effectiveness and safety of the permitted activities.
 2. **Lighting zone 1 (LZ1).** Areas within this lighting zone includes the neighborhood area that is developed as large *lot* **single family** ~~single-family~~, rural residential, and surrounding natural *open space* as well as **business parks** ~~business parks~~ and industrial areas with limited nighttime activity. Lighting levels in the LZ1 are low ambient brightness with general illumination for safety or security focused at activity centers and along travel corridors.
 3. **Lighting zone 0 (LZ0).** Areas within this lighting zone includes those lands within a scenic lands development area as designated by the city *General Plan* and for other lands determined to have *environmentally sensitive features* or to be located in *environmental buffer areas*. In these areas, the preservation of an intrinsically dark environment both in the sky and in the visible landscape is considered of paramount value and special review will be required for any permanent lighting in this zone.
 4. A property located in more than one (1) of the lighting zones described in subsections 1 to 3 above shall be considered to be only in the more restrictive lighting zone.
- ~~B. —Outdoor lighting fixtures will be permitted for the following uses and activities provided they are allowed in the lighting zone and designed to meet the standards further outlined herein and in the PEDS:~~
- ~~1. —Street lighting.~~
 - ~~2. —Parking lot lighting.~~
 - ~~3. —Architectural illumination and structural lighting.~~
 - ~~4. —Landscape lighting and the illumination of trees, shrubs, water features, and open space plaza areas.~~
 - ~~5. —Outdoor recreational sports fields/courts and play area lighting.~~
 - ~~6. —Signage (external and internal lighting).~~
 - ~~7. —Product display area.~~
 - ~~8. —Building overhangs and open canopies.~~
 - ~~9. —Outdoor seating areas at eating and drinking establishments.~~
 - ~~10. —Security lighting.~~
 - ~~11. —Walkways and trails.~~
 - ~~12. —Agricultural uses: arenas, corrals and animal containment areas.~~
- BC.** The lighting zones delineated in **Section 107-3.3** above have specific permitted/prohibited lighting sources and shielding requirements associated with them as outlined in the following **Table 107-3a** and in other subsections herein.
-

Table 107-3a—Allowed Lighting and Shielding Standards			
Lighting Activities in Lighting Zones	LZ2	LZ1	LZ0
Street lighting	LED, (1), (7) N/A (8)	LED, ENV, (1), (7) N/A (8)	ENV, (1), (5), (7) N/A (8)
Parking lot lighting	LED, MH, (2), (5), (7)	LED, MH, (2), (5), (7)	ENV LED, (1), (6), (7)
Commercial signage (external and internal lighting)	LED, (1), (5)	LED, (1), (5)	LED, (1), (6)
School and community facilities such as sports field/court and play area lighting	LED, MH, (1), (6), (7)	LED, MH, (1), (6), (7)	LED, MH, (1), (6), (7)
Architectural/structural illumination	LED, (1)	ENV LED, (1)	ENV LED, (1), (6)
Landscape lighting (trees, shrubs, open space features)	ENV LED, (2)	ENV LED, (2)	ENV LED, (1), (6)
Vehicular sales lot lighting	LED, MH, (1), (5), (7)	X	X
Outdoor display and sales area lighting	LED, MH, (1), (5), (7)	LED, MH, (1), (5), (7)	X
Building overhangs and open canopies	LED, MH, (1), (5), (7)	LED, MH, (1), (5), (7)	ENV LED, (1), (6)
Plazas and outdoor seating areas at eating and drinking establishments	LED, (3), (4), (5)	LED, (3), (4), (5)	ENV LED, (3), (4), (5)
Security lighting	LED, MH, (1), (7)	LED, MH, (1), (7)	LED, ENV, (1), (7)
Walkways and trails	LED, MH, (2), (5), (7)	LED, MH, (2), (5), (7)	ENV LED, (1), (6)
Agricultural uses Agricultural uses: arenas, corrals and animal containment areas	X	MH, ENV LED, (2), (6)	X
Notes : (1) full cut-off Fully shielded (2) partially shielded Partially shielded (3) Unshielded—shielding not required but highly recommended (4) Decorative unshielded low-wattage incandescent lamps will be permitted (5) Lighting reductions are required (6) Lighting shut-off required (7) Adaptive controls required shall be utilized (8) Refer to 'Surprise Street Light Design Guidelines' for street light standards Light source code : ENV = "narrow-spectrum-amber" LED; LED = filtered to have a correlated color temperature (CCT) maximum of 3,000K unless otherwise indicated MH = metal halide X = not allowed			

Sec. 107-3.4. Lighting reduction requirements.

A. Table 107-3a above delineates specific lighting zones and certain types of lighting uses that require lighting to be reduced or extinguished. The following sections further detail those requirements; which shall be accomplished by providing adaptive controls for the automatic reductions and/or extinguishment of the lighting fixtures.

CB. Lighting reductions and/or shut off is not required for any of the following:

1. With the exception of landscape lighting, lighting for **multi-family** ~~multi-family~~ residential properties having *common areas*.
2. When the *outdoor lighting* consists of only one (1) luminaire.
3. Code required lighting for steps, stairs, walkways, and *building* entrances.
4. When in the opinion of the community development director, lighting levels must be maintained.
5. Motion activated lighting.
6. Lighting governed by special *use* permit in which times of operation are specifically identified.
7. Lighting **used** ~~used~~ to illuminate potential obstructions and/or hazards to air navigation.

Sec. 107-3.5. Street lighting standards.

A. Standards for street lights are subject to the 'Surprise Street Light Design Guidelines' of the Engineering Development Services Division.

A. — General requirements:

1. — ~~All lighting fixtures along public and private streets should be non-reflective and consist of full cut-off, fully shielded luminaires to prevent any glare or light trespass onto adjoining property and adjacent areas; primarily lighting the pedestrian sidewalk, specifically at intersections and crosswalks, and secondarily to light the driving lanes.~~
2. — ~~Lighting sources shall adhere to Table 107-3a and the overall height of the lighting standard, measured from finish grade to the top of the fixture should be as follows:~~
 - a. — ~~Along local streets serving residential areas should not exceed 16 feet in height in all lighting zones. Local streets serving non-residential areas in the LZ0 lighting zone shall not exceed sixteen (16) feet and in all other lighting zones shall not exceed twenty-five (25) feet in height.~~
 - b. — ~~Along collector streets serving residential areas should not exceed sixteen (16) feet in height in all lighting zones. Collector streets serving non-residential areas in the LZ0 and LZ1 lighting zone should not exceed sixteen (16) feet and in the LZ2 lighting zone should not exceed thirty (30) feet six (6) inches in height.~~
 - c. — ~~Along the city's primary arterials should not exceed thirty (30) feet in height in the LZ0 and LZ1 lighting zones and thirty-nine (39) feet six (6) inches in the LZ2 lighting zone.~~
3. — ~~In residential neighborhoods where curb separated sidewalks exist, pole-mounted lighting fixtures on local residential streets shall be placed within the landscape strip between the curb and sidewalk, and spaced in an alternate pattern using both sides of the street; utilizing the lighting source specified for the lighting zone in which the development is located.~~
4. — ~~The use of adaptive controls that regulate and automatically reduce the amount of light based on the traffic flows should be utilized in all circumstances and in all lighting zones.~~

B. — Street lighting in the LZ2 lighting zone:

1. — ~~Arterial and collector streets shall utilize LED's filtered to have a CCT of three thousand (3,000) K.~~

C. — Street Lighting in the LZ1 lighting zone:

1. — ~~Due to the rural nature of the lighting zone limited use of street lighting should be expected with lighting provided only as outlined below:~~
 - a. — ~~Major intersecting rural roads.~~

-
- b. — ~~Intersections where local roads of a rural subdivision intersect with a major rural road.~~
 - c. — ~~Those areas identified as dangerous and hazardous to vehicular travel due to significant changes in roadway alignment, bridges, or hazardous structures such as curbs, piers, abutments or culverts.~~
 - d. — ~~Locations along roads and highways where police reports indicate nighttime accident rates exceed those of daytime hours.~~
 - e. — ~~Locations along a highway or rural road where traffic turning movements to and from adjacent commercial developments threaten public safety.~~
 - 2. — ~~Arterial streets only should utilize LED's filtered to have a CCT of four thousand (4,000) K all others shall be limited to three thousand (3,000) K or a narrow-spectrum amber LED.~~
- D. — ~~Street lighting in the LZ0 lighting zone.~~
- 1. — ~~Due to the environmentally sensitive nature of the lighting zone minimal use of street lighting should be expected with lighting provided only as outlined below.~~
 - a. — ~~Locations along a highway or arterial road where traffic turning movements to and from adjacent commercial developments threaten public safety.~~
 - b. — ~~Intersections where the entrance of a subdivision intersects with a major road.~~
 - 2. — ~~Adaptive controls for the automatic reduction of lighting by thirty (30) percent between 11:00 p.m. and sunrise will be required for all street lights.~~

Sec. 107-3.6. Parking lot and loading area lighting standards.

- A. Ornamental parking lighting may be permitted provided it is complimentary to the architecture and meets the intent of this ordinance and the design aspects of the PEDS.
- B. The maximum height of parking lot lighting standards (poles) shall be sixteen (16) feet twenty-five (25) feet. Within 50' of any residential property line, the maximum height of parking lot lighting standards shall be sixteen (16) feet. All lighting within the interior of the parking lot and twelve (12) feet at or along the perimeter of the parking lot and shall be located in such a manner as to not conflict with tree locations within the planting islands and buffers.
- C. Parking area lighting for all uses and within all lighting zones shall achieve, as near as possible, an equal luminance uniformity throughout the parking area with a reduced level at the property line when adjacent to the public right-of-way or a residential property.
- D. Within LZ2 and LZ1 lighting zones.
 - 1. For any non-residential land use the minimum lighting intensity shall be 0.2 footcandles (0.2 fcs) and a maximum twenty to one (20:1) maximum to minimum ratio is required within the parking lot. Lighting intensity shall not exceed 1 footcandle (1 fc) measured at the property line for lots adjoining the public right-of-way or a residential property. the minimum lighting intensity shall be two lumens (2.0 fcs), the maximum intensity shall not exceed five lumens (5.0 fcs), as measured within the parking lot, and shall not exceed 1 lumen (1.0 fcs) measured at the property line for parking lots adjoining the public right-of-way or a residential property.
 - 2. All lighting shall at a minimum be reduced by fifty (50) percent between 11:00 p.m. (or thirty (30) minutes after close of business whichever is later) and sunrise.
- E. Within LZ0 lighting zone.
 - 1. For any non-residential land use the minimum lighting intensity shall be 0.2 footcandles (0.2 fcs) and a maximum twenty to one (20:1) maximum to minimum ratio is required within the parking lot. Lighting

intensity shall not exceed 0.5 footcandles (0.5 fcs) measured at the property line for lots adjoining the public right-of-way or a residential property. ~~the minimum lighting intensity shall be one lumen (1.0 fcs), the maximum intensity shall not exceed two lumens (2.0 fcs), as measured within the parking lot, and shall not exceed 0.5 lumen (0.5 fcs) measured at the property line for parking lots adjoining the public right-of-way or a residential property.~~

2. All lighting shall be extinguished between 11:00 p.m. (or thirty (30) minutes after close of *business* whichever is later) and sunrise; except for *businesses* that operate on a twenty-four (24) hour basis.

Sec. 107-3.7. Outdoor advertising signs.

All outdoor advertising signs shall be in conformance with **Chapter 109** of this Code.

(Ord. No. 2021-17 , § 1(Exh. A), 2-1-22)

Sec. 107-3.8. School and community facility sports field/court and play area lighting.

- A. The city's intent is to follow the IES recommended practice for sports and recreational area lighting and the International Dark-Sky Association (IDA) criteria for community-friendly outdoor sports lighting.
 1. ~~The measurement of on-field illuminance values will be those appropriate for the application per IESNA RP-6-15 sports and recreational area lighting criteria (or equivalent CIE guidance) together with modeled initial illuminance targets. To limit over-lighting, the design may vary by no more than ten (10) percent above the average target illuminance levels for each class.~~
 2. ~~The IES TM-15-11 luminaire classification system for outdoor lighting is not appropriate for sports lighting.~~
- B. Provide advanced *adaptive controls* and documentation for the following:
 1. Automatic and/or remote control system via smartphone apps, or direct remote communication to the company/agency/department facility responsible for handling the lighting controls, to enforce shut-off at the established curfew time per the lighting zone in which the facility is located, not to be later than 11:00 p.m. Illumination of the playing field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances.
 2. On-site manual and/or remote control system shall also be provided to allow for the lights to be turned on or off at will (before curfew) to assure that only active sports fields are lighted.
 3. ~~Provide readily accessible controls to implement uniform and variable adaptive illumination levels for different task lighting needs on field, e.g. IES class of play, competition athletics, band practice, striping, mowing, sports practice, etc. Adaptive dimming shall be possible across the range of twenty-five (25) percent to one hundred (100) percent of full illumination.~~
- C. Sport courts with lighting shall be set back a minimum of twenty (20) feet from all side and rear lot lines. When located within a residential tract, sports court lighting shall be set back a sufficient distance to ensure foot-candles are zero along adjacent residential property lines.
- DC. Maximum mounting heights, measured from the finished *grade* to the top of the *fixture*, for recreational lighting shall be in accordance with the following:
 1. Pedestrian and bicycle pathways throughout a *park* or developed *open space* area should not exceed **sixteen (16)** ~~twelve (12)~~ feet in height and should be spaced in a manner to provide continuous illumination of the pathway.
 2. Sport court activities such as basketball, tennis, volleyball, and handball should not exceed twenty-five (25) feet in height.

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3. Recreational activities such as, but not limited to, horseshoes, lawn bowling and bocce ball courts, shuffleboard, miniature golf, and swimming pool aprons/decks should not exceed twenty (20) feet in height.
 4. Athletic fields for football, soccer, baseball, lacrosse, and nighttime practice golf ranges should not exceed eighty (80) feet in height. Little league baseball fields should not exceed sixty (60) feet in height for fields with a radius of two hundred (200) feet and seventy (70) feet in height for fields with a radius of three hundred (300) feet.
 5. Exceptions to the above mounting height requirements may be approved by the Community Development Director.

ED. Lighting for outdoor athletic fields, courts or tracks shall be exempt from the *lumens* per acre limits of **subsection 107-3.2.C.** herein. All such lighting shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics unless certified by a registered engineer that such shielding is impractical **and approved by the Community Development Director.** ~~Every such lighting system design shall be certified by a registered engineer as conforming to all applicable restrictions of this ordinance. Where full cut-off fixtures are not utilized, acceptable luminaires shall include those which:~~

1. ~~Are provided with internal and/or external glare control louvers and installed so as to limit direct up-light to less than five (5) percent of the total lumens exiting from the installed fixtures and minimize off-site light trespass as required herein, and~~
2. ~~Are installed with minimum aiming angles of twenty-five (25) degrees downward from the horizontal. Said aiming angle shall be measured from the axis of the luminaire maximum beam candlepower as certified by independent testing agency.~~

F. Photometric foot-candles shall be zero along property lines and shielded to prevent light spillage.

Sec. 107-3.9. Architectural and landscape lighting.

- A. Architectural/structural and landscape lighting ~~used~~ **used** to illuminate the wall of a *building* or elements are permitted in all lighting zones per **Table 107-3a**. Subject to the review and approval of the community development director or designee, said lighting must satisfy the criteria in the following sections:
 1. *Lighting fixtures* shall be selected, located, aimed and shielded so that *direct illumination* is focused exclusively on the *building* ~~façade~~ **façade**, plantings and other intended site features and away from *adjacent properties* and the public *right-of-way*;
 2. ~~Any lighting that directly shines onto neighboring properties or the public right-of-way shall be prohibited.~~ Wall mounted (downward lighting) flood or spot *lamps* must be **full cut-off fully shielded**, except that unshielded wall mounted lights, whose glare is mitigated by features such as porches and *building overhangs* and minimizes *light trespass* onto neighboring properties **are permitted**.
 3. The lighting will illuminate an architectural feature or landscape feature that is unique to the particular project due to the *use* of materials, colors or design characteristics which are not commonly found within the city. Such *fixtures* should be located and designed in such a manner that the actual *lamp* and reflector are shielded so that it is not seen from normal public viewing; **in order to limit** ~~such as but not limited to~~ direct glare **impacts to be protected from** vehicular and pedestrian traffic.
- B. Architectural and landscaping lighting in the LZ0 lighting zone shall be shut off from 11:00 p.m. to sunrise except when lighting is required by code for steps, stairs, walkways, and *building entrances*. **use** ~~Use~~ of motion sensors is encouraged.

Sec. 107-3.10. Multimodal pathways and trails, plazas, and outdoor seating areas.

- A. Lighting within fifty (50) feet of a residential property line **or within a residential development** shall not exceed a maximum standard height of **sixteen (16)** ~~twelve (12)~~ feet.

-
- B. Lighting shall be aimed or directed in a manner that any changes in the elevation or turn of the pathway are illuminated so that such pathway features are clearly discernible through the *use* of, but not limited to, freestanding poles, bollards, in-place step, and/or *structure/building-mounted fixtures*.
 - C. Bollard lighting shall be a maximum of four (4) feet in height with the *fixture* standard made primarily of concrete. All *fixtures* shall be shielded, have some type of control mechanism for the reduction or shut off, and *use* a low ambient light source as indicated above in **Table 107-3a** herein.
 - D. Trailheads, plazas, and outdoor seating areas, including their entrances and exits, shall be illuminated one (1) half hour before sunset to one (1) half hour after sunrise to facilitate natural surveillance opportunities and discourage unsafe activities. All lighting shall be pedestrian scaled and integrated into the total design in a manner that brings definition, order and a sense of security that welcomes pedestrian *use use*.

Sec. 107-3.11. Canopy lighting.

- A. Canopies include, but are not limited to, the following applications:
 - 1. All canopies associated with *vehicle fueling stations, drive-throughs* and convenience stores.
 - 2. Canopies over store and *office* fronts.
 - 3. All marquees and projecting overhangs.
 - 4. Exterior canopies over driveways, *loading areas*, and *building* entrances.
 - 5. Pavilions and gazebos.
- B. Overhead lighting *used used* to light *building-overhangs-and-open* canopies shall have a maximum lighting intensity (eye illumination levels) under the canopies no greater than five *footcandles lumens* (5 fcs) when measured directly under the overhang or canopy or greater than one *footcandle lumen* (1 fcs) when measured at the property line. Areas outside canopies and pump areas shall be regulated by the type of lighting application and the lighting zone in which the development is located as delineated in other sections herein.
- C. Overhead lighting used to light fuel canopies shall have a maximum lighting intensity under the canopies no greater than 50 footcandles (fcs) when measured directly under the overhang or canopy. Areas outside the canopies shall be regulated by the type of lighting application and the lighting zone in which the development is located as delineated in other sections herein.
- DE. Overhead lighting *used used* to light *building-overhangs, open-canopies, fueling-facility canopies, drive-through canopies, customer-loading* canopies, and similar *structures* shall be a recessed *fixture* incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the canopy. No portion of the *fixture* shall project below the ceiling of the canopy *structure*.
- ED. Canopies for pavilions and gazebos may utilize indirect lighting beamed upward and then reflected down from the underside of the canopy. Such *fixtures* shall be shielded such that *direct illumination* is focused exclusively on the underside of the canopy.
- FE. Canopy lighting shall be reduced by thirty (30) percent between the hours of 11:00 p.m. to sunrise. Except for *businesses* open twenty-four (24) hours, canopy lighting in the LZ0 lighting zone shall be shut off by 11:00 p.m. or thirty (30) minutes after the close of *business* or at such time as the last employee leaves the *business* premises, whichever is later.

Sec. 107-3.12. Reserved.

Sec. 107-3.13. Security lighting.

- A. Security lighting shall **use** ~~use~~ the lowest possible illumination level to effectively allow surveillance and reduce the negative impacts of crime.
- ~~[B.]~~ Security lighting systems shall utilize the light sources delineated in **Table 107-3a** herein, be **full cut-off** ~~fully shielded~~ *fixtures*, and aimed so that illumination is directed to the designated areas.
- ~~[C.]~~ The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the planning and zoning commission to conserve energy, provide safety and promote compatibility between different land *uses*.

Sec. 107-3.14. Exposed string lighting.

- A. Lights that are blinking and/or chasing are not permitted in non-residential zones. Only during seasonal periods identified herein may residential zones utilize blinking and/or chasing lights.
- B. Permanently exposed string lights are permitted the following criteria are satisfied:
 - 1. Exposed permanent string lights shall be exclusively a white light with a clear bulb as a commercially available maximum 2.8-watt system and may require a *building permit* according to **Chapter 105** of this ordinance.
 - 2. Exposed string lights shall be limited to designated areas for outside dining, seating, or gathering and main pedestrian entry to a project site.
 - 3. Lighting of living landscape features (trees) may be permitted if **used** ~~used~~ in combination with other highlighting or pedestrian *lighting fixtures* within these immediate areas. Lighting of landscape features shall be secured to the landscape feature with bands that will not puncture the skin of the plant.
 - 4. Residential string lights must comply with regulations of this article herein with regards to *light trespass* and spillage.
 - 5. Applications considered with the development review process may require string lights details to be included with final approval made with the community development director or designee upon satisfactory compliance with the limitations and design parameters above.

Sec. 107-3.15. Outdoor display and sales areas **and vehicular sales lots.**

- A. All site lighting not directly associated with the *outdoor display* and *sales areas* shall conform to the lighting standards described in other sections of this article, including but not limited to the lighting source and shielding requirements of **Table 107-3a** and the *lumens* per acre limits of **subsection 107-3.2.C**.
- B. Lighting for the *outdoor display* and **outdoor** *sales areas* ~~shall be designed to not exceed the luminance recommendations for the activity as defined by the most current recommended practice of the Illuminating Engineering Society of North America (IESNA). All such lighting~~ shall utilize *full cut-off* luminaires that are installed in a fashion that maintains the *full cut-off* characteristics. Every such lighting system design shall be certified by a registered certified engineer **and subject to Community Development Director approval** ~~as conforming to all applicable restrictions of this article.~~
- C. Maximum lighting standard (pole) heights, measured from the finished *grade* to the top of the *fixture*, should not exceed sixteen (16) feet in height along the perimeter of the **outdoor** *display area* and twenty-five (25) feet within the interior of the **outdoor** *display area*.

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- D. Due to the nature of vehicular sales lots, deviation from the footcandle or height requirements may be needed. Every such lighting system shall be certified by a registered engineer and subject to Community Development Director approval.
- E.D. ~~Display area lighting shall be turned off by 11:00 p.m. or within thirty (30) minutes after closing of the business, whichever is later.~~ Lighting shall be turned off thirty (30) minutes after close of business or 11:00 p.m., whichever is later. Security lighting shall be exempt from these turn-off requirements.

Sec. 107-3.16. Prohibited outdoor lighting.

- A. The ~~use~~ *use*, installation, sale of any mercury vapor *lamps* is prohibited per A.R.S. § 49-1104.
- B. The ~~use~~ *use* of laser source light or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.
- C. The operation of searchlights for advertising purposes ~~is prohibited in all lighting zones.~~ *in the LZ2 lighting zone is prohibited between 10:00 p.m. and sunrise the following morning and prohibited at all times in lighting zones LZ1 and LZ0.*
- D. Bottom-mounted outdoor sign lighting attached to the sign shall not be ~~used~~ *used*.

Chapter 108 - LAND DIVISION AND SUBDIVISION REGULATIONS

ARTICLE II. - REPORTS, PLANS, AND DESIGN STANDARDS

Sec. 108-2.11. – Street light improvement district.

- A. All streetlights shall be installed in accordance with city Street Light Design Guidelines of the engineering development standards. The initial costs associated with the design, purchase, installation, operation, and maintenance of streetlights shall be the responsibility of the developer. The developer shall be responsible for establishing a street light improvement district (SLID) prior to the final plat approval by executing a petition for formation of a SLID in a form acceptable to the city attorney. The SLID is an assessment by the city against the owners of the real property within the boundaries for the costs associated with the ongoing maintenance and operation of the street lights except major arterial, minor arterials, and parkways.

Citizen Participation Report

Zoning Text Amendment for Lighting Updates

July 26, 2023 – FS22-1581

PROJECT DESCRIPTION

The City has initiated this Zoning Text Amendment (ZTA) to the Surprise Land Development Ordinances (LDO) to address scrivener's errors, provide clarity and reduce redundancy, and revise standards related to lighting provisions. Affected sections of the LDO include Section 101-2: Rules of Interpretation and Glossary of Terms; Section 106-10: Use Specific Standards; and Section 107-3: Outdoor Lighting Regulations.

ADVERTISING

The meeting was advertised in the Surprise Independent on Wednesday, July 5, 2023 and the Daily News Sun on Friday, July 7, 2023, and published on the City website.

MEETING DESCRIPTION & ATTENDANCE

The meeting was held at City Hall in the Community Room on July 25, 2023 at 6 p.m. and ended at approximately 7 p.m. There were approximately 15 members of the public in attendance.

FEEDBACK

Staff provided an overview presentation of the proposed changes and attendees asked questions throughout and provided discussion. Below is a summary of those questions and discussions.

- Fixture shielding
 - The feedback received was that expanded shielding requirements should be included in order to direct light in a more downward direction to further prevent light from extending on to adjacent properties.
- Street lighting
 - Concerns were expressed about the brightness of street lights and their impacts on adjacent properties. Questions about APS standards and processes, and the relationship of those to the City's, were asked.
- Excessive glare
 - Suggestions were made to expand the language regarding "excessive glare" and add ways to quantify or measure glare.
- Pole heights
 - Attendees were generally unfavorable to increasing the allowed pole heights. The feedback was that this would only create more issues of glare and light trespass.
- Mounting heights
 - Questions were posed about mounting height requirements for building-mounted light fixtures, and if those were proposed to be increased as well.
- Sports field lighting

- Concerns were expressed about the brightness of sports lighting, school field lighting being left on late, and light spillages. Questions were raised about the ability to add additional shielding to these fixtures.
- Community Development Director discretion
 - Attendees generally had concerns regarding the proposed language that would allow for increased staff discretion for deviations from the standards. Feedback was received regarding the ambiguity of “extenuating circumstances” and felt that this was too open-ended. Suggestions were made to have these deviations be approved by the Planning & Zoning Commission.
- Searchlights
 - A suggestion was made to amend Section 107-3.16 C regarding searchlights to prohibit them completely.

NAME

ADDRESS

CONTACT

Andy Cepon

DAVE MARSH

Cathy Tudisco

Patricia Tudisco

Tyler Tudisco

NATE POMEROY

Laura Pomeroy

Cathy Bwyno

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James Truman

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Kelly BRAUN

QUINTUS SCHULTRE

Lauren Nugent

ERREN MORENO



S U R P R I S E
ARIZONA

City Council

November 6, 2023

Zoning Text Amendment
Lighting Updates
FS22-1581



OVERVIEW

- The 2021 Code Update:
 - Caused language to be technical in nature & difficult to implement
 - Lowered pole heights which increased light intensity, decreased uniformity, and increased number of poles
 - Included conflicting technical terminology for lighting
 - Including street light standards
 - Inadvertently removed SLID language



OVERVIEW

- Clean-up of lighting code to:
 - Provide clarity
 - Reduce redundancy
 - Create code section easily understandable by staff, residents, and applicants
 - Remove street light standards & refer to Engineering standards
 - Amend height requirements and lighting levels
- Recommendations are a combined effort by staff and a lighting consultant
 - Consultant also revised Street Light Standards for the Engineering Division



KEY CHANGES

- Address scrivener's errors and conflicting language
- Removal of International Dark Sky Association seal requirement
- Removal of “narrow spectrum amber” requirement
- Add reference to street light standards
- Pole heights returning to previous 25’ max
 - 16’ max within 50’ of residential
- Introducing a 20:1 ratio for lighting intensity
- Lower minimum light levels
- Retain maximum lighting levels at property lines
- Reincorporate inadvertently removed SLID language
- Add Community Development Director discretion
- Remove allowance for searchlights for advertising purposes



20:1 Ratio

The minimum lighting intensity shall be 0.2 footcandles (0.2 fcs) and a maximum twenty to one (20:1) maximum to minimum ratio is required within the parking lot. Lighting intensity shall not exceed 1 footcandle (1 fc) measured at the property line for lots adjoining the public right-of-way or a residential property.

Example:

- Lowest fc: 0.2 -> Highest fc: 4 (20:1 Ratio)



APPLICABLE SECTIONS

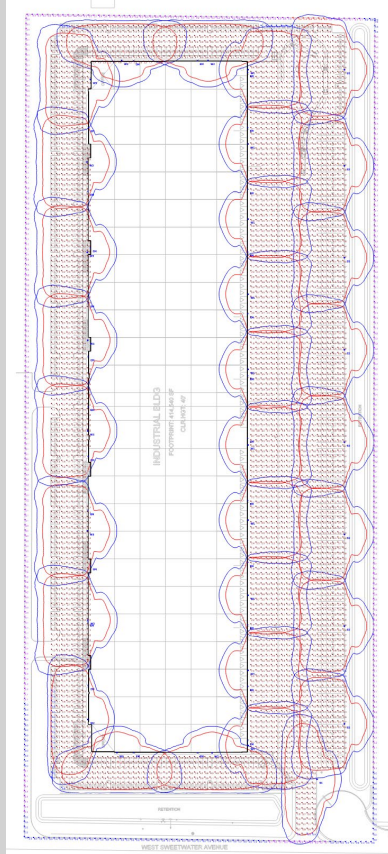
- **Section 107-3: Outdoor Lighting Regulations**
 - Primary section to be amended
- **Section 101-2: Rules of Interpretation and Glossary of Terms**
 - Delete/ revise applicable lighting definitions
- **Section 106-10: Use Specific Standards**
 - Remove conflict
 - Add referenced back to Section 107-3
- **Section 108-2: Reports, Plans, and Design Standards**
 - Add missing Street Light Improvement District (SLID) language



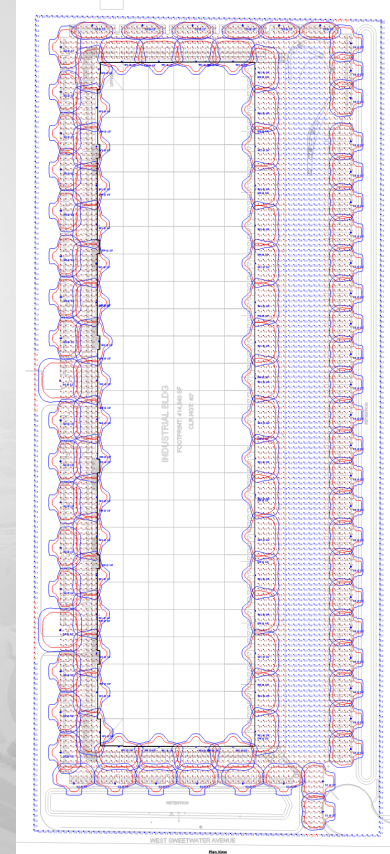
COMMUNITY FEEDBACK

- Concerns regarding pole heights/ mounting heights
- General concerns regarding shielding
- Questions/concerns regarding APS standards & street lights
- Need for extra details regarding 'excessive glare'
- Ball field lighting standards
- Opposition to Community Development Director discretion
- Desire to strike allowance for searchlights for advertising

25' Pole/Mounting Height



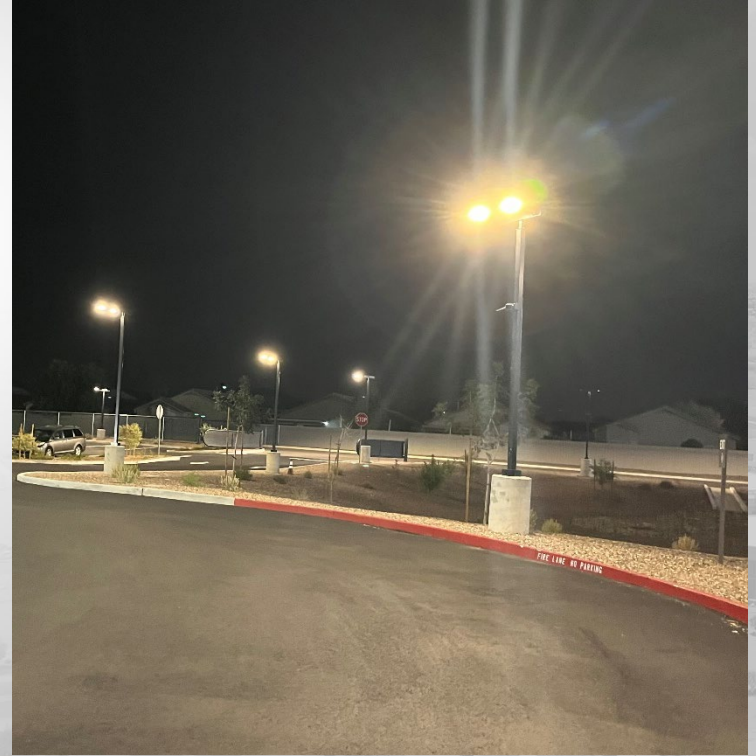
12'/16' Pole/Mounting Height



LDO: 16' & 12'



LDO: 16' & 12'



SUDC: 25'





RECOMMENDATION

Commission recommended **approval** of FS22-1581



SURPRISE
ARIZONA

QUESTIONS OR COMMENTS?

Thank You





Unshielded Light



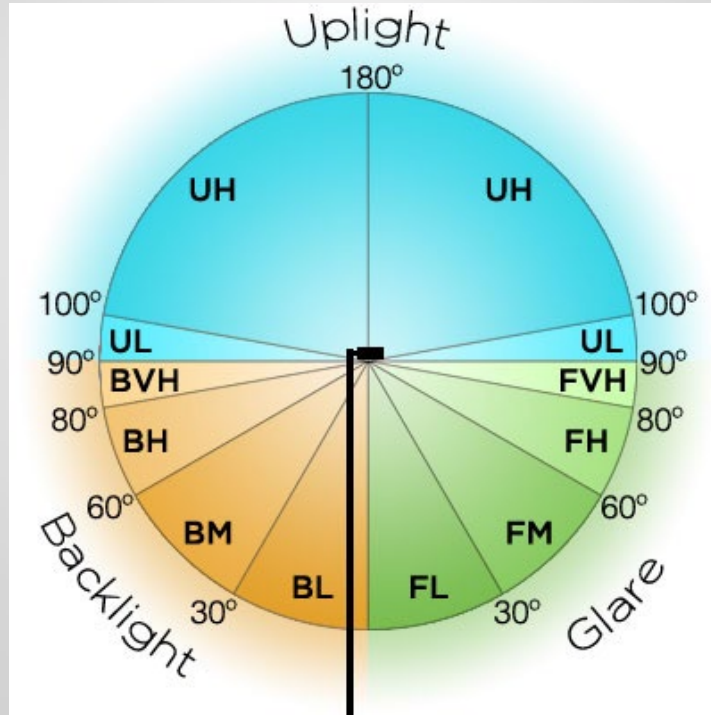
Partially Shielded Light

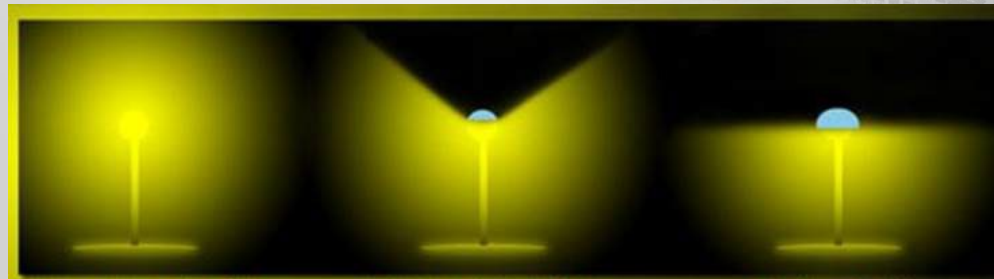
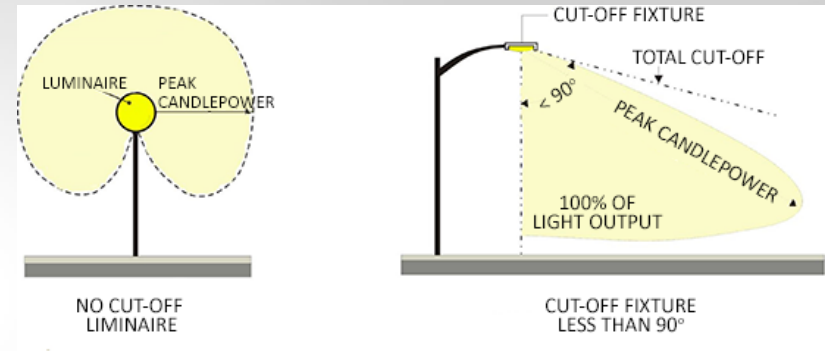


Sports Lighting



BUG Rating

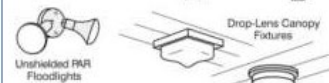
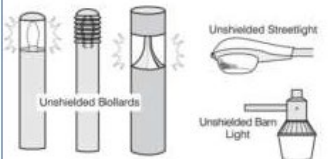
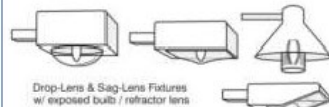
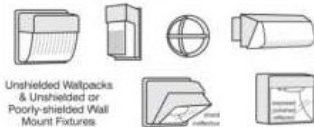




Examples of Acceptable / Unacceptable Lighting Fixtures

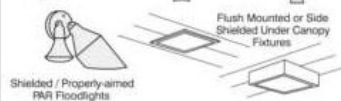
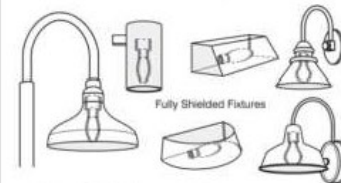
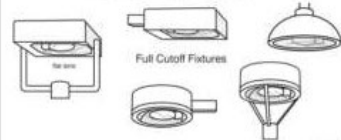
Unacceptable / Discouraged

Fixtures that produce glare and light trespass

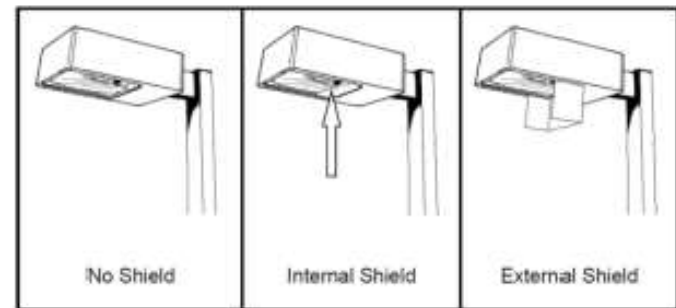


Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Illustrations by Bob Crain © 2005. Rendered for the Town of Southampton, NY. Used with permission.



Streetlights

- Engineering Division Streetlight Standards
 - Covers spacing, height, pole specs, color temperature, full cut-off, etc.
- APS maintains streetlights
- Requests for maintenance, complaints, shielding, etc. go to APS for response

ORDINANCE # 2023-25

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A TEXT AMENDMENT TO THE SURPRISE LAND DEVELOPMENT ORDINANCES TO UPDATE AND CLARIFY LIGHTING PROVISIONS; INCLUDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND REPEALING CONFLICTING ORDINANCES.

WHEREAS, this Ordinance was properly noticed for public hearing and the necessary hearings and opportunity for public input were completed;

WHEREAS, City staff has identified areas of redundancy and conflict, and others in need of clarification, in the lighting provisions of the Land Development Ordinances that should be revised to improve applicability;

WHEREAS, City staff has recommended that all of these corrections and revisions to the Land Development Ordinances should be effected by adopting a single ordinance;

WHEREAS, on October 5, 2023, the Planning and Zoning Commission recommended approval of the proposed Text Amendments to the Land Development Ordinances;

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

Section 1. Chapters 101, 106, 107, and 108 of the Surprise Land Development Ordinances are hereby amended as described on attached **Exhibit A**, and incorporated by this reference.

Section 2. All ordinances, resolutions or codes in conflict with the provisions of this Ordinance or Code adopted by this Ordinance are repealed upon the effective date of this Ordinance.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be read to affect the validity of the remaining portions thereof.

Section 4. This ordinance will become effective at the time and manner prescribed by law and shall be added to the Surprise Code of Ordinances at that time.

PASSED AND ADOPTED this ____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

EXHIBIT A

DRAFT

DRAFT



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023 Contact Person: Chris Sexton
Submitting Department: Community Development District: District 1
Staff Recommendations:

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

Consideration and action pertaining to an amendment to the Windstone Ranch PUD by modifying the rear yard setback from 20-feet to 15-feet, a property generally located at the northeast corner of Happy Valley Road and 151st Avenue; Ordinance #2023-28.

Motion:

I move to approve Ordinance # 2023-28.

Background:

The subject request involves amending the Windstone Ranch PUD (FS19-263), on approximately 19.92 acres, located at the northeast corner of Happy Valley Road and 151st Avenue. The amendment proposes to reduce the rear yard setback development standard and add an amenity area that includes a community pool.

Objective Analysis:

The subject PUD Amendment is in harmony with the purposes and intent of the Windstone Ranch Planned Unit Development (PUD), in addition to other applicable City of Surprise regulations. All city reviewing departments have reviewed the request and expressed no concerns.

Policy Compliant:

The subject PUD Amendment is consistent with the Windstone Ranch PUD and advances the goals and policies of the General Plan.

Financial Impact:

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

Budget Impact:

There is no anticipated budget impact related to this item.

FTE Impact:

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

ATTACHMENTS:

1. 00 - FS23-0454 Windstone Ranch PUD Amendment - Staff Report
 2. 01 - FS23-0454 Windstone Ranch PUD Amendment - Vicinity Map
 3. 02 - FS23-1454 Windstone Ranch PUD Amendment - Zoning Map
 4. 03 - FS23-0454 Windstone Ranch PUD Amendment - PUD Amendment Document
 5. 04 - FS23-0454 Windstone Ranch PUD Amendment - Site Plan
 6. 05 - FS23-0454 Windstone Ranch PUD Amendment - Conceptual Amenity Site Plan
 7. 06 - FS23-0454 Windstone Ranch PUD Amendment - Luke AFB Letter
 8. 07 - FS23-0454 Windstone Ranch PUD Amendment - Affidavit of Site Posting
 9. 08 - FS23-0454 Windstone Ranch PUD Amendment - Citizen Outreach Report - REDACTED
 10. 09 - Ord 2023-28 Windstone Ranch PUD Amendment
 11. FS23-0454 Windstone Ranch PUD Amendment - Powerpoint
-

PUD AMENDMENT

REPORT TO THE CITY COUNCIL

Case: FS23-0454

Project Name: Windstone Ranch PUD Amendment

Council District: 1 – Acacia

Meeting Date: November 6, 2023

Planner: Chris Sexton

Owner: Todd Skoro on behalf of R-Hearthstone Lot Option Pool 04 LP

Applicant: Andrew Yancy with Bergin, Frakes, Smalley & Oberholtzer PLLC

Request: PUD amendment to request a reduction in the rear yard setback standard and to add an amenity area with a community pool.

Site Location: Generally located on the northeast corner of Happy Valley Road and 151st Avenue.

Site Size: 19.92 acres (approx.)

General Plan Conformance: The proposal is consistent with the Surprise General Plan 2035.

Support/Opposition: Refer to the attached Citizen Participation Report.

Staff Recommendation: The Planning and Zoning Commission **recommends approval** of the subject PUD Amendment, subject to stipulations 'a' through 'b'.

Project Description:

The subject request involves amending the Windstone Ranch PUD (original case number FS19-263), on approximately 19.92 acres, located at the northeast corner of Happy Valley Road and 151st Avenue. The amendment proposes to reduce the rear yard setback development standard and add an amenity area that includes a community pool.

Background:

November 10, 2007: The City Council approved the annexation (Ordinance 07-47) of the subject property.

April 2, 2020: Planning and Zoning Commission recommended to City Council to approve a rezone to the project under subject case FS19-263.

May 5, 2020: The Mayor and City Council approved the rezone with a PUD overlay under subject case FS19-263.

August 17, 2021: The Mayor and City Council approved the preliminary plat under subject case FS20-596.

May 4, 2022: The applicant was provided with Concept Review comments under case CR22-0328.

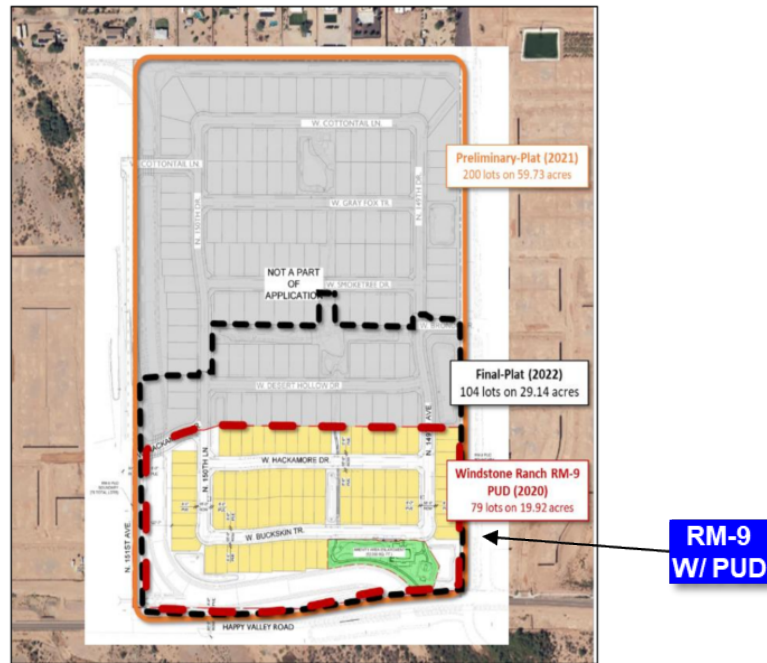
June 1, 2023: The applicant filed the subject case for a PUD amendment under the subject case, FS23-0454.

July 11, 2023: An outreach meeting was held at the Surprise Regional Library with no attendees.

October 5, 2023: The Planning and Zoning Commission recommends approval of the subject PUD amendment, case FS23-0454, to the City Council.

Analysis and Discussion:

The subject request involves modifying the rear yard setback from 20-feet to 15-feet for the RM-9 portion of the Windstone Ranch as indicated below. The RM-9 development encompasses 79 lots on approximately 19.92 acres.



73

74 In 2021, the preliminary plat with a PUD overlay, was approved by City Council and included
 75 the property to the north which includes 29 acres for an approximate total of 49 acres. The
 76 PUD made several modifications to the RM-9 district, including removing the requirement for
 77 a community pool under the Surprise Unified Development Code (SUDC). The justification
 78 for removing the community pool requirement was the 20-foot rear yard setback would allow
 79 sufficient room for individual homeowners to install private pools in their backyards. Also, the
 80 PUD extended the front setback from front-facing garages from 20-feet to 21-feet to provide
 81 an extra foot of driveway area which will be maintained. The PUD's minimum lot dimensions
 82 adhere to the RM-9 minimum standards of 40-foot width, 100-foot depth and 4,500 square
 83 feet overall area. The lots on the northern portion of the subdivision were approved at 60-
 84 foot and 70-foot widths.

85

86 While the project's development standards in the PUD align with the SUDC, the proposed
 87 modification brings the project's zoning more in line with the Land Development Ordinance
 88 (LDO). The 15-foot rear yard setback is consistent with the standards for a 45-foot-wide lot
 89 and exceeds the minimum 10-foot rear yard setback (under urban lots in R-1 and R-2 zoning)
 90 in the LDO.

91

92 Apart from the rear yard setback, all other development standards will remain the same.
 93 The development standards table showing the proposed modification is below:

94

Table 2 – Windstone Ranch PUD Development Standards Table

WINDSTONE RANCH - LOTS 108-186	
	WINDSTONE RANCH RM-9 PUD DEVELOPMENT STANDARDS
MINIMUM LOT AREA (PER UNIT)	4,500 S.F.
MINIMUM LOT WIDTH	40'
MINIMUM LOT DEPTH	100'
BUILDING SETBACK – FRONT (LIVABLE)	12' ⁽²⁾
BUILDING SETBACK – FRONT (GARAGE)	21' ⁽¹⁾
BUILDING SETBACK – SIDE	5'
BUILDING SETBACK – REAR	20' 15' ⁽⁵⁾
MAXIMUM BUILDING HEIGHT	35'
(1) FRONT FACING GARAGES SHALL HAVE A MINIMUM 21-FOOT FRONT YARD SETBACK MEASURED FROM BACK OF SIDEWALK (2) 12-FOOT LIVABLE FRONT SETBACK IS MEASURED FROM RIGHT-OF-WAY (3) TO BE DETERMINED AT SITE PLAN OR PRELIMINARY PLAT REVIEW (4) THERE IS NOT A STREET SIDE SETBACK REQUIREMENT IN THE SUDC (5) PORCHES / PATIOS MAY ENCROACH 2'-6" INTO THE REAR YARD SETBACK	

An amenity site for the entire Windstone Ranch project is being proposed near the project's southeast corner. The amenity site will include an approximate 1,900 square foot community pool, basketball half-court, bathrooms, ramada, shade sail with benches, open turf area and a barbecue area for the residents of the 79 lots. Access to the site may be by car, as 10 on-street parking spaces including 2 ADA are being provided, or by foot.



Additionally, the proposed amenity area exceeds the LDO and Planning and Engineering Design Standards (PEDS) for amenity sites as the LDO provides a formula for determining the size of an amenity for single-family developments. For the 79 lots in the Windstone Ranch PUD, the formula would require a 30,020 square foot amenity size while the proposed amenity site is over 50,000 square feet. Plus, the addition of the community pool meets the SUDC amenity requirement that was previously removed as part of the PUD approval.

Utility and Services Table:

Electric:	APS
Water:	City of Surprise
Wastewater:	City of Surprise
Schools:	Dysart Unified School District

Conformance with Adopted Plans:

The Surprise General Plan 2035 shows the subject property as lying within the Neighborhood Character Area, which in a suburban neighborhood supports residential development between two and eight dwelling units per acre (2-8 DU/Ac).

The project is located within the 163rd Avenue Corridor Growth Area, which was created to encourage a full range of housing opportunities, densities and product types.

November 6, 2023, City Council
Case: FS23-0454 Windstone Ranch PUD Amendment

121 In addition, the PUD amendment will result in a new amenity site which will help cultivate
122 a sense of community within the Windstone Ranch project and encourage greater and
123 increased interactions among residents.

124
125 **Reviewing Agencies:**

126
127 The request was routed to internal and external agencies, who indicated no objections to
128 the request.

129
130 **Citizen Outreach:**

131
132 The applicant held an outreach meeting on July 11, 2023, at the Surprise Regional
133 Library. There were no attendees at the outreach meeting.

134
135 A summary of outreach efforts can be found in the attached Citizen Outreach Report.

136
137 **Summary:**

138
139 Staff concludes the proposed PUD Amendment is consistent with the Surprise General
140 Plan 2035 and all applicable zoning codes.

141
142 **Findings:**

- 143
- 144 • The proposed PUD Amendment is consistent with RM-9 PUD (Windstone Ranch)
 - 145 zoning districts.
 - 146 • The proposed PUD Amendment is consistent with the Preliminary Plat approved
 - 147 under case FS20-596.
 - 148 • The proposed PUD Amendment is consistent with the applicable City of Surprise
 - 149 regulations.
 - 150 • The reviewing agencies have indicated no objections to the request.

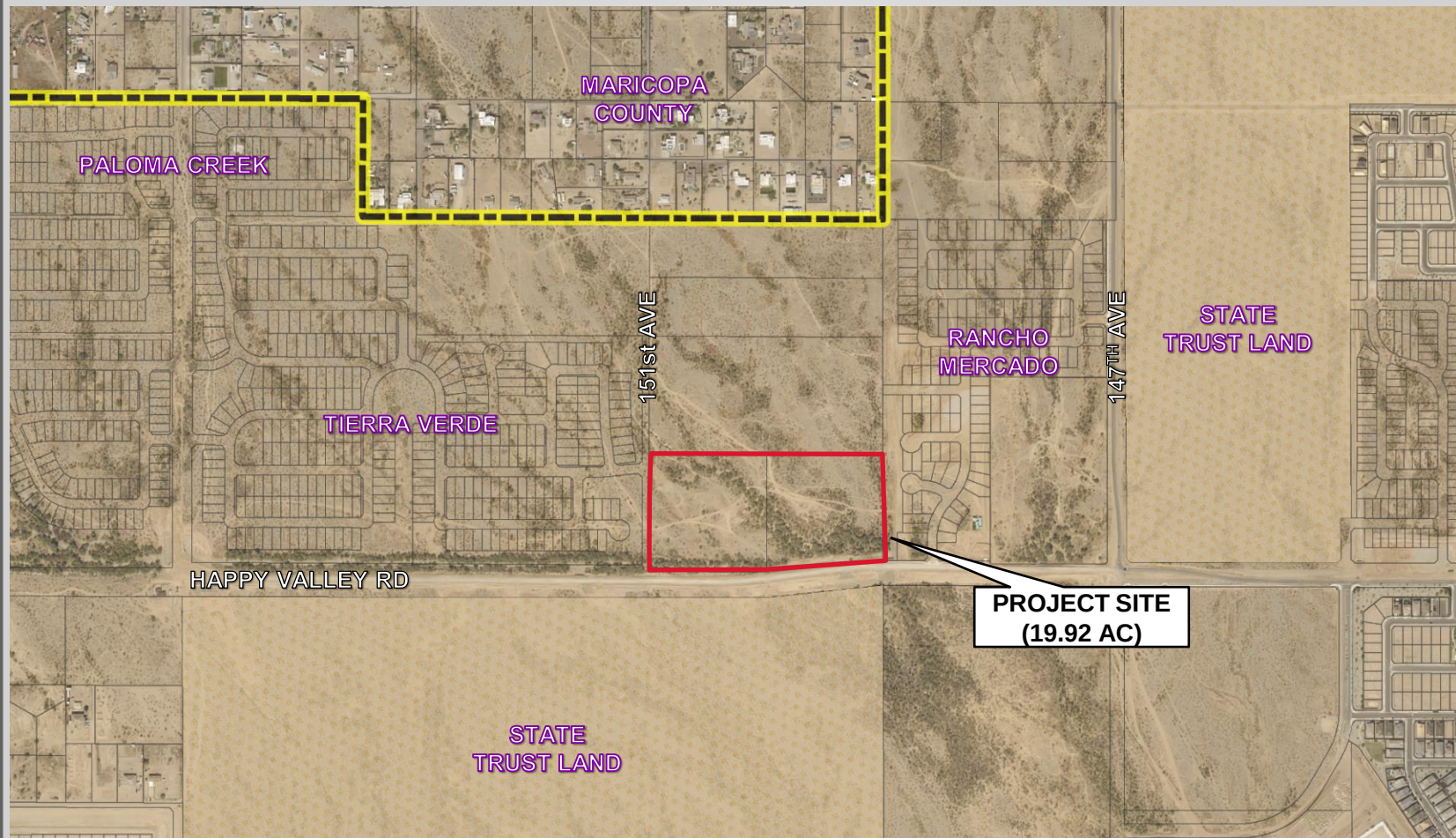
151
152 **Recommendation:**

153
154 Based on the findings noted above, the Commission moved to recommend approval of the
155 PUD Amendment to the City Council subject to stipulations 'a' through 'b' as follows:

- 156
- 157 a. Development and use of the site shall be consistent with the narrative entitled
 - 158 "Windstone Ranch PUD Amendment" dated July 28, 2023.
 - 159
 - 160 b. Non-compliance with the stipulations of approval of this case will be treated as a
 - 161 violation in accordance with the applicable provisions of the Surprise Municipal
 - 162 Code.

163 However, should the City Council wish to recommend **denial** of the request, the City Council
164 should make its own findings and base its decision on those alternative findings.

166 **Attachments:**
167
168 01 Vicinity Map
169 02 Zoning Map
170 03 PUD Document
171 04 Site Plan
172 05 Conceptual Amenity Site Plan
173 06 Luke AFB comments
174 07 Affidavit of Site Posting
175 08 Citizen Outreach Report – REDACTED
176 PPT



PALOMA CREEK

MARICOPA
COUNTY

TIERRA VERDE

HAPPY VALLEY RD

151st AVE

RANCHO
MERCADO

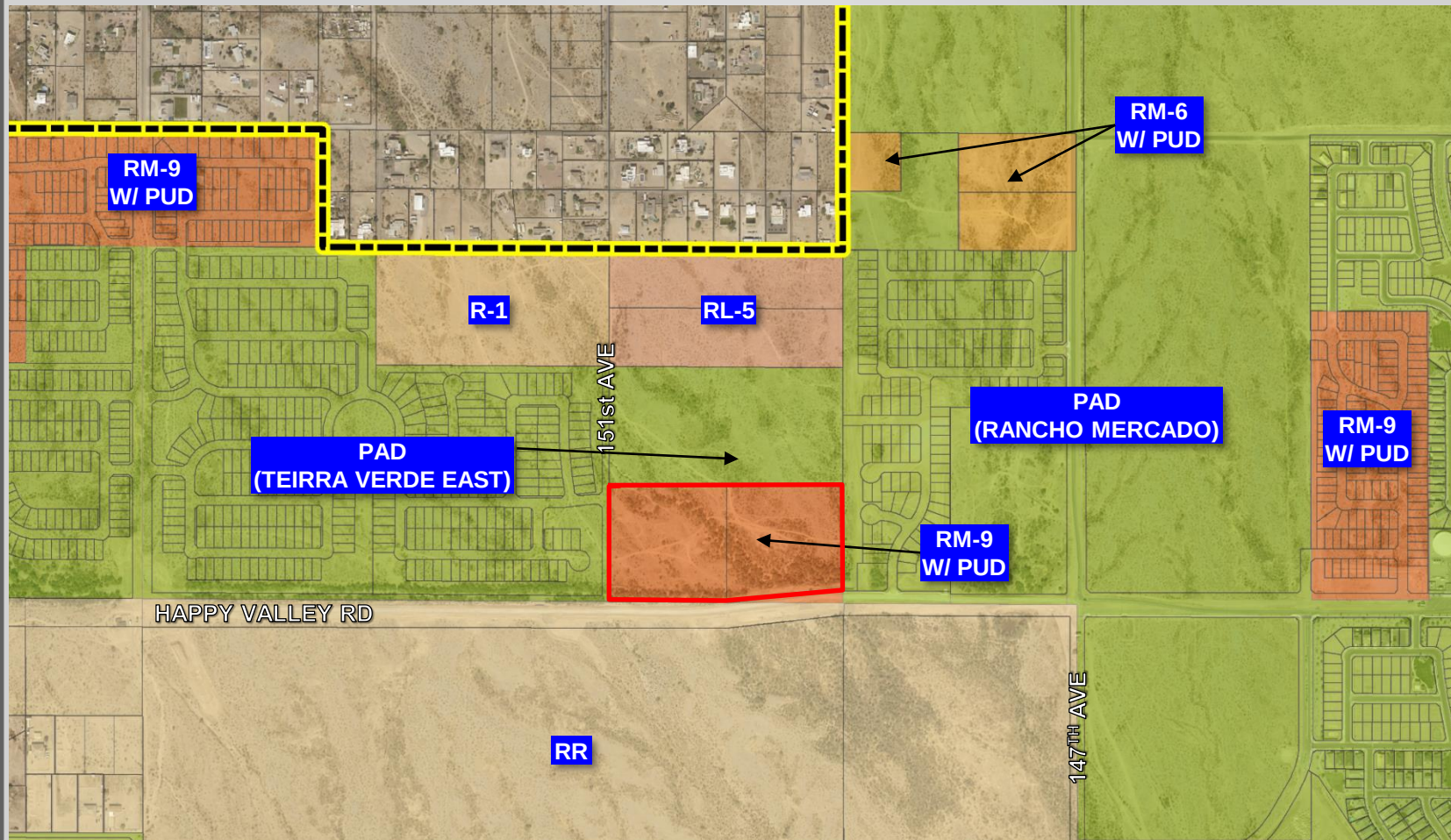
147th AVE

STATE
TRUST LAND

STATE
TRUST LAND

PROJECT SITE
(19.92 AC)

FS23-0454 VICINITY MAP



FS23-0454 ZONING MAP

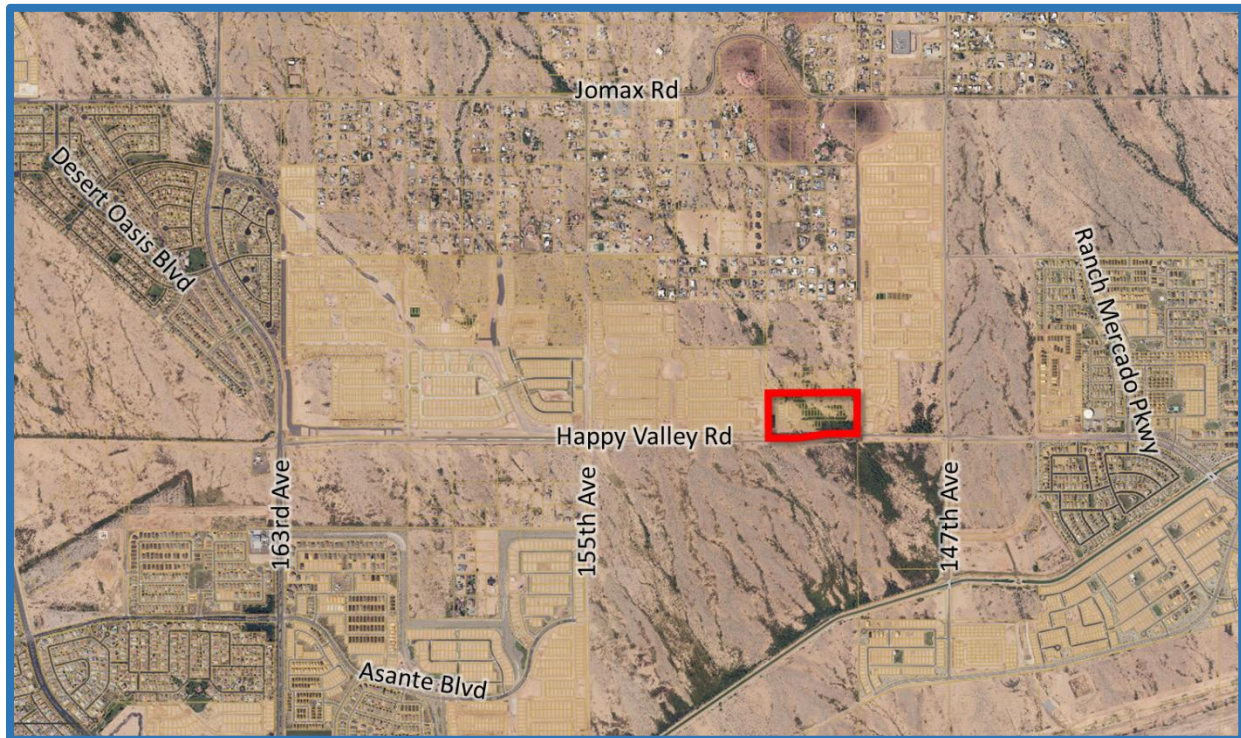
Windstone Ranch

PUD Amendment Rezoning Narrative

Case File: FS23-0454

19.92 Acres

Northeast corner of Happy Valley Road and 151st Avenue



**Submitted to City of Surprise
July 28, 2023**

Windstone Ranch PUD Team



Tyler Shute, Land Development Manager
1665 W. Alameda Dr., Ste 130
Tempe, AZ 85282



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Scottsdale, AZ 85251



Michael Park, P.E.
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Scottsdale, AZ 85251



BERGIN, FRAKES, SMALLEY & OBERHOLTZER

Andrew Yancey, Esq.
4343 East Camelback Road, Suite 210
Phoenix, Arizona 85018

Table of Contents

Introduction....1
Entitlement History....2
Surrounding Area....3
Description of Request....3
Open Spaces and Amenities5
Utilities....6
Grading and Drainage....6
General Plan Consistency....7
Conclusion....8

Introduction

This application would amend the Windstone Ranch PUD (FS19-263) on approximately 19.92 acres located at the northeast corner of Happy Valley Road and 151st Avenue (“Property”) to reduce the rear setback and to add a significant amenity area with a community pool. The Property was zoned by a previous owner in 2020 to the RM-9 district with a PUD overlay to allow development of 79 lots (“Project”). At this time, a subsidiary of Lennar Corporation has purchased the Property and is commencing development. See Figure 1 for a Property Aerial. The Property will be part of a 200-home subdivision (“Entire Subdivision”), which also encompasses approximately 40 additional acres to the north that will be developed with larger lots to ensure a diversity of homebuying opportunities. The 40 acres to the north are not subject to this request.

Figure 1 – Property Aerial



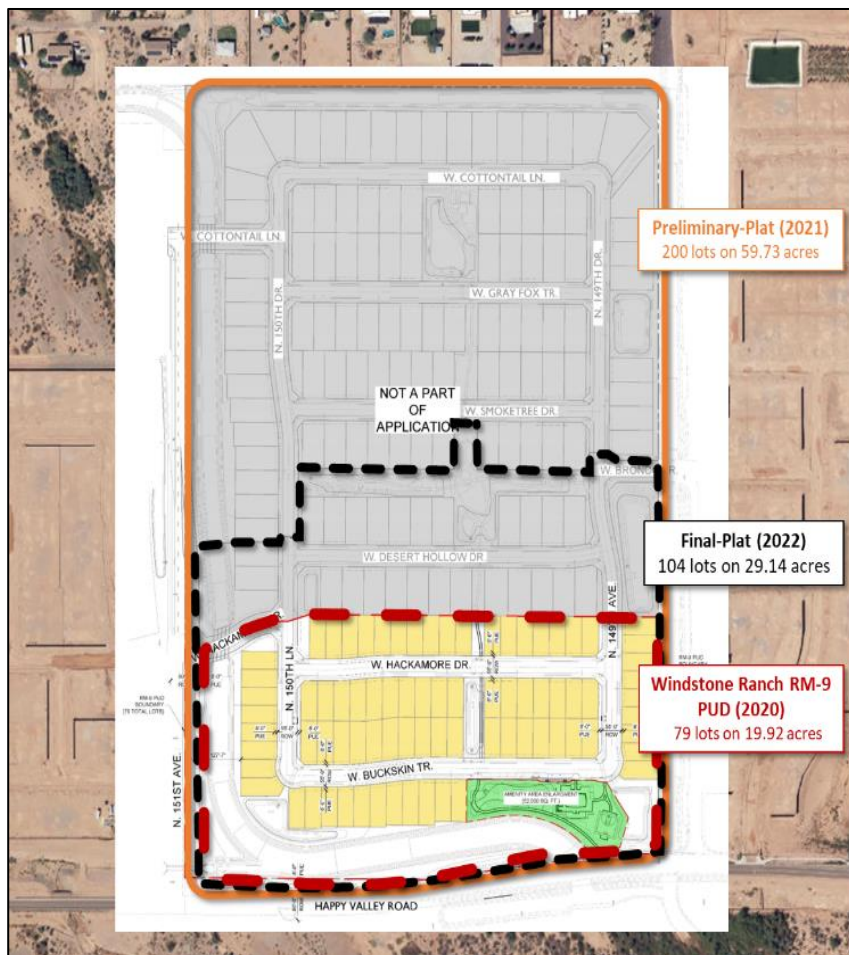
Recent trends in the single-family residential market show that buyers are shifting their preferences to single-story homes for affordability, health, and lifestyle reasons. Because some of Lennar’s single-story floor plans do not fit within the current lot setback requirements on the Property, this application would modify a single development standard by reducing the rear setback from 20’ to 15’ to accommodate more one-story plans. The proposed standard is consistent with the City’s updated Zoning Ordinance. Limiting this modification to only the rear setback would maintain the current front yard setback to preserve the community’s intended streetscape. To ensure future homeowners within the Project are afforded ample opportunities for outdoor recreation, Lennar is also proposing an enhanced amenity area of approximately 50,000sf that will include a community pool with restrooms and a barbeque area, a half basketball court, open turf area, artificial turf game area, and a trail with shading and benches, as well as 10 adjacent on-street parking spaces (“Enhanced Amenity Area”).

With more than 60 years of operations, Lennar has built over one million homes nationwide and has extensive experience throughout the Valley. Their experience in Surprise includes portions of the master planned Asante community which features both family-targeted and active adult components as well as the multi-generational NextGen home option that Lennar also plans to offer at Windstone. Lennar focuses on building high quality homes that attract a variety of buyers, and they look forward to developing Windstone with a range of home options to appeal to first-time buyers, families, move-up buyers, and empty nesters all in the same community.

The Windstone Ranch PUD was proposed by a previous owner and approved in 2020 under the previous zoning ordinance (“SUDC”). That case zoned the Property RM-9 with a PUD overlay and limited the Property to 79 residential lots. That zoning remains on the Property today, and this request would not alter the 79 lot maximum. The 2020 PUD is attached as Appendix A and is incorporated herein, except that this document controls to the extent it conflicts with Appendix A.

In 2021, a pre-plat (Case Number FS20-596) was approved that included the Property as well as the additional ~40 acres to the north for a total of ~60 acres across the Entire Subdivision. The pre-plat approved 200 lots for the Entire Subdivision, including 79 on the Property. The lots on the Property were approved as 45'x100', which is 5' more width than required in the Windstone Ranch PUD. The lots on the northern portion of the subdivision were approved at 60' and 70' widths, which contribute to a diversity of home types planned for this community.

Figure 2 – Entitlement History



Surrounding Area

The surrounding area is either vacant or under development as single-family residential. The area is within the Neighborhood character area of the Surprise General Plan 2035 (“General Plan”) and also within the 163rd Avenue Corridor Growth Area. The Project’s 45’-wide lots will add diversity north of Happy Valley Road where platted lots are primarily 50’-wide or more, with multiple pockets of 60’-wide and 70’-wide lots, including within Lennar’s property to the north. Figure 3 below provides maps of surrounding uses and surrounding zoning, while Table 1 below provides information on properties adjacent to the Property.

Figure 3

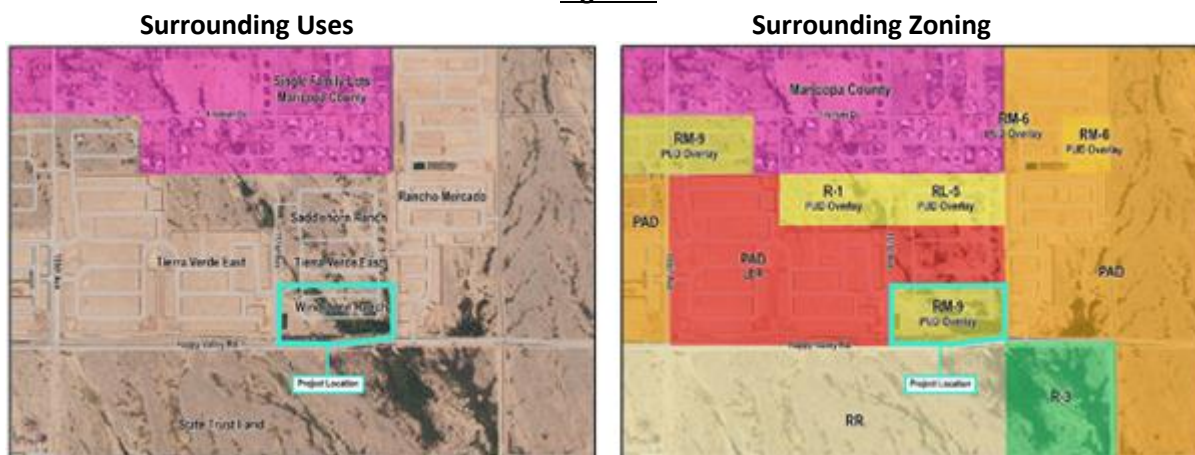


Table 1 – Windstone Ranch PUD Surrounding Uses

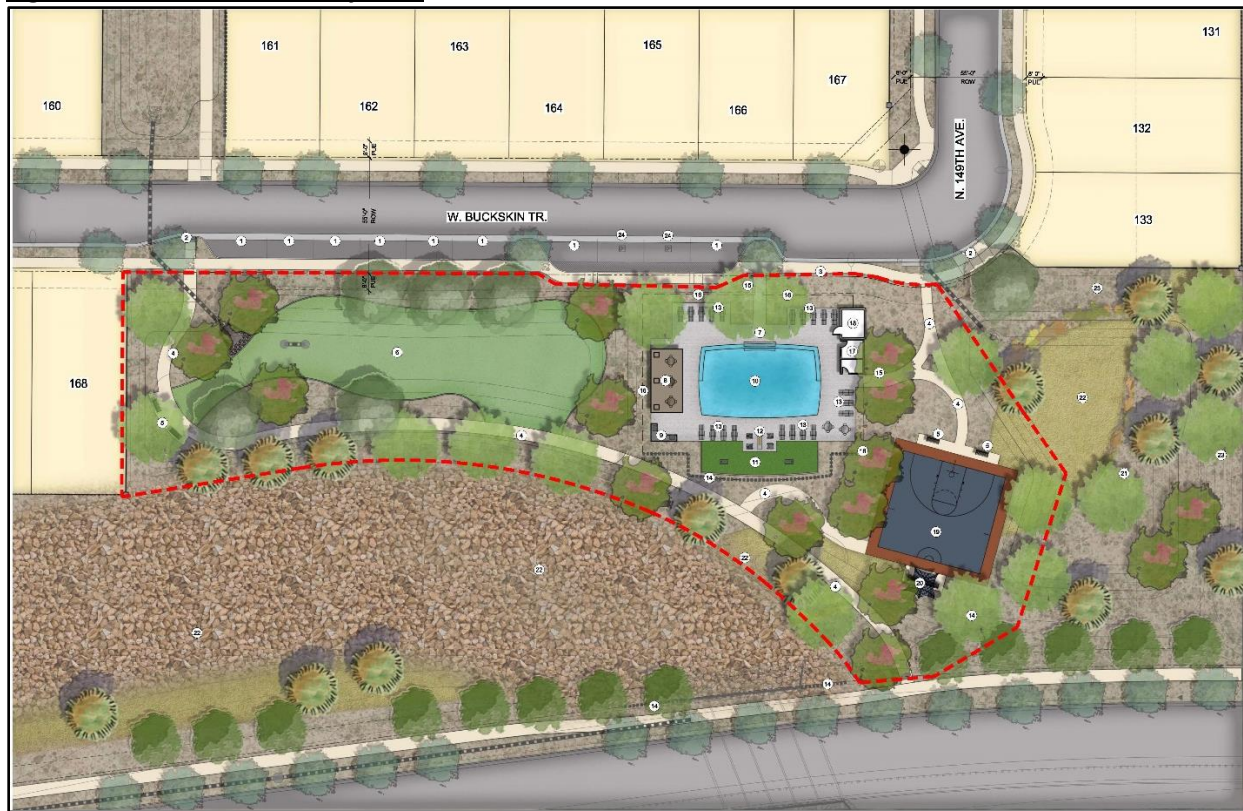
	General Plan	Zoning	Land Use
Subject Site	Neighborhood Character Area	RM-9 PUD	Platted Single Family Lots (Windstone Ranch)
North	Neighborhood Character Area	LDR PAD	Platted Single Family Lots (Tierra Verde East)
West	Neighborhood Character Area	LDR PAD	Platted Single Family Lots (Tierra Verde East)
South	n/a	n/a	Happy Valley Road
South of Happy Valley Road	Neighborhood Character Area	RR	Vacant Land (State Trust Land)
Southeast	Neighborhood Character Area	R-3	Vacant Land (Kamarata Ranch)
East	Neighborhood Character Area	PAD	Platted Single Family Lots (Rancho Mercado)

Description of Request

This amendment to the Windstone Ranch PUD will reduce the rear yard setback from 20’ to 15’ to permit Lennar’s single-story floor plans. No other development standards are being modified. This request is limited to only the 19.92-acre portion of the Entire Subdivision as depicted herein. Additionally, because the proposed modification is limited to a setback standard interior to the lot, no modification to the layout on the recorded final plat is required.

As part of this Project, Lennar proposes to create a significant amenity area located in Tract R of the approved final plat, which is near the Property's southeast corner. Convenient access to the approximately 1,900sf community pool, half-court basketball court, and other outdoor recreation and leisure elements is provided for residents of all 79 lots on the Property. Access may be by car or foot as there will be 10 on-street parking spaces (minimum 10'x22'), including two ADA spaces, located along Buckskin Trail. In addition, a 6' tree-lined trail with benches runs through the Enhanced Amenity Area and connects to the trail system leading throughout the Entire Subdivision. The pool area includes bathrooms and a barbeque area to accommodate events and visits of various durations. The basketball court has been carefully planned with its orientation and surrounding tree cover providing shade and limiting player's exposure to glare from the sun. A shade sail with benches will be provided adjacent to the court to allow players and spectators a place to rest and cool off. Both the pool and the basketball court are located near the center of the Enhanced Amenity Area to limit the potential for noise impacts to adjacent lots. An illustration of the Enhanced Amenity Area is provided in Figure 4 below.

Figure 4 – Enhanced Amenity Area



The open turf area supports a variety of recreational opportunities and connects to the basketball court via the 6' trail. An artificial turf area provides opportunities for various outdoor games, such as cornhole. The adjacent retention basin maintains the openness of the area and may provide additional passive leisure opportunities. Overall, the Enhanced Amenity Area will be screened from Happy Valley Road by multiple layers of landscaping, including lush trees.

While the Property's zoning standards are controlled by the existing Windstone Ranch PUD approved under the SUDC, the proposed changes in this application bring the Property's zoning more in

line with the newly approved Land Development Ordinance (“LDO”). The proposed 15’ rear setback is consistent with the standards for a Suburban lot (45’ width) and exceeds the 10’ minimum rear setback permitted for Urban lots (4,500sf) in the LDO. In addition, the proposed Enhanced Amenity Area far exceeds the LDO’s amenity area requirements. Section 2.2.B.4.d of the Planning and Engineering Design Standards associated with the LDO sets forth a formula for determining the size of a large amenity for single-family development. For the 79 lots in the Windstone Ranch PUD, this formula would require an amenity size of 30,020sf. At over 50,000sf, the Enhanced Amenity Area far exceeds the LDO’s requirement. In addition, by including a community pool, this proposal reinstates an SUDC amenity requirement that was removed as part of the previous PUD approval.

With the exception of the proposed modification to the rear yard setback, the Project’s development standards are the same as in the existing PUD. The development standards table showing the proposed modification is provided below.

Table 2 – Windstone Ranch PUD Development Standards Table

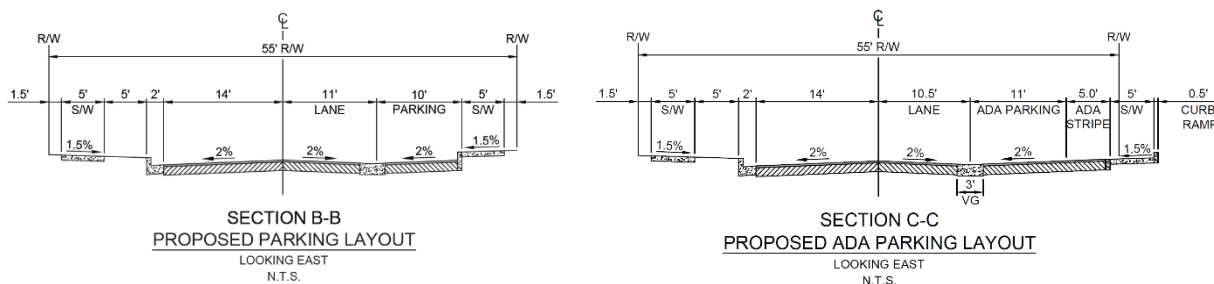
WINDSTONE RANCH - LOTS 108-186	
	WINDSTONE RANCH RM-9 PUD DEVELOPMENT STANDARDS
MINIMUM LOT AREA (PER UNIT)	4,500 S.F.
MINIMUM LOT WIDTH	40’
MINIMUM LOT DEPTH	100’
BUILDING SETBACK – FRONT (LIVABLE)	12’ ⁽²⁾
BUILDING SETBACK – FRONT (GARAGE)	21’ ⁽¹⁾
BUILDING SETBACK – SIDE	5’
BUILDING SETBACK – REAR	20’ 15’ ⁽⁵⁾
MAXIMUM BUILDING HEIGHT	35’
(1) FRONT FACING GARAGES SHALL HAVE A MINIMUM 21-FOOT FRONT YARD SETBACK MEASURED FROM BACK OF SIDEWALK (2) 12-FOOT LIVABLE FRONT SETBACK IS MEASURED FROM RIGHT-OF-WAY (3) TO BE DETERMINED AT SITE PLAN OR PRELIMINARY PLAT REVIEW (4) THERE IS NOT A STREET SIDE SETBACK REQUIREMENT IN THE SUDC (5) PORCHES / PATIOS MAY ENCROACH 2’-6” INTO THE REAR YARD SETBACK	

Open Space and Amenities

This PUD amendment is narrowly focused on two elements: a reduced rear setback to accommodate an additional single-story home option and an Enhanced Amenity Area that includes a swimming pool, half-basketball court, open turf areas, shaded seating, and dedicated on-street parking, as previously described. In addition to the Enhanced Amenity Area, the Project provides a variety of open space and landscaped areas for shade and the visual softening of the built environment as set forth in the approved pre-plat and final plat.

Circulation and Access

With the exception of 10 new on-street parking spaces (minimum 10'x22') adjacent to the Enhanced Amenity Area, all circulation and access for the Project shall remain unchanged. The on-street amenity parking will be designed as a ½-car width offset to serve as a delineation between the typically allowed on-street parking and the parking that is intended to serve the Enhanced Amenity Area with a 20' taper to transition from Buckskin Trail. The design for curb and sidewalk along Buckskin Trail will be modified to accommodate this on-street parking, and approved Paving Plans will be updated and submitted under separate cover for approval as a plan addendum.



Utilities

The Property is part of an approved final plat, and all utilities have been approved. Only one change is required as part of this application. In order to accommodate the proposed community pool facility, the sewer easement crossing Tract R would need to be redesigned to run due north along the east side of the Property, then along Lot 133, connecting to Buckskin Trail. The Sewer Plans have been updated with this change and the addendum for the plan change has been submitted under separate cover. This adjustment will not impact the function of the sewer. The utility providers for this project are provided below:

SEWER	CITY OF SURPRISE
WATER	CITY OF SURPRISE
FIRE	CITY OF SURPRISE
ELECTRIC	ARIZONA PUBLIC SERVICE (APS)
NATURAL GAS	SW GAS
TELEPHONE	CENTURYLINK
TELEPHONE	COX COMMUNICATIONS
CABLE	COX COMMUNICATIONS
REFUSE COLLECTION	CITY OF SURPRISE

Grading and Drainage

All onsite grading and drainage requirements have been met and will continue to meet the City's standards following this PUD amendment. The previously approved retention basin near the southeast corner of the Property will be adjusted to account for the pool area and basketball court. The new basin location provides the appropriate required retention volume.

General Plan Consistency

This Property is within the Neighborhood Character Area land use designation in the Surprise General Plan 2035 (“General Plan”). The Neighborhood Character Area designation allows Rural, Suburban, and Urban Neighborhoods with densities ranging from 0-2 du/ac to 8+ du/ac based on the property’s context and the proposal’s alignment with General Plan design and transition criteria. The following General Plan goals and policies support this PUD amendment:

General Plan Land Use Element Goal 6, Policy 1: The City shall encourage development of neighborhoods that broaden the choice of type, size, and affordability of housing in Surprise.

This PUD amendment is focused on the modification of a single development standard, which will not affect the approved use, density, or circulation. This amendment will accommodate additional one-story home plans that Lennar anticipates will be desirable at this location, which will support the General Plan’s policies encouraging diversity of housing opportunities.

General Plan Land Use Element Goal 1, Policy 1: The City will guide the pattern and scale of development that provides visual diversity, choice of lifestyle, opportunities for social interaction, and that respects desirable community character and context.

This amendment will not modify lot sizes from the approved plan. It will permit the construction of additional one-story floor plans, which will increase choices for homebuyers and advance the visual interest portion of this policy by emphasizing vertical variability in the streetscape.

General Plan Land Use Element Goal 4, Policy 4: The City shall continue to coordinate with Maricopa County (within the Surprise Planning Area) and Luke Air Force Base to review development proposals to determine their propensity to cause hazards or impediments for F-35 training operations within the Luke Compatibility District.

This project was reviewed by Luke AFB representatives who determined that these minor changes “...will not negatively impact the flying operations at Luke AFB.”

General Plan Land Use Element Goal 6, Policy 2: The City shall promote various residential options that provide amenities and conveniences within the residence and surrounding community that is above the median housing mix.

This amendment supports the introduction of additional single-story home options on 45’-wide lots in an area dominated by new residential lots with 50’ or greater width. Providing this home layout option with the benefits of the Enhanced Amenity Area will attract a variety of first-time homebuyers, empty nesters, and out-of-state transplants to an area that has move-up opportunities. In particular, the single-story format is desirable for homebuyers with advanced age or limitations on physical abilities who prefer not to make multiple trips up and down stairs each day.

General Plan Neighborhood Planning Element Goal 1, Policy 4: Encourage community interaction and participation through methods that strengthen the neighborhood communications process.

This PUD amendment will result in a significant new amenity area, which will help foster a sense of community within the Project and encourage greater and prolonged interactions among residents.

General Plan Roadway Systems Element Goal 5, Policy 1: The City of Surprise shall require that newly proposed developments demonstrate that there are adequate services and facilities, or plans to provide the necessary services and facilities, to serve the development during the development approval process.

This Property is the subject of an existing PUD, an approved preliminary plat, and an approved final plat, and the City has determined through these processes that adequate infrastructure and services exist to serve the Project. This amendment does not change the project density, lot sizes, or configuration, and it does not impact demand for utilities and services. The addition of the Enhanced Amenity Area with a community pool provides a benefit that will reduce the demand for City recreational facilities.

General Plan Alternate Modes Element Goal 1, Policy 2: Develop a safe and convenient network of sidewalks, crossings and paths for walking and bicycling that provides connections between schools, recreation facilities, residential areas, transit stops and business centers.

The Enhanced Amenity Area will include a 6' tree lined trail with benches to increase connectivity to the trail system already approved for the Project and to provide additional opportunities for recreation and leisure. In addition, 10 on-street parking spaces, including two ADA compliant spaces, will be located adjacent to the Enhanced Amenity Area on the south side of Buckskin Trail and allow residents who drive to the amenity to access it without crossing the street.

General Plan Growth Element Goal 1, Policy 2: Give priority to infrastructure upgrades and improvements in the identified growth areas.

This Property is within the 163rd Avenue Corridor Growth Area, which was created to encourage a full range of housing opportunities, densities, and product types. This Growth Area is defined by its developable land, open space linkages, and access. The Project is among several developing residential properties, all of which support this Growth Area. This PUD amendment accommodates an additional single-story product type, which will contribute to the overall attractiveness of the area.

Conclusion

This request is limited in scope to only a rear setback modification on 79 lots. It will help Lennar implement some of its single-story floor plans that they anticipate will be popular among buyers and will help add to housing diversity in the area. The proposed Enhanced Amenity Area will be a significant benefit to new residents and ensure that all homeowners on the Property have access to a pool and high-quality amenities that will benefit their overall quality of life.

APPENDIX A
PREVIOUSLY APPROVED WINDSTONE RANCH PUD
(FS19-263, APPROVED MAY 5, 2020)

WINDSTONE RANCH ZONE CHANGE

Case File # FS19-263
Zone Change from Residential Ranch (RR) to
RM-9 (Residential Medium Density) with a Planned Unit
Development (PUD) Overlay

19.92 Gross Acres

Northeast corner Happy Valley Road and 151st Avenue
Surprise, Arizona

Prepared by: Kent A. Xander

Submitted To: City of Surprise, Arizona

Dated: February 7, 2019
Revised: April 5, 2019
Revised: June 3, 2019
Revised: January 6, 2020

TABLE OF CONTENTS

Windstone Ranch Team.....	3
Location and Introduction.....	3
Vicinity Map.....	4
Description of Request.....	5-6
Table A Residential Medium Density RM-9 PUD Overlay Development Standards Comparison Table.....	7
Conformance with the adopted Surprise General Plan 2035.....	8
Ingress/Egress/Access.....	8
Transportation/Traffic and Utilities.....	9
Existing Zoning Map.....	Exhibit A
Proposed Zoning Map.....	Exhibit B
Legal Description and Map.....	Exhibit C
Development Concept Plan.....	Exhibit D
Adjacent Rancho Mercado PAD Map.....	Exhibit E
General Plan 2035 Land Use Map.....	Exhibit F

Windstone Ranch Team:

Applicant:

Kent A. Xander
kxander@kaxgroup.com
10973 N. 138th Way
Scottsdale, Arizona 85259
(602) 499-9305

Engineer:

Atwell, LLC - Ted Northrop
tnorthrop@atwell-group.com
4700 E. Southern Avenue
Mesa, AZ 85206
(480) 586-2104

Location and Introduction:

A Vicinity Map is shown on page 4 illustrating Windstone Ranch location (NEC Happy Valley Road and 151st Avenue (alignments)).

Windstone Ranch is a 19.92 gross acre proposed single-family residential subdivision adjacent to Rancho Mercado PAD Parcel A22 and Tierra Verde East PAD Parcel 3 and Parcel 4 all zoned for an allowed density of 3.1 – 3.7 units per acre. The subject property is adjacent to unincorporated vacant land to the south (south of Happy Valley Road alignment) owned by Arizona State Land Department. There are no homes within ¼ mile of Windstone Ranch. One of the development constraints of this property is the offsite drainage which traverses from northwest to southeast. This project includes working with and the cooperation with the north property owner (Tierra Verde East PAD Parcel 4) to formulate a cohesive development plan working out circulation, utilities and drainage (including a drainage report and CLOMR). When Windstone Ranch is developed, the adjacent half street improvements on 151st Avenue shall be constructed by the developer subject to City of Surprise and Maricopa County Flood Control requirements. The Conceptual Plan shown in **Exhibit D**, provides for a 79-lot single-family residential subdivision on 19.92 gross acres that has 44.6% net residential acreage open space.

Exhibit A depicts a map of the existing zoning of the subject property, adjacent PAD's, and vacant land. Existing homes are ¼ mile north of Windstone Ranch. The adjacent specific zoning and land uses are as follows:

East

- Rancho Mercado PAD Parcel A22 41.7 Acres 149 lots (53' x 105')

North

- Tierra Verde East PAD Parcel 4 19.6 Acres 61 lots (60' x 115')

West

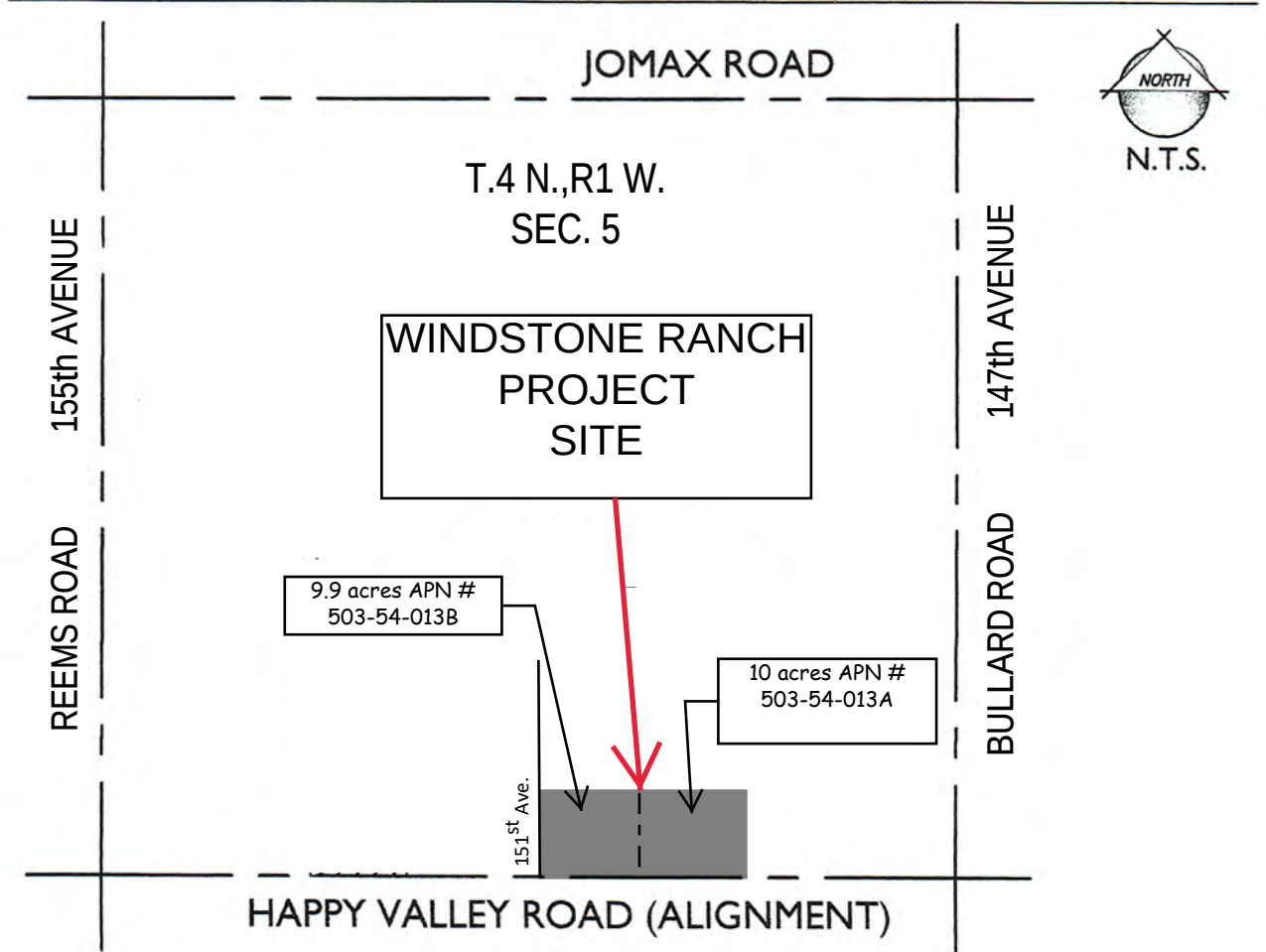
- Tierra Verde East PAD Parcel 3 39.48 Acres 144 lots (50' x 120')

South

- Residential Ranch (RR) Vacant Land State Land Trust

Exhibit E shows the relationship of the Subject Property to the Adjacent PAD's on Rancho Mercado's Planned Area Development Map.

VICINITY MAP



Description of Request:

Applicant, requests approval of a Zone Change (Case# FS19-263) regarding 19.92 gross acres vacant land from Residential Ranch (RR) to Residential Medium Density (RM-9) with a PUD Overlay.

See Exhibit B for Proposed Zoning Map and See Exhibit C for Legal Description and Map Exhibit.

Base zoning RM-9 allows up to 9 dwelling units per acre (DU/Ac); however, through the PUD Overlay, the subject property proposes not more than 79 dwelling units over approximately 19.92 gross acres for a maximum gross density of 3.96 DU/Ac.

With a cap on density, the applicant believes the development standards associated with the RM-9 with a PUD Overlay zoning district are in line with those of the adjacent PAD's to the subject property, with certain deviations as articulated in **Table A** of the Windstone Ranch Narrative.

Windstone Ranch proposed zoning district and lot sizes provides for an excellent transition subdivision located on Happy Valley Road Arterial to buffer the larger lots to the north from Happy Valley Road. Windstone Ranch zoning district will be designed to allow flexibility per the PUD Overlay while maintaining an environment and pedestrian access compatible with adjoining neighborhoods and provide standards to ensure compatibility and transportation access.

Windstone Ranch Development Concept Plan shown on **Exhibit D** shows this project working with and the cooperation with the north property owner (Tierra Verde East PAD Parcel 4) to formulate a cohesive development plan working out circulation, utilities and drainage issues (including a drainage report and CLOMR). Exhibit D is a conceptual design and the final design will be determined by a final plat.

Section 122-137(r) of the SUDC requires a community swimming pool for Medium Density Residential projects of 60 or more units. The Applicant proposes the deletion of this requirement through the PUD Overlay. The rationale being that as a single-family development with 20' rear setbacks, ample space will be available on each lot to accommodate a private pool requirement.

There is a provision in the current SUDC which limits the width of a single-family residential driveway to 30% of the lot width. The proposed minimum lot width is 40' for the RM-9. If the RM-9 is limited to 30%, the driveways would only be 12.5' wide. Since a minimum width of a parking space is 9 feet, the driveway to accommodate a 2-car garage will be a minimum of 18 feet wide.

There is a provision in the current SUDC which limits the area of a residential driveway to 30% of the required front area, which is that area located between the front setback line and the front lot line. The proposed minimum lot width is 40', while the proposed minimum front setback is 12'. The existing standard 30% of the resulting area will not accommodate a driveway. Since a minimum width of a parking space is 9 feet, the driveway to accommodate a 2-car garage will be a minimum of 18 feet wide.

Section 122-137(p)(1) requires one (1) turf recreational field per 700 residential units in single-family zoning, with each field having a minimum turf area of not less than 3.5 acres. The Applicant proposes the removal of the 3.5-acre minimum size requirement, based on the proportionate size of the field relative to the proposed single-family development of a maximum of 79 dwelling units. The applicant instead proposes three (3) separate fields that are spread out within the single-family development. The following amenities shall be spread out over the three (3) fields:

- One shade covered play structure consistent with ADA requirements;
- One swing set;
- Three benches;
- Two trash receptacles;
- One drinking fountain;
- Two ramadas;
- Two picnic tables; and
- Two barbeque grills.

The SUDC requires that not less than 20% of the “net residential acreage” be set aside as open space. The Applicant proposes an increase to 44.6% of the net residential area as open space, which exceeds the 20% requirement set forth in the SUDC.

Open Space	304,920 SF	7.000 Acres
Net Residential Acreage = Lot Area + Open Space	684,328 SF	15.71 Acres
Open Space as % of NRA	<u>44.6%</u>	

In addition to the above Windstone Ranch amenities and interconnecting pedestrian trails, Windstone Ranch pedestrian trail system will connect with Rancho Mercado PAD Parcel A22 and Tierra Verde East PAD Parcel 4 trail systems to gain access to the Cities regional trail system and future bus stops and schools. See Development Concept Plan **Exhibit E** for pedestrian access and trails.

Table A Residential Medium Density RM-9 PUD Overlay Development Standards Comparison Table:

Development Standard	City Base RM-9 Development Standards	Proposed RM-9 PUD Development Standards
Net Residential Acreage Open Space	20%	44.6%
Maximum Density	9.0	3.96
Minimum Lot Area (sf)	4,500	4,500
Minimum Lot Width (ft)	40	40
Minimum Lot Depth (ft)	100	100
Minimum Front Yard Setback (ft) (livable area / front -facing garage)	12/20 ⁽¹⁾	12/21 ^{(1) (2)}
Minimum Side Yard Setback (ft)	- ⁽³⁾	5
Minimum Rear Yard Setback (ft)	20	20 ⁽⁵⁾
Maximum Building Height (ft)	35	35
Driveway Width Percentage	30%	40%
Driveway Area Percentage	30%	40%
Street Side/Corner Lot (ft)	- ⁽⁴⁾	5

- (1) Front facing garages shall have a minimum 21-foot front yard setback measured from back of sidewalk.
(2) 12-foot livable front setback is measured from back of right of way.
(3) To be determined at Site Plan or Preliminary Plat Review.
(4) There is not a street side setback requirement in the SUDC.
(5) Porches/patios may encroach 2.5' into the rear yard setbacks.

The result of the Windstone Ranch Zone Change with a PUD Overlay would be:

- Windstone Ranch will be in conformance with the adopted Surprise General Plan 2035 as noted below.
- The development of Windstone Ranch will occur in a manner that is consistent with the surrounding PAD's and PUD' and share in City major infrastructure sustainable costs with other adjacent projects.
- The development will have seamlessly been integrated and aligned with adjacent zoning, open space, pedestrian trails, drainage tracts, roads, and, utilities with adjacent Rancho Mercado PAD Parcel A22 and Tierra Verde East PAD Parcel 4.
- Unless specified in this Zoning Document, all development shall comply with the development standards and design guidelines set in the Surprise Municipal Code at the time of development.

Conformance with the adopted Surprise General Plan 2035:

The Surprise General Plan 2035 (see **Exhibit F**) shows the subject property as lying within the Neighborhood Land Use Character Area, which in a Suburban Neighborhood supports residential development of up to 8 DU/Acre or more, provided appropriate transitions are made between the various Neighborhood types included within the character area. The proposed 3.96 DU/Ac is consistent with the General Plan's allowed density and allowed transition of density policy. The proposed RM-9 PUD component will be buffered from Happy Valley Road by a large open space and the project is consistent with the General Plan in this regard. The General plan seeks appropriate buffers and transitions between the various Character Areas. To meet this guideline, the lots along the south side of the subject property will be set back off Happy Valley Road with open space and pedestrian trails through the property and connecting to the open space planned for Rancho Mercado Parcels A22, and Tierra Verde East PAD Parcels 3 and 4.

Ingress/Egress/Access:

1. Access is driven by the timing of Tierra Verde and Rancho Mercado development schedule.
2. Primary access is on 151st Avenue from Happy Valley Road to Windstone Ranch.
3. Secondary access is through Tierra Verde Parcel 4 and Rancho Mercado Parcel 22.

While the lotting of Tierra Verde East PAD Parcel 4 was not contemplated with the Rancho Mercado Parcel A22, provisions have been always made to accommodate future access to and from Tierra Verde East PAD Parcel 4 via W. Bronco Lane to Rancho Mercado Parcel A22. Applicant is in discussion with the owners of Rancho Mercado Parcel A22 and Tierra Verde East PAD Parcel 4 regarding the lotting arrangement as expressed in **Exhibit D**. While this arrangement may slightly change between the time of the current zone change and the ultimate development of these parcels, applicant is comfortable with the lotting as proposed.

Transportation/Traffic and Utilities

- Upon development of Windstone Ranch, all necessary utilities for Windstone Ranch will be extended from adjacent Rancho Mercado Parcel A22 and Tierra Verde East Parcel 3 and 4.
- Windstone Ranch is working with other projects in this area to develop the water and water resources necessary to service this project.
- Windstone Ranch will purchase sewer capacity pursuant to SPA 2 Water Reclamation Facility Capacity Allocation Agreement.
- Onsite streets shall be constructed to meet City standards at the time of construction.
- City of Surprise 151st Avenue right of way. Windstone Ranch shall dedicate to the City of Surprise a half street width of a Collector street along the entire project at Final Plat recording.
- The relocation of the wash adjacent on the east side of 151st Avenue is subject to CLOMR approval.



Exhibit A Existing Zoning Map

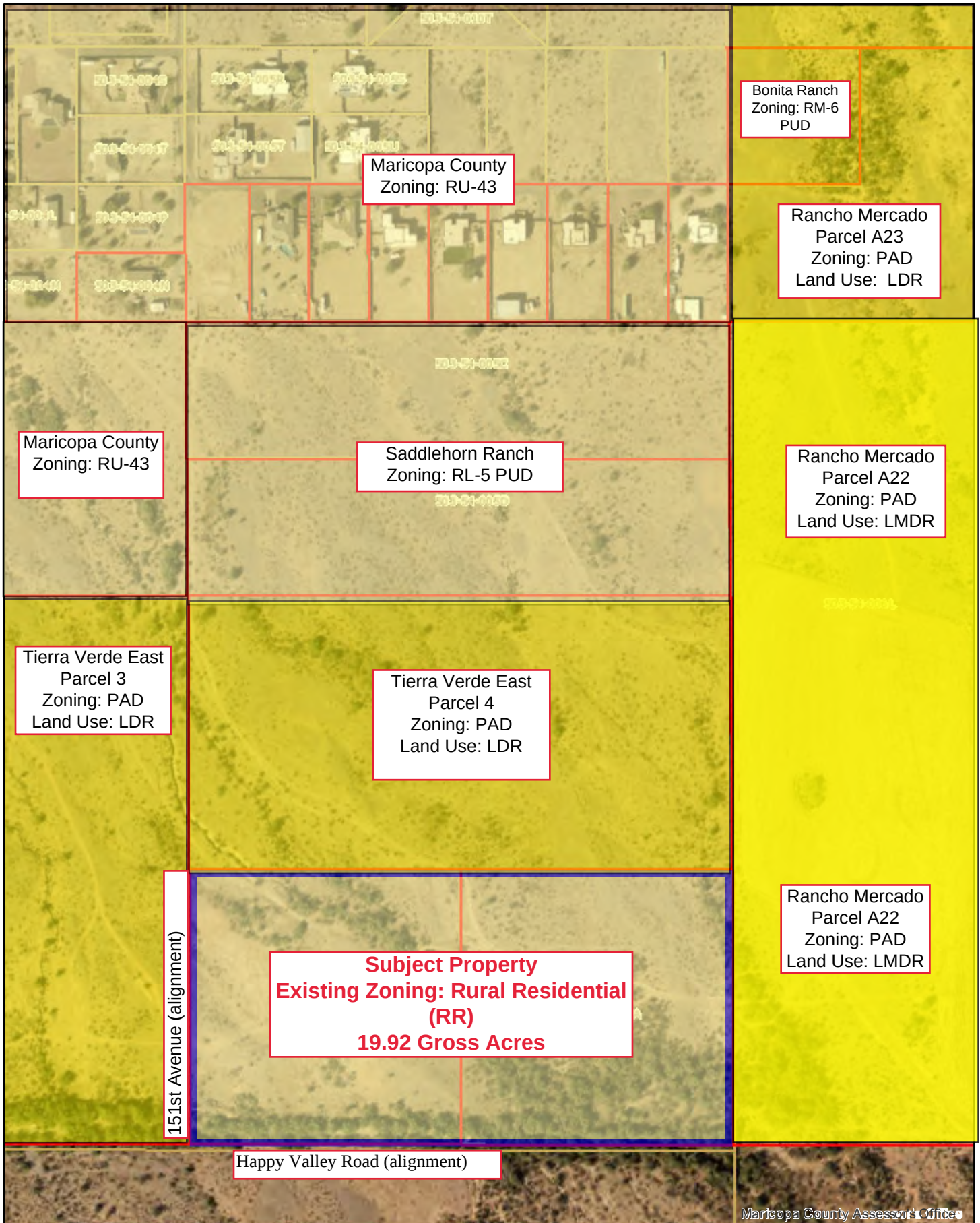
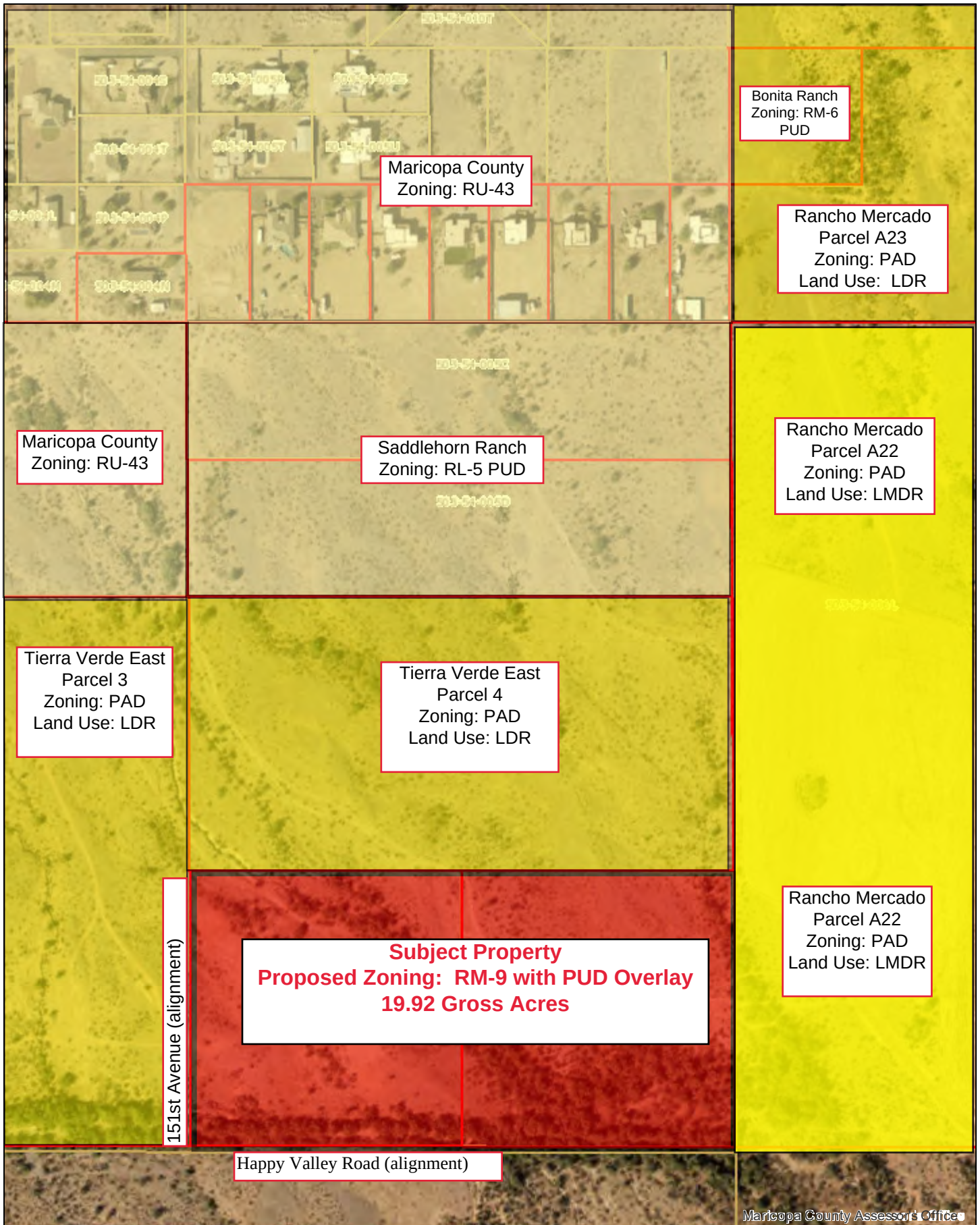




Exhibit B Proposed Zoning Map



**EXHIBIT C, PAGE 1
LEGAL DESCRIPTION**

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 4 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 2" ALUMINUM CAP STAMPED MARICOPA COUNTY RLS 35832 2003, ACCEPTED AS THE WEST QUARTER CORNER OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 1 WEST, FROM WHICH A FOUND 3" BRASS CAP IN HANDHOLE STAMPED MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION 36770, ACCEPTED AS THE EAST QUARTER CORNER OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 1 WEST, THEREOF BEARS S89°46'48"E A DISTANCE OF 5255.54 FEET;

THENCE, ALONG THE EAST LINE OF SAID SECTION 5, S00°07'05"E A DISTANCE OF 2645.63 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 5;

THENCE, ALONG THE SOUTH LINE OF SAID SECTION 5, N89°36'55"W A DISTANCE OF 1313.47 FEET TO THE **POINT OF BEGINNING**;

THENCE, CONTINUING ALONG THE SOUTH LINE OF SAID SECTION 5, N89°36'55"W A DISTANCE OF 1313.47 FEET;

THENCE, LEAVING THE SOUTH LINE OF SAID SECTION 5, N00°01'59"E A DISTANCE OF 660.55 FEET;

THENCE, S89°38'02"E A DISTANCE OF 1312.60 FEET;

THENCE, S00°02'31"E A DISTANCE OF 660.98 FEET TO THE SOUTH LINE OF SAID SECTION 5, ALSO BEING THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS A COMPUTED AREA OF 867,588 SQUARE FEET OR 19.917 ACRES, MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS, RESTRICTIONS, OR RIGHTS OF WAY OF RECORD OR OTHERWISE.

THE DESCRIPTION SHOWN HEREON IS NOT TO BE USED TO VIOLATE ANY SUBDIVISION REGULATION OF THE STATE, COUNTY AND/OR MUNICIPALITY OR ANY OTHER LAND DIVISION RESTRICTIONS.

PREPARED BY:
ATWELL, LLC
4700 E. SOUTHERN AVENUE
MESA, ARIZONA 85206
PROJECT NO. 19000032.00:03
JUNE 5TH, 2019



EXHIBIT C, PAGE 2
PARCEL MAP CHECK REPORT

PREPARED BY:
ATWELL, LLC
4700 E. SOUTHERN AVENUE
MESA, ARIZONA 85206
PROJECT NO. 19000032.00:03
JUNE 5TH, 2019

Name: PENSICO TRUST COMPANY LLC

North: 986610.0910' East: 558609.1815'

Segment #1 : Line

Course: N89°36'54.601"W Length: 1313.4711'

North: 986618.9130' East: 557295.7400'

Segment #2 : Line

Course: N0°01'58.660"E Length: 660.5461'

North: 987279.4590' East: 557296.1200'

Segment #3 : Line

Course: S89°38'01.913"E Length: 1312.6044'

North: 987271.0712' East: 558608.6976'

Segment #4 : Line

Course: S0°02'31.000"E Length: 660.9803'

North: 986610.0910' East: 558609.1815'

Perimeter: 3947.6020' Area: 867587.79 Sq. Ft.

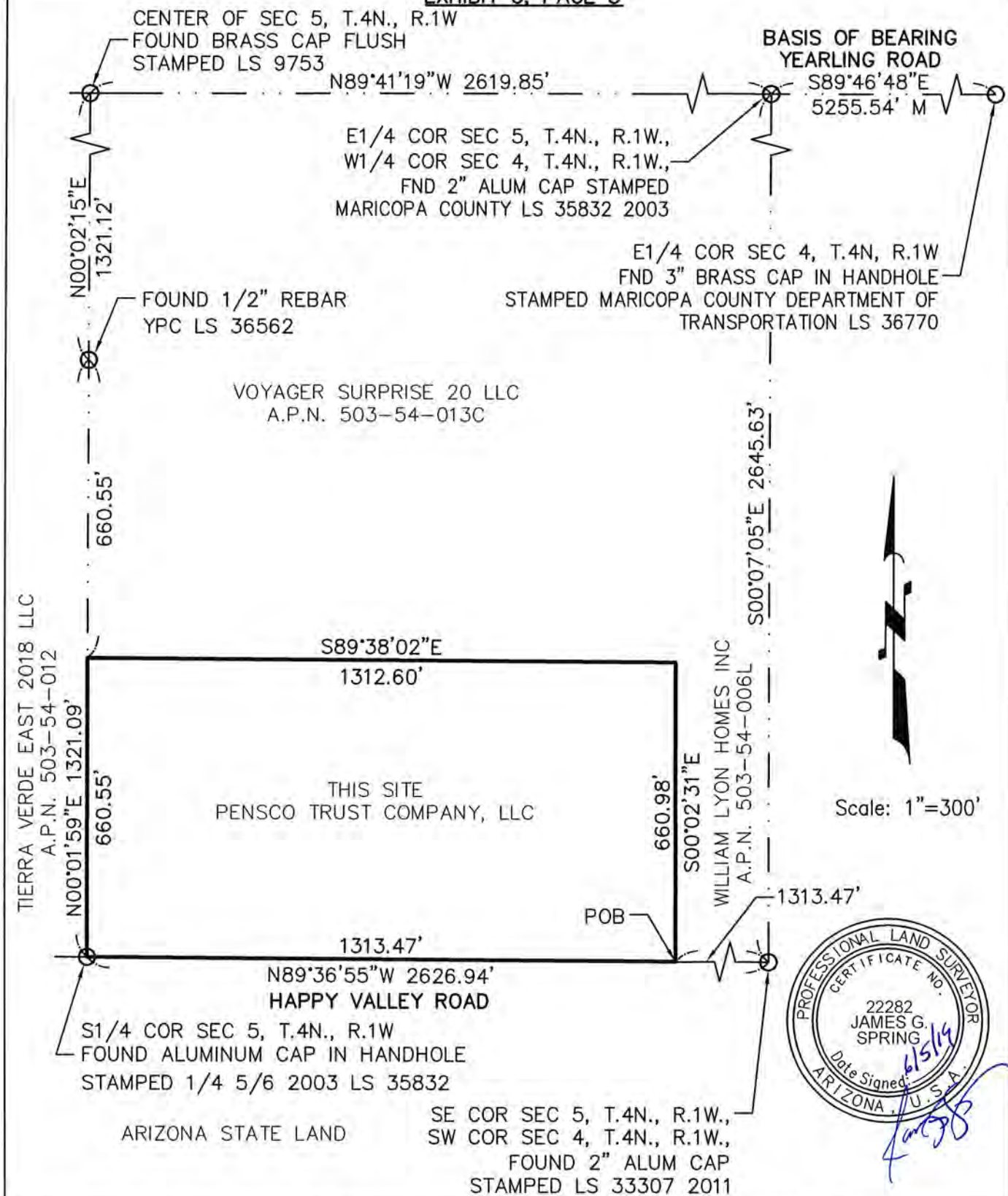
Error Closure: 0.0000 Course: N14°46'33.818"E

Error North: 0.00003 East: 0.00001

Precision 1: 3947601900.0000



EXHIBIT C. PAGE 3



4700 E. SOUTHERN AVENUE
MESA, AZ 85206
480.218.8831

JOB #19000032.00:03-SHEET 3 OF 3

EXHIBIT C

6-5-2019

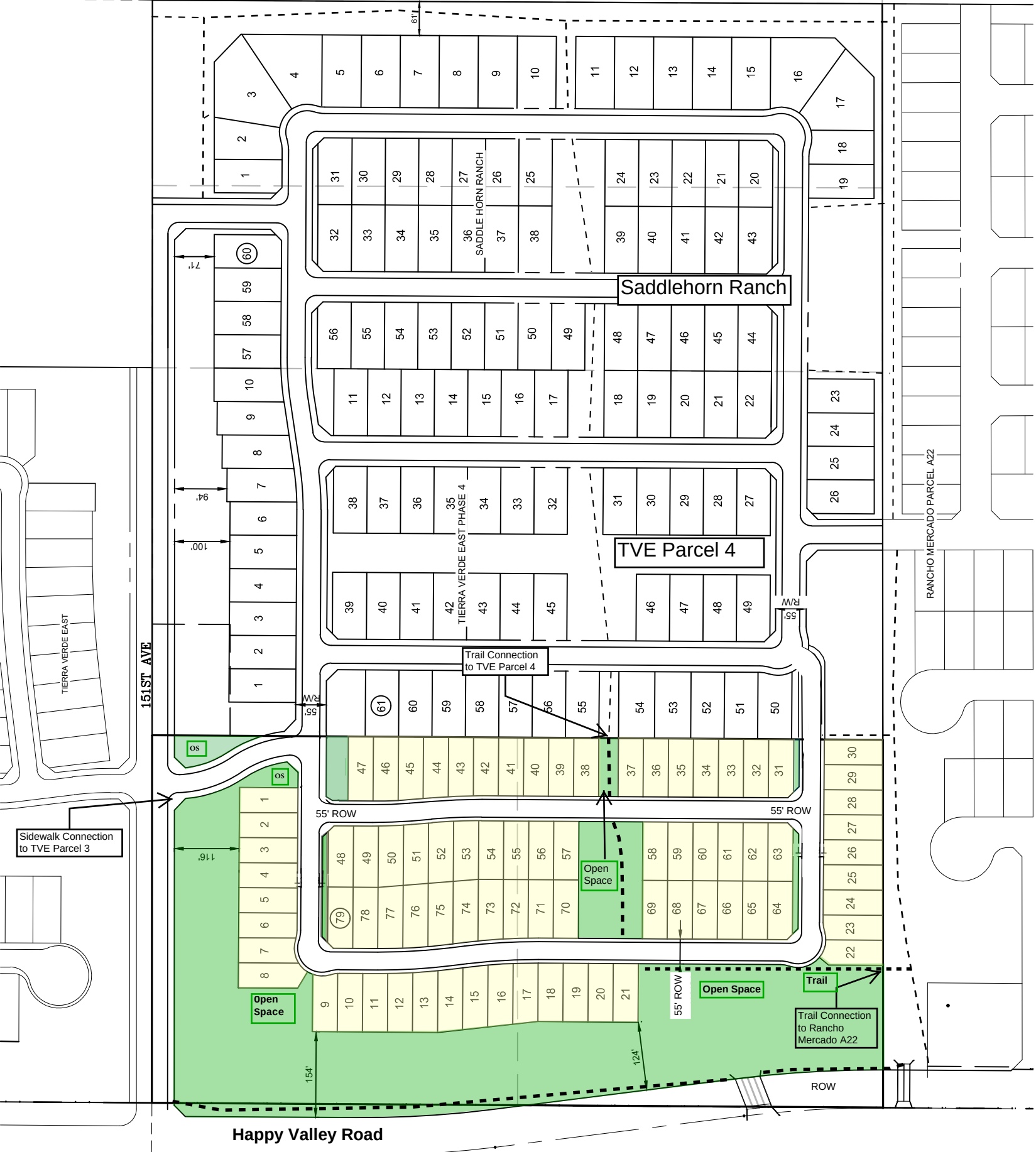
PENSICO TRUST COMPANY, LLC
CITY OF SURPRISE, MARICOPA COUNTY, ARIZONA

Exhibit D

Windstone Ranch

Conceptual

Development Plan



This is a conceptual design and the final design will be determined by a final plat.

Rancho Mercado

City of Surprise, Arizona

Planned Area Development

Windstone Ranch proposed (RM-9)
PUD pedestrian access and trails.

LEGEND

- Low Density Residential (LDR) 2.0-5.0 du/ac
- Low Medium Density Residential (LMDR) 4.0-6.0 du/ac
- Medium Density Residential (MDR) 5.0-10.0 du/ac
- High Density Residential (HDR) 15.0 + du/ac
- Community Commercial
- Commercial / Employment
- Educational / School
- Recreational Open Space
- Open Space/Wash Corridors
- Fire Station
- Proposed Future Loop 303 Interchange
- Neighborhood / Community Trail
- Property Boundary
- Proposed Mini Parks (Locations TBD at time of plat)
- Well Site
- Water Campus

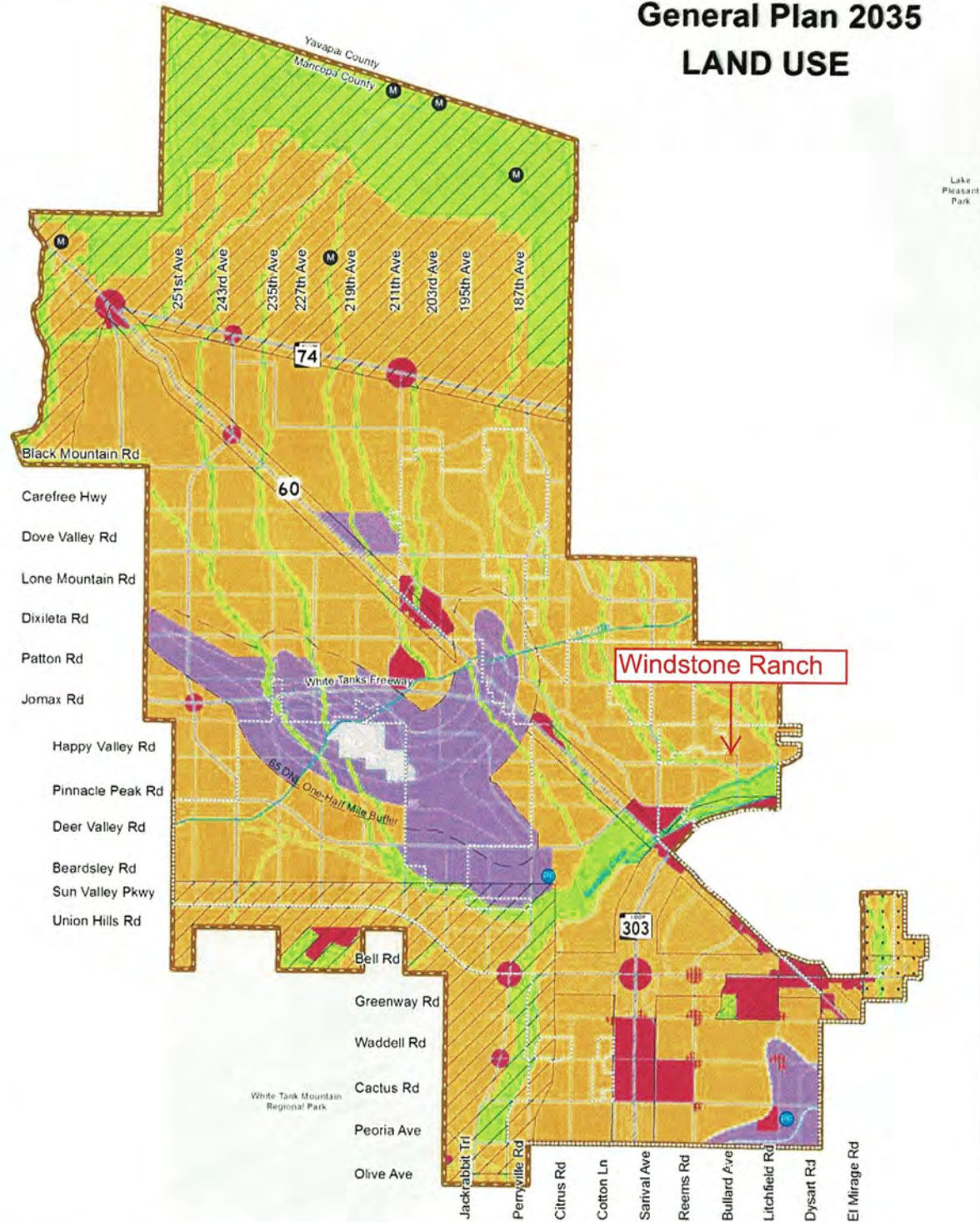


Date: 06-26-06
Drawn By: MR
Revised: 02-23-07



Exhibit F

General Plan 2035 LAND USE



Character Areas

- Neighborhood**
 - Rural
 - Suburban
 - Urban
- Commerce & Office**
 - Mixed Use: Residential
 - Mixed Use: Commercial
 - Regional Commercial
 - Commercial Office
- Employment**
 - Business Park
 - Industrial
- Open Space**
(As described on page 53)

Sub Areas

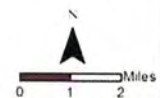
- Luke Compatibility District
- Scenic Lands Development
- Surprise Center District
- Surprise Heritage District
- Transit Oriented Development District
- Aggregate Resource Areas

Features

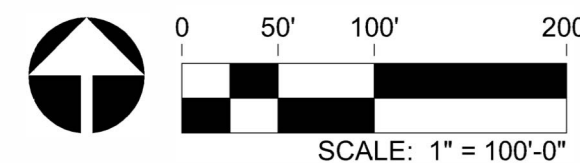
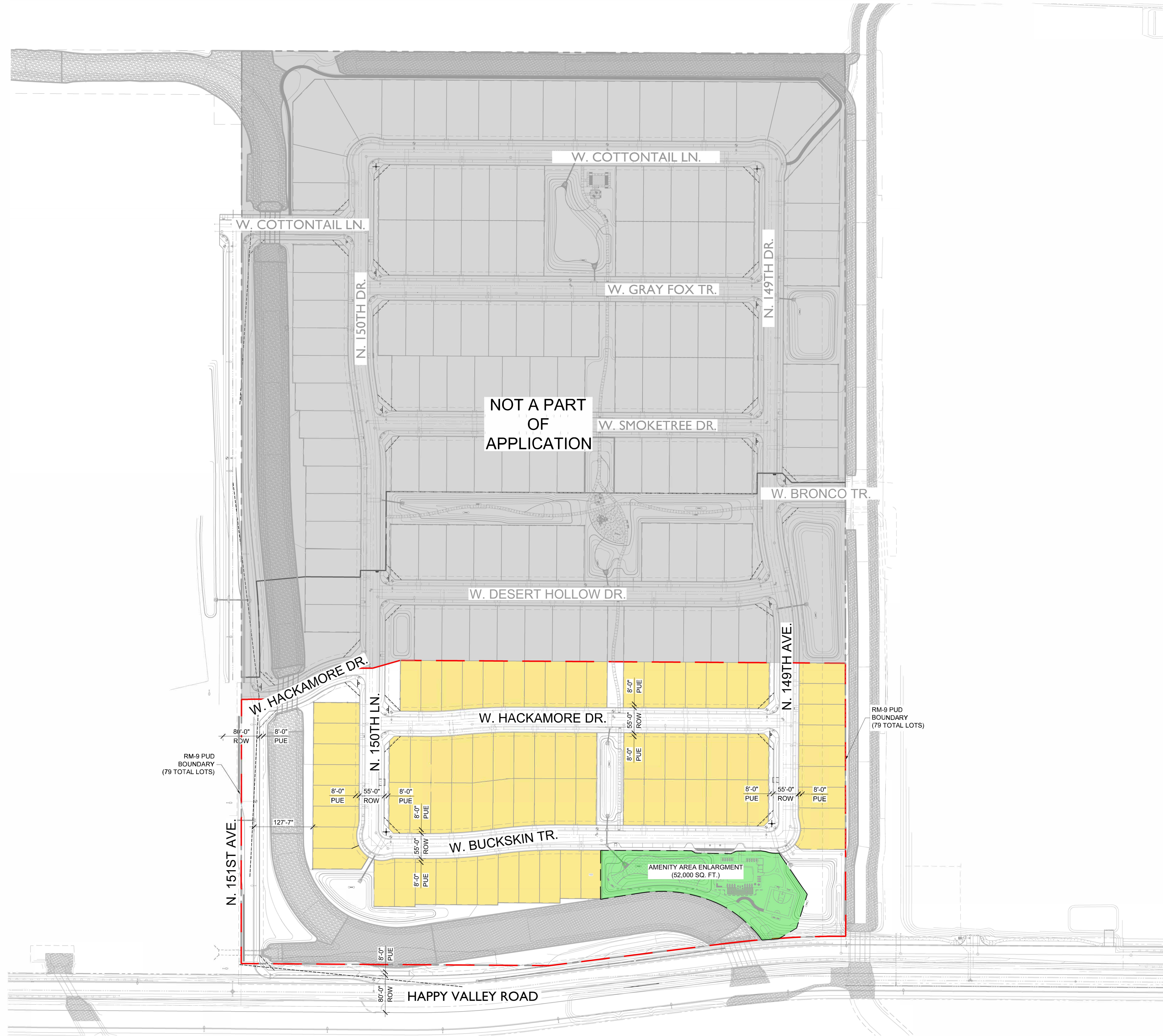
- Planning Area
- Aux 1 Noise Contours
- Luke AFB Noise Contours
- Canals
- Military
- Existing Community Commercial
- Public Facility
- Mining

Circulation

- Freeway
- Parkway
- Major Arterial
- Minor Arterial
- BNSF Rail



L:\21004215 WINDSTONE LENNAR\621004215 LANDSCAPE\621004215 CD SITE PLAN.dwg 7/27/2023 nsh horvath



WINDSTONE RANCH
CONCEPTUAL RM-9 SITE PLAN
SURPRISE, ARIZONA

PROJECT NO.: 21004215
DATE: 07/27/2023
DRAWN: TEAM
REVIEWED: SLB

REVISIONS	
1	
2	
3	
4	
5	

CONCEPTUAL
SITE PLAN

L1.00

SHEET 1 OF 1



LEGEND

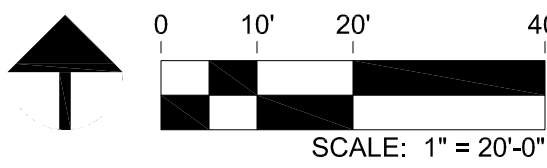
- 1 10 PARALLEL PARKING
- 2 PEDESTRIAN RAMP
- 3 5FT SIDEWALK
- 4 6FT TRAIL
- 5 BENCH SEATING
- 6 OPEN TURF
- 7 POOL DECK
- 8 15FT x 30FT CANTILEVER SHADE STRUCTURE
- 9 BUILT-IN BARBECUE AREA
- 10 1,900 SQ. FT POOL
- 11 ARTIFICIAL TURF WITH CORNHOLE
- 12 FIRE TABLE SEATING
- 13 LOUNGE CHAIRS
- 14 RETAINING WALL W/ POOL FENCE
- 15 POOL ENTRY
- 16 POOL FENCE
- 17 POOL STRUCTURE / RESTROOM
- 18 POOL EQUIPMENT AREA
- 19 HALF BASKETBALL COURT (IN BASIN)
- 20 SHADE SAIL WITH 2 BENCHES
- 21 RETENTION BASIN
- 22 DRAINAGE CHANNEL
- 23 SEWER EASEMENT
- 24 ADA PARKING
- 52,000 SQUARE FEET AMENITY AREA BOUNDARY

Copyright RVI



WINDSTONE • CONCEPTUAL POOL ENLARGEMENT

📍 SURPRISE, ARIZONA
📅 05/31/2023
21004215
👤 LENNAR ARIZONA



For illustrative purposes only. Subject to change without notice.

Christina Sexton

From: RAHN, JENNIFER L CIV USAF AETC 56 FW/CVE <jennifer.ahn@us.af.mil>
Sent: Monday, June 5, 2023 1:29 PM
To: Tierney Farago
Cc: 56 FW/CIT Community Initiative
Subject: RE: FS23-0454 Windstone Ranch PUD Amendment New Digital Submittal 06.01.23
Attachments: RE: FS22-0807 Windstone Ranch North New Digital Submittal 06.07.22; smime.p7s; ATT00001.txt; ATT00002.htm

Importance: High

Dear Ms. Farago,

Thank you for the opportunity to provide comments on the proposed PUD amendment for Windstone Ranch. The final site is located on 29.14 acres located at the northeast corner of Happy Valley Road and 151st Avenue in Surprise, AZ. The application is to amend rear yard setbacks to accommodate the addition of a 50,000SF enhanced amenity area for the community. The site is approximately 5 miles outside the AUX-1 2004 JLUS 65 Ldn, "high noise or accident potential zone" as identified by A.R.S. § 28-8461 and is within the "territory in the vicinity of a military airport" also defined by A.R.S. § 28-8461.

This project was previously commented on via "Windstone Ranch (FS20-596)" (attached) and these minor changes will not affect our previous input. As described, this project will not negatively impact the flying operations at Luke AFB. Since the site will be located within the "territory in the vicinity of a military airport," it will be subjected to approximately 170 over flights per day. We also recommend a strong notification program on the part of the applicant to inform any potential occupant(s) about Luke AFB operations.

Respectfully,

Jenn Rahn

Senior Planner, Community Initiatives Team
56th Fighter Wing
Luke AFB AZ 85309
Office: 623-856-9981
DSN: 896-9981

From: Tierney Farago <Tierney.Farago@surpriseaz.gov>
Sent: Thursday, June 1, 2023 4:58 PM
To: 56 FW/CIT Community Initiative <56FW.CIT.CommunityInitiative@us.af.mil>; Afshin Ahouraiyan (Flood Control District of Maricopa County) <Afshin.Ahouraiyan@Maricopa.Gov>; Alex Garza (Maricopa Assoc of Governments) <AGarza@azmag.gov>; Chris Cain (Maricopa Water District) <chrisc@mwdaz.com>; Darren Gerard <Darren.Gerard@maricopa.gov>; Debbie Trasancos (Maricopa Water District) <debbiet@mwdaz.com>; Ernest (USPS) <Ernest.L.James@usps.gov>; Eva Pierce <eva.pierce@dysart.org>; Ibeth - USPS <Ibeth.L.Roman@usps.gov>; Jerome Choy (ADOT) <jchoy@azdot.gov>; Kevin Shipman <kevin.shipman@dysart.org>; Leslie - MWD <lesliej@mwdaz.com>; Mark Frago <fragom@mail.maricopa.gov>; Mary Orta - Surprise Chamber <mary.orta@surpriseregionalchamber.com>; MCDOT <MCDOTPlanning@maricopa.gov>; Raoul Sada - Surprise Chamber <raoul@surpriseregionalchamber.com>; Victor.Schaum <Victor.Schaum@cox.com>; Yvonne Aguirre <yvonne.aguirre@swgas.com>
Cc: Nichole Flores <Nichole.Flores@surpriseaz.gov>
Subject: [Non-DoD Source] FS23-0454 Windstone Ranch PUD Amendment New Digital Submittal 06.01.23

Good afternoon,

Attached please find the **application and PUD Amendment** for the above referenced project.

Please feel free to contact us with any questions.

Thanks,

TIERNEY FARAGO

Planning Project Coordinator
City of Surprise | Community Development
16000 N. Civic Center Plaza
Surprise, AZ 85374
623-222-3154

PLEASE NOTE: Effective August 3, 2022 we will be adding 2 business days for out-processing notices.

This e-mail and any accompanying files transmitted are intended solely for the use of the individual or entity to whom they are addressed; if you have received this e-mail in error please delete it and notify the sender. In addition, under Arizona law, e-mail communications and e-mail addresses may be public records.

0.1

AFFIDAVIT OF POSTING

Application No: FS23-0454
Applicant Name: BFSO
Location: NEC 151st Ave and Happy Valley Rd
Date Site Posted: 8/24/2023

In order to assist in providing adequate notice to interested parties, the applicant for any *type of public hearing* in the City of Surprise shall erect two (2) signs giving notice of the *date, time and place* of the scheduled hearings. These signs must be erected not less than **fifteen (15) days prior** to the date of the first hearing. The signs shall also include the nature of the request as contained on the formal zoning application. The size and format of this sign shall meet requirements established by the Planning and Zoning Department (see page 2).

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I confirm that the site has been posted as required above, for the case noted above. A picture of the site posting, and photos of any subsequent changes/updates made to the sign, have also been submitted.

Meghan Liggett 8/24/2023
Applicant/Representative Signature Date

This instrument was acknowledged before me on 8/24/2023, by Meghan Liggett. I witness whereof I hereunto set my hand and official seal.



MaryBeth Conrad
Notary Public
10-25-24
My commission expires

*Return completed and notarized **affidavit** and all relevant **photos** to the Planning and Zoning Department at least fifteen (15) days **prior to** the scheduled meeting(s).*

Notice of Public Hearing City of Surprise

Neighborhood Meeting

Date: July 11, 2023
Time: 6:00 P.M. - 7:00 P.M.
Location: Surprise Regional Library
Program Room
16089 N Bullard Ave Surprise, Az 85374

Planning & Zoning

Date: October 5, 2023
Time: 6:00 P.M.
Location: 12425 Bell Road
Surprise, AZ 85378

City Council

Date: November 6, 2023
Time: 6:00 P.M.
Location: 16000 N Civic Center Plaza
Surprise, AZ 85374

Case number: **FS23-0454**

PROJECT DESCRIPTION: A Rezone Amendment application to amend the Windstone Ranch PUD on approximately 19.92 acres located at the northeast corner of Happy Valley Road and 151st Avenue to reduce the rear setback and to add an amenity area with a community pool.

For more information, call: 623-222-3011 Surpriseaz.gov



Aug 24, 2023 08:54AM
25084 N 147th Ave
Maricopa County

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Aug 24, 2023 08:41AM

W Happy Valley Rd

Maricopa County

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For more information, call: 623-222-3011 Surpriseaz.gov



Aug 24, 2023 08:41AM
W Happy Valley Rd
Maricopa County

Windstone PUD Amendment



Citizen Participation Report

Case No. FS23-0454

Submitted to:

City of Surprise

Planning Department

16000 N. Civic Center Plaza

Surprise, AZ 85374

623 222-1000

Citizen Participation Report Submittal: August 30, 2023

Citizen Participation Report

Windstone PUD Amendment

Case# FS23-0454

Introduction

Lennar ("Applicant") is seeking a rezone for 19.92 acres located at the northeast corner of Happy Valley Road and 151st Avenue in Surprise, AZ ("The Property"). This application would amend the Windstone Ranch PUD (FS19-263) to reduce the rear setback and to add a significant amenity area with a community pool. The Property will be part of a 200-home subdivision, which also encompasses approximately 40 additional acres to the north that will be developed with larger lots to ensure a diversity of homebuying opportunities. The 40 acres to the north are not subject to this request.

Techniques Used to Involve the Public:

Neighborhood Meeting:

A neighborhood meeting for the rezone request was hosted on July 11, 2023, at 6:00 p.m. at the Surprise Regional Library located at 16089 N. Bullard Ave, Surprise, AZ 85374. A copy of the meeting summary is attached to this report as **Exhibit A**, and the exhibit boards displayed at the meeting are attached as **Exhibit B**. There were three members of the city staff present, but no members of the public attended the meeting.

Notifications:

Notification letters and legal advertisements were arranged by the City of Surprise. The Applicant posted the site on June 6, 2023, with information about the neighborhood meeting. An affidavit of the site posting, and photos of the signs are included as **Exhibit C**. The site postings were updated on August 24, 2023, to add the upcoming dates for the Planning and Zoning Commission and City Council hearings. An affidavit of the site posting, and photos of the signs are included as **Exhibit D**.

Concerns, issues, and problems the applicant is unwilling or unable to address and why:

Through the public participation process, the Applicant did not receive any input or concerns from the public.

Exhibits:

- A. Neighborhood Meeting Summary
- B. Exhibit Boards from Neighborhood Meeting
- C. Affidavit of Posting for Neighborhood Meeting – with photos
- D. Affidavit of Posting for Public Hearings – with photos

Neighborhood Meeting Summary for Windstone PUD Amendment Case No. FS23-0454

A neighborhood meeting for a rezoning request for 19.92 acres located at the northeast corner of Happy Valley Road and 151st Avenue in Surprise, AZ was held at 6:00 p.m. on Tuesday July 11, 2023. The meeting was held at the Surprise Regional Library at 16089 N. Bullard Ave, Surprise, AZ 85374.

No citizens or other interested parties attended the meeting. Three City staff members and four members of the development team were in attendance. A series of informational boards and handouts were available to guide discussion and provide information about the rezoning request. Staff was aware of the project and did not have questions for the development team, nor was a presentation requested.

Members of the development team present:

Andrew Yancey – Bergin, Frakes, Smalley & Oberholtzer
Tyler Shute – Lennar
Shawn Byron – RVi Planning + Landscape
Adam Pruett – Bergin, Frakes, Smalley & Oberholtzer

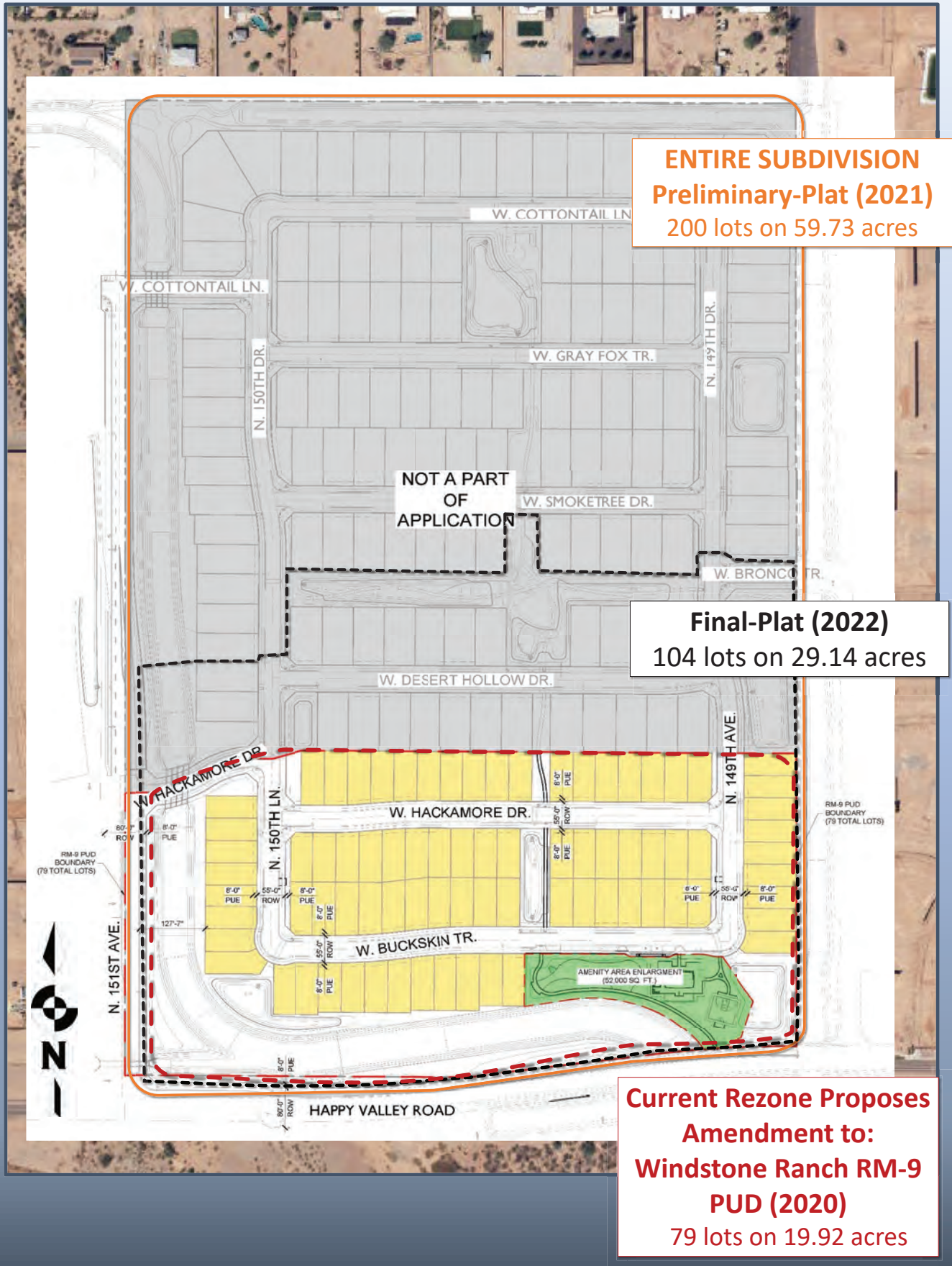
City staff present:

Tiffany Copp, Assistant Director of Community Development
Jason Moquin, Planning Manager
Chris Sexton, Planner

Vicinity Map



Entire Subdivision





Rear Setback Modification

WINDSTONE RANCH	
WINDSTONE RANCH RM-9 PUD DEVELOPMENT STANDARDS	
MINIMUM LOT AREA (PER UNIT)	4,500 S.F.
MINIMUM LOT WIDTH	40'
MINIMUM LOT DEPTH	100'
BUILDING SETBACK – FRONT (LIVABLE)	12' (2)
BUILDING SETBACK – FRONT (GARAGE)	21' (1)
BUILDING SETBACK – SIDE	5'
BUILDING SETBACK – SIDE (AGGREGATE)	10'
BUILDING SETBACK – SIDE (STREET SIDE / CORNER LOT)	15' 5'
BUILDING SETBACK – REAR	20' (5)
MAXIMUM BUILDING HEIGHT	35'
(1) FRONT FACING GARAGES SHALL HAVE A MINIMUM 21-FOOT FRONT YARD SETBACK MEASURED FROM BACK OF SIDEWALK	
(2) 12-FOOT LIVABLE FRONT SETBACK IS MEASURED FROM RIGHT-OF-WAY	
(3) TO BE DETERMINED AT SITE PLAN OR PRELIMINARY PLAT REVIEW	
(4) THERE IS NOT A STREET SIDE SETBACK REQUIREMENT IN THE SUDC	
(5) PORCHES / PATIOS MAY ENCROACH 2'-6" INTO THE REAR YARD SETBACK	

Proposal to reduce rear setback from 20' to 15'

15' rear setback is consistent with LDO standards

Allows for an additional single-story home option

Preserves front yard / streetscape

ZONING

PLATS

Saddlehorn Ranch

RL-5 PUD (2019)

62 lots on 20 acres
60'x100' (7,200 sf min)
70'x120' (North)
NO CHANGES PROPOSED

Tierra Verde East

LDR PAD (2005)

61 lots on 19.61 acres
60'x115'
NO CHANGES PROPOSED

Windstone Ranch

RM-9 PUD (2020)

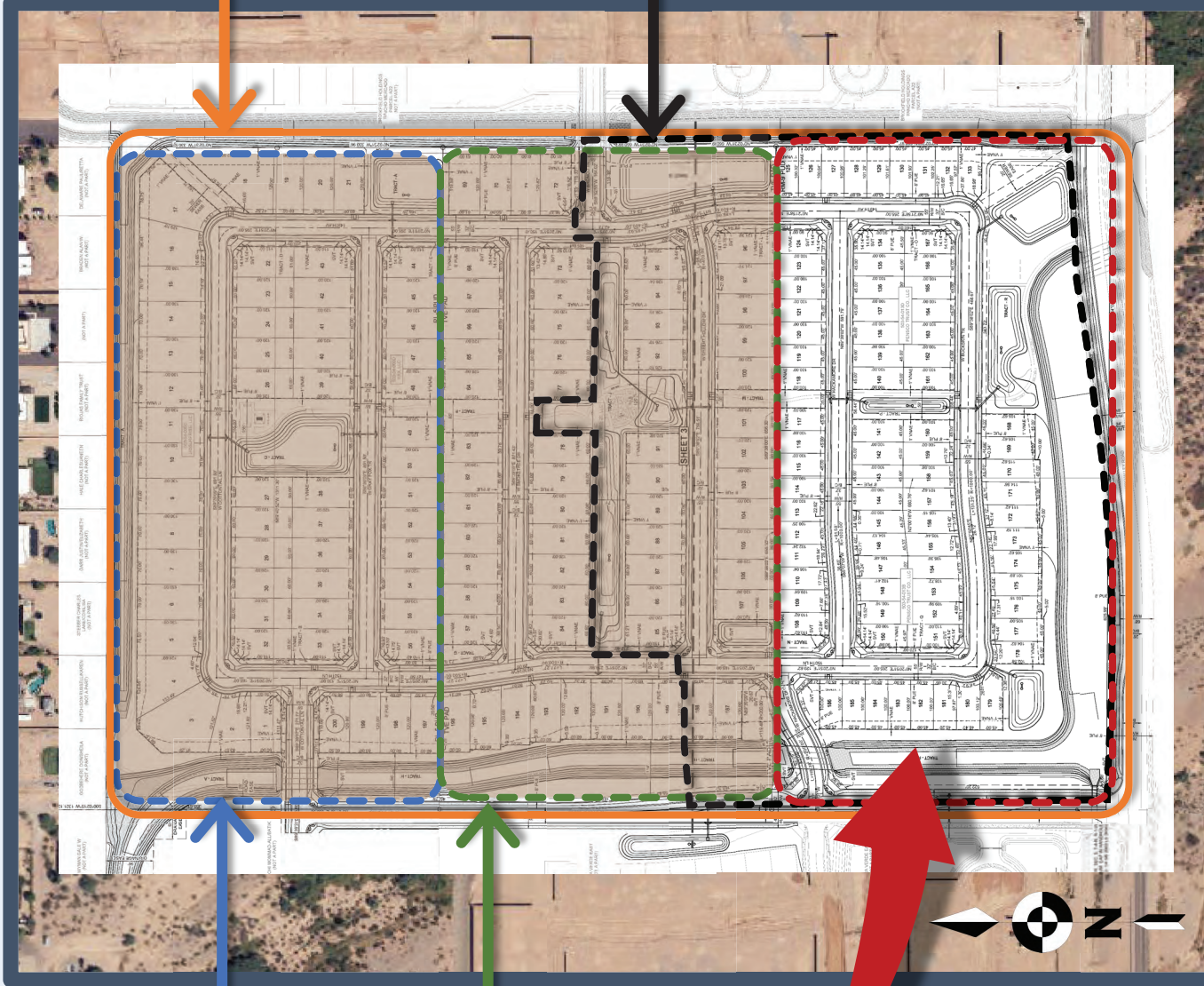
79 lots on 19.92 acres

Preliminary-Plat (2021)

200 lots on 59.73 acres
45'x100' (79)
60'x120' (107)
70'x130' (14)

Final-Plat (2022)

104 lots on 29.14 acres
60'x120' (25 Lots, Tierra Verde East)
45'x100' (79 Lots, Windstone PUD)



Happy Valley Rd

Happy Valley Rd

151st Ave

AFFIDAVIT OF POSTING

Application No: FS23-0454

Applicant Name: BFSO

Location: NEC 151st Ave and Happy Valley Rd.

Date Site Posted: 6/23/2023

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I confirm that the site has been posted as required above, for the case noted above. A picture of the site posting, and photos of any subsequent changes/updates made to the sign, have also been submitted.

Meghan Liggett
Applicant/Representative Signature

6/26/2023

Date

This instrument was acknowledged before me on 6/26/2023, by Meghan Liggett. I witness whereof I hereunto set my hand and official seal.



Mary Beth Conrad
Notary Public

10-25-24
My commission expires

*Return completed and notarized **affidavit** and all relevant **photos** to the Planning and Zoning Department at least fifteen (15) days **prior to** the scheduled meeting(s).*

Notice of Public Hearing City of Surprise

Neighborhood Meeting

Date: July 11, 2023

Time: 6:00 P.M. - 7:00 P.M.

Location: Surprise Regional Library

Program Room

16069 N Bullard Ave Surprise, Az 85374

Planning & Zoning

Date: TBD

Time: 6:00 P.M.

Location: 16000 N Civic Center Plaza

Surprise, AZ 85374

City Council

Date: TBD

Time: 6:00 P.M.

Location: 16000 N Civic Center Plaza

Surprise, AZ 85374

Case number: **FS23-0454**

PROJECT DESCRIPTION: A Rezone Amendment application to amend the Windstone Ranch PUD on approximately 19.92 acres located at the northeast corner of Happy Valley Road and 151st Avenue to reduce the rear setback and to add an amenity area with a community pool.

For more information, call: 623-222-3011 Surpriseaz.gov



Jun 23, 2023 at 11:08:06 AM
25084 N 147th Ave
Surprise AZ 85387
United States

Notice of Public Hearing City of Surprise

Neighborhood Meeting

Date: July 11, 2023

Time: 6:00 P.M. - 7:00 P.M.

Location: Surprise Regional Library
Program Room
16089 N Bullard Ave Surprise, Az 85374

Planning & Zoning

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Location: 16000 N Civic Center Plaza
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Jun 23, 2023 at 11:07:43 AM
25084 N 147th Ave
Surprise AZ 85387
United States



Notice of Public Hearing

City of Surprise

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Jun 23, 2023 at 11:03:17 AM
W Happy Valley Rd
Surprise AZ 85387
United States



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Jun 23, 2023 at 11:02:58 AM
W Happy Valley Rd
Surprise AZ 85387
United States



AFFIDAVIT OF POSTING

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Notary Public
10-25-24
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Aug 24, 2023 08:54AM

25084 N 147th Ave

Maricopa County

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Aug 24, 2023 08:41AM

W Happy Valley Rd

Maricopa County

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Aug 24, 2023 08:41AM
W Happy Valley Rd
Maricopa County

ORDINANCE # 2023-28

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, APPROVING A PLANNED UNIT DEVELOPMENT (PUD) AMENDMENT FOR A REDUCTION IN THE REAR YARD SETBACK STANDARD, GENERALLY LOCATED AT THE NORTHEAST CORNER OF HAPPY VALLEY ROAD AND 151ST AVENUE.

WHEREAS, this Ordinance was properly noticed for public hearing and the necessary hearings and opportunity for public input were completed;

WHEREAS, the subject site is located north of Happy Valley Road and east of the 151st Avenue alignment;

WHEREAS, the subject site is approximately 19.92 acres and is currently zoned RM-9 with a PUD Overlay;

WHEREAS, the proposed use of the subject site requires modification of the applicable zoning regulations, namely modifying the rear yard setback from 20-feet to 15-feet for the RM-9 portion of the Windstone Ranch as indicated below. The RM-9 development encompasses 79 lots on approximately 19.92 acres;

WHEREAS, as a result of modifying the rear yard setback from 20-feet to 15-feet, the property owner shall construct an amenity site near the project's southeast corner. The amenity site will include an approximate 1,900 square foot community pool, basketball half-court, bathrooms, ramada, shade sail with benches, open turf area and a barbecue area. Residents may access this active open space by foot, or by vehicle, as there will be ten (10) on-street parking spaces including two (2) ADA-compliant spaces.

WHEREAS, this PUD amendment is in harmony with the purposes and intent of the zoning ordinance and the Surprise General Plan; and

WHEREAS, on October 5, 2023, the Planning and Zoning Commission recommended that the Windstone Ranch PUD Amendment be approved.

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

Section 1. *PUD Amendment.* This PUD Amendment is subject to the following stipulations:

- a. Development and use of the site shall be consistent with the narrative entitled "Windstone Ranch PUD Amendment" dated July 28, 2023.

- b. Non-compliance with the stipulations of approval of this case will be treated as a violation in accordance with the applicable provisions of the Surprise Municipal Code.

Section 2. Amenity Site. As a result of modifying the rear yard setback, an amenity site near the project's southeast corner shall be constructed to include an approximate 1,900 square foot community pool, basketball half-court, bathrooms, ramada, shade sail with benches, open turf area and a barbecue area.

Section 3. Codification. This ordinance is not of a general nature and will not be codified.

Section 4. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, upon the effective date of this Ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 6. Effective Date. This ordinance shall become effective at the time and in the manner prescribed by law.

PASSED AND ADOPTED this _____ day of _____ 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney



FS23-0454

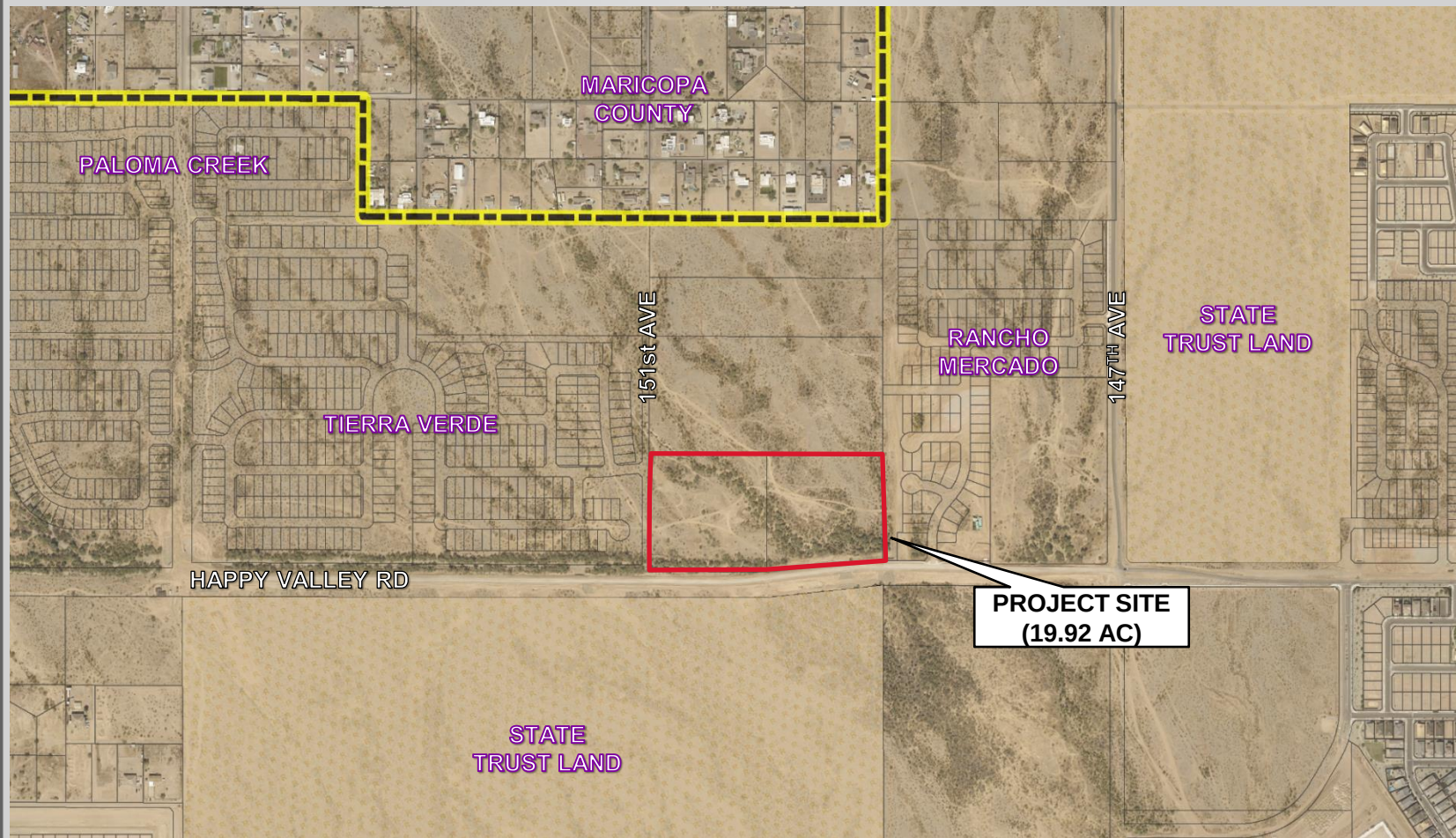
Windstone Ranch

PUD Amendment

City Council
November 6, 2023

- **November 10, 2007:** The parcel was annexed into the City under Ordinance 07-47.
- **April 2, 2020:** P&Z recommended to City Council to approve a rezone to the property under case FS19-263.
- **May 5, 2020:** The Mayor and City Council approved the rezone with a PUD overlay.

- **August 17, 2021:** The Mayor and City Council approved the preliminary plat under case FS20-596.
- **June 1, 2023:** The applicant filed a PUD amendment under the subject case, FS23-0454.
- **July 11, 2023:** An outreach meeting was held.



PALOMA CREEK

MARICOPA
COUNTY

TIERRA VERDE

HAPPY VALLEY RD

151st AVE

RANCHO
MERCADO

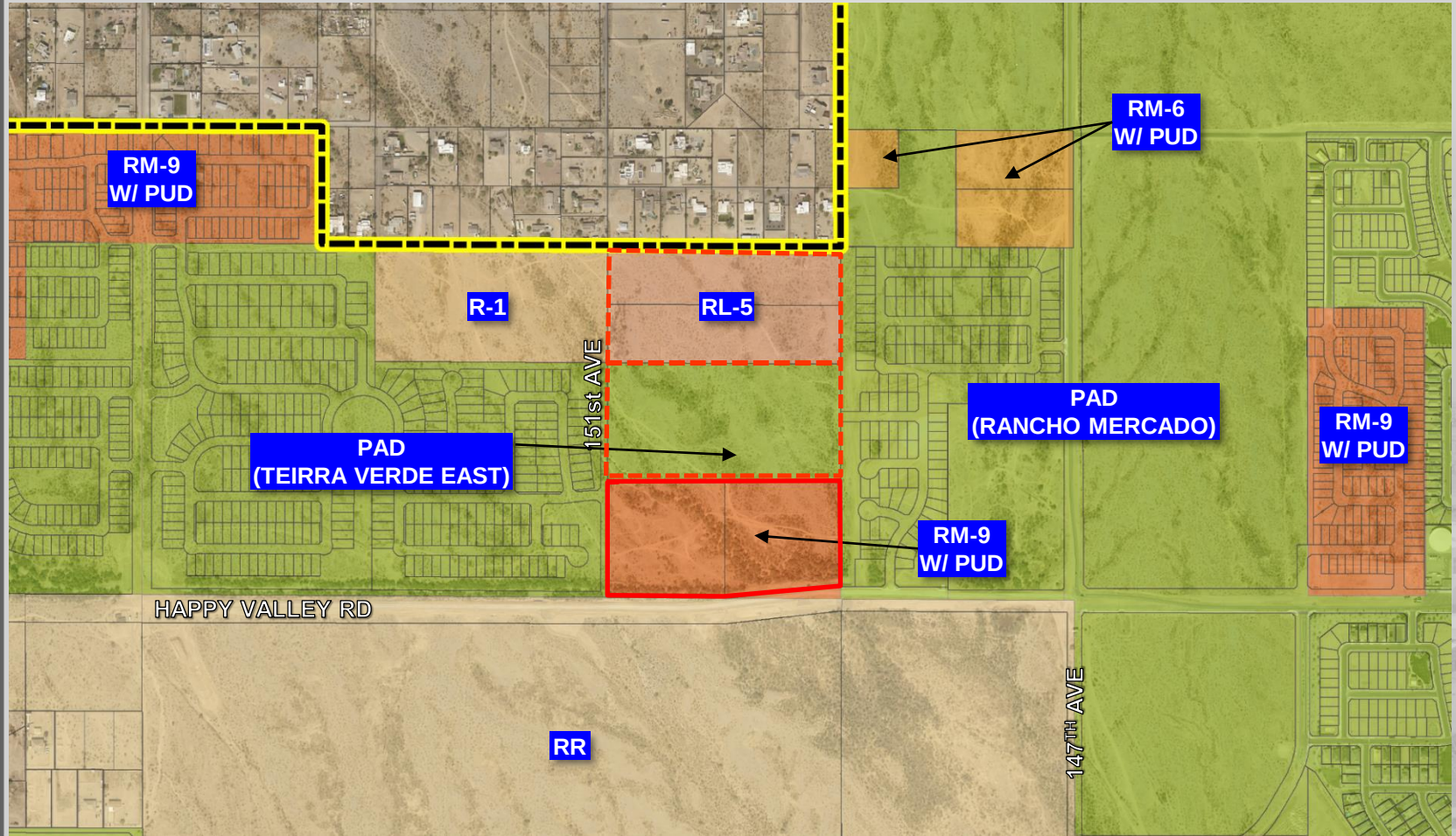
147th AVE

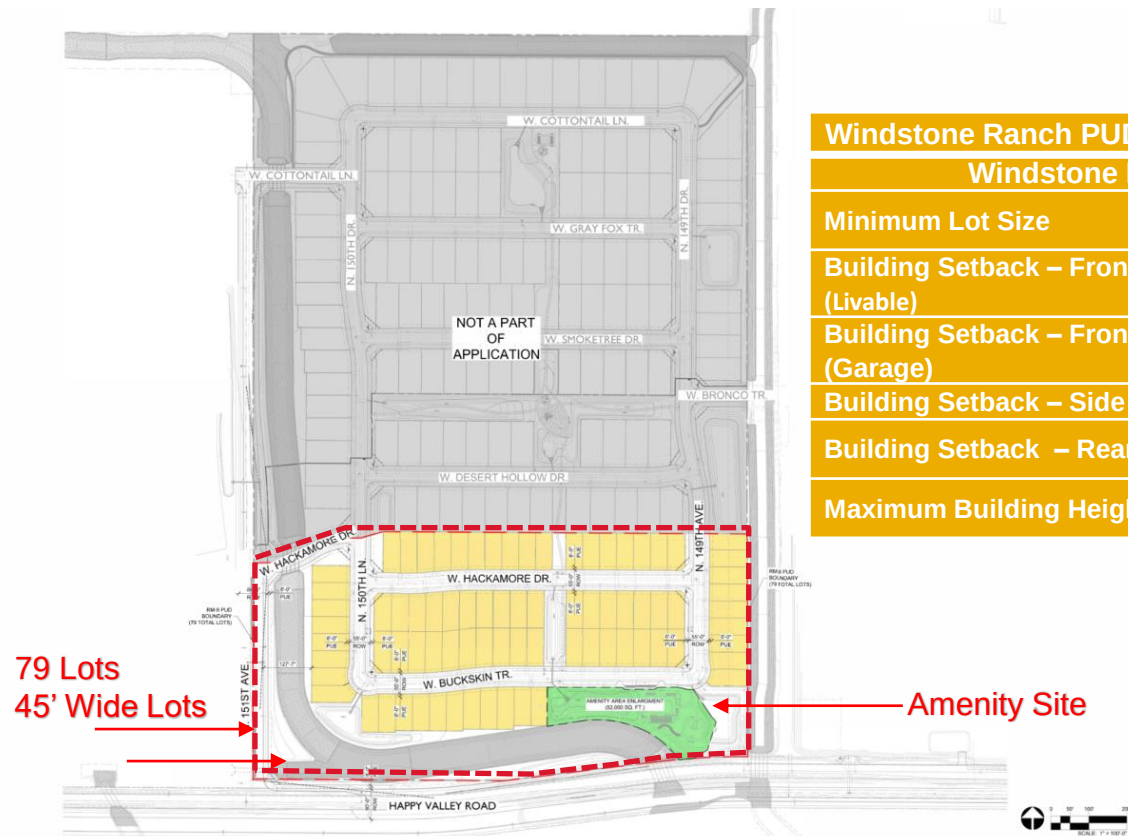
STATE
TRUST LAND

STATE
TRUST LAND

PROJECT SITE
(19.92 AC)

FS23-0454 VICINITY MAP





Windstone Ranch PUD Development Standards Table

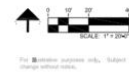
Windstone Ranch – Lots 108-186

Minimum Lot Size	4,500 S.F.
Building Setback – Front (Livable)	12'
Building Setback – Front (Garage)	21'
Building Setback – Side	5'
Building Setback – Rear	20' 15'
Maximum Building Height	35'



WINDSTONE • CONCEPTUAL POOL ENLARGEMENT

SURPRISE, ARIZONA
 05/01/2023
 21004210
 LENDINAR, ARIZONA





OUTREACH

Neighborhood Meeting

- Site Posting, 300' Mailers, and Newspaper Publishings
- July 11, 2023 – Surprise Regional Library
 - No attendees





RECOMMENDATION



Staff recommends Planning & Zoning Commission recommend Approval to the Mayor and City Council subject to stipulations 'a' and 'b'.



SURPRISE
ARIZONA

QUESTIONS OR COMMENTS?

Thank You

- 
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 - b. Non-compliance with the stipulations of approval of this case will be treated as a violation in accordance with the applicable provisions of the Surprise Municipal Code.



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: City Clerk
Staff Recommendations:

Contact Person: Kristi Passarelli, City Clerk
District: District 3

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

Consideration and action pertaining to a recommendation to the Arizona Department of Liquor Licenses and Control (DLLC) on Application No. 260017, requested by Jared Michael Repinski, for Trapper's Sushi Co, for Series 12 Liquor License. Trapper's Sushi Co is located at 17200 W Peoria Ave #100, Surprise, AZ 85355.

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

1. CD - TRAPPERS SUSHI CO Report
 2. Police - Trapper's Sushi Co
 3. TRAPPERS SUSHI CO MAP
 4. Fire - 17200 W Peoria Ave 100 Trappers Sushi Liquor License
 5. Finance - Trapper's Sushi Co - 17200 W Peoria Ave
-



COMMUNITY DEVELOPMENT DEPARTMENT

Date: October 16, 2023
To: Charles Vasquez, Deputy City Clerk
From: Lloyd Abrams, Community Development Director
James Stewart, Zoning Specialist
Re: Liquor License Application for:

**AGENT, Jared Michael Repinski
Trapper's Sushi Co.
17200 W. Peoria Ave. #100
Surprise, Arizona 85355**

New Series 12 (NEW APPLICATION – RESTAURANT) – Application # 260017

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

1. Sterling Grove Country Club (Series 6) – 11530 N. Greenwich Road
2. Safeway #0048 (Series 09) – 17230 W. Peoria Ave.
3. Safeway Express (Series 09) – 10730 N. Cotton Lane

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

Commercial and residential growth is increasing in this area.

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

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

REFERENCE:

DATE: October 28, 2023

Application Number - 260017
New Series #12 – Restaurant

APPLICANT:

Trapper's Sushi Co
17200 W Peoria Ave #100
Surprise, Arizona 85355

FINDINGS:

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

Trapper's Sush Co is a brand-new full serve restaurant specializing in sushi and some Japanese cuisine. There are several other Trapper's Sushi in Washington state and three others greater Phoenix area with this being the fourth. The potential market should be residents of all ages from Surprise and the west valley. There is projected seating for 80 persons, including separate bar seating of 8 persons. There is no live entertainment scheduled, however there will be seven televisions inside.

2) Effect of vehicular traffic in proximity.

Trapper's Sushi Co. is currently under construction in a brand-new retail shopping plaza anchored by a brand new Safeway store on the northwest corner of Cotton Lane and Peoria Avenue. This is a growing area with brand new expanded roadways and should have plenty of ingress/egress to the plaza.

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

N/A. New construction.

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

According to their web site, most other restaurants in the valley appeared to be open from 1 AM – 9 PM, Sunday through Thursday, and closed at 10 PM on Friday and Saturday nights. Safeway should also be closed by 10 to 11 PM each evening and unknown which other businesses will be included in the plaza because of new construction at this time.

5) Appropriateness of series license requested.

A series 12 license should be appropriate for Trapper's Sushi Co per Arizona state guidelines for restaurants. Their menu shows a variety of mixed alcohol drinks and wines to be sold.

Submitted by Officer Chris Tovar #2059

PAD
SARAH ANN RANCH

R-1

C-3
PUD

PAD
PRASADA

TRAPPER'S SUSHI CO.

PAD
PRASADA

PAD
SYCAMORE FARMS

STERLING GROVE
COUNTRY CLUB

SAFeway
0048

SAFeway EXPRESS
5830

SITE

UNINCORPORATED MARICOPA COUNTY

CITY OF GLENDALE



Surprise Fire-Medical Department
14250 W. Statler Plaza Ste. 101
Surprise, AZ 85374-7479
Phone: 623-222-5000
Fax: 623-222-5001



October 5, 2023

To: Charles Vasquez, Deputy City Clerk

From: Keith Tanner, Fire Marshal

Subject: Liquor License Application

Applicant: Trapper's Sushi Co
17200 W Peoria Ave, #100

The Surprise Fire-Medical Department has been involved with the pre-construction / plan review process at the above referenced location within the last few months to ensure compliance with the applicable fire codes within the tenant space and building. Since construction work is still ongoing, there are no known fire code violations. Therefore, fire has no comment on the application at this time.

If you have any questions feel free to contact me.

Keith Tanner
Keith Tanner, Fire Marshal
Fire Prevention Division
Surprise Fire-Medical Department



MEMO

Date: 10/5/2023

To: Sherry Aguilar, City Clerk
Charles Vasquez, Deputy City Clerk

From: Courtnee Chavez, Business Compliance Specialist

RE: Liquor License Application – Trapper's Sushi Co - 17200 W Peoria Ave #100

Business License Status:

- ☒ Application link emailed on 10/5/2023 .
- ☐ License # , current and valid for .
- ☐ Applied for license but is still pending and waiting on customer to provide additional information or documents.



Finance Department
Revenue Division
16000 N. Civic Center Plaza
Surprise, AZ 85374-7470
Business.license@surpriseaz.gov

10/5/2023

TRAPPER'S SUSHI CO
18365 W VISTA NORTE ST
GOODYEAR, AZ 85338

Re: Business License Requirement

To Whom It May Concern:

The Revenue Division has received notification that a liquor license application has been received on behalf of your company.

The City of Surprise requires that all businesses located within the City of Surprise have a City of Surprise business license prior to the start of their operations. Please be sure to apply for your business license at least 3 weeks prior to the opening of your business.

You can apply online at <https://primeweb.surpriseaz.gov/>. City of Surprise Business License applications and supplemental forms are available online at <https://www.surpriseaz.gov/407/Business-License-Application-Supplementa>. License Fees will be billed upon approval of your license application.

For additional information, please visit the City of Surprise website at www.surpriseaz.gov.

If you have any questions, please email our office at business.license@surpriseaz.gov.

Respectfully,
Revenue Division



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: City Clerk
Staff Recommendations:

Contact Person: Kristi Passarelli, City Clerk
District: District 3

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

Consideration and action pertaining to a recommendation to the Arizona Department of Liquor Licenses and Control (DLLC) on Application No. 260017, requested by Lauren Kay Merrett , for Firebirds Wood Fired Grill, for Series 12 Liquor License. Firebirds Wood Fired Grill is located at 13388 Prasada Parkway, Surprise, AZ 85379.

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

1. Finance - Firebirds Wood Fired Grill - 13388 Prasada Pkwy
 2. Police - Firebirds Wood Fired Grill
 3. CD - FIREBIRDS WOOD FIRED GRILL - REPORT
 4. FIREBIRDS WOOD FIRED GRILL MAP
 5. Fire - 13388 Prasada Pkwy Firebirds Wood Fired Grill Liquor License
-



MEMO

Date: 10/5/2023

To: Sherry Aguilar, City Clerk
Charles Vasquez, Deputy City Clerk

From: Courtnee Chavez, Business Compliance Specialist

RE: Liquor License Application – Firebirds Wood Fired Grill - 13388 Prasada Pkwy

Business License Status:

- ☒ Application link emailed on 10/5/2023 .
- ☐ License # , current and valid for .
- ☐ Applied for license but is still pending and waiting on customer to provide additional information or documents.



Finance Department
Revenue Division
16000 N. Civic Center Plaza
Surprise, AZ 85374-7470
Business.license@surpriseaz.gov

10/5/2023

FIREBIRDS WOOD FIRED GRILL

13388 PRASADA PKWY

SURPRISE, AZ 85379

Re: Business License Requirement

To Whom It May Concern:

The Revenue Division has received notification that a liquor license application has been received on behalf of your company.

The City of Surprise requires that all businesses located within the City of Surprise have a City of Surprise business license prior to the start of their operations. Please be sure to apply for your business license at least 3 weeks prior to the opening of your business.

You can apply online at <https://primeweb.surpriseaz.gov/>. City of Surprise Business License applications and supplemental forms are available online at <https://www.surpriseaz.gov/407/Business-License-Application-Supplementa>. License Fees will be billed upon approval of your license application.

For additional information, please visit the City of Surprise website at www.surpriseaz.gov.

If you have any questions, please email our office at business.license@surpriseaz.gov.

Respectfully,
Revenue Division

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

REFERENCE:

DATE: October 28, 2023

Application Number - 255373
New Series #12 – Restaurant

APPLICANT:

Firebirds Wood Fired Grill
13388 N Prasada Parkway
Surprise, Arizona 85379

FINDINGS:

- 1) **Evidence concerning the nature of the proposed business, its potential market and its likely customers.**
Firebirds is a large chain restaurant with 56 restaurants across the country, which specializes in upscale American cuisine steakhouse. It is currently under construction in the brand-new Prasada retail district. The potential market should be residents of all ages from Surprise and the west valley. There is projected seating for 234 persons, including separate bar seating of 30 persons.
- 2) **Effect of vehicular traffic in proximity.**
The entire Prasada development has been engineered to have plenty of ingress and egress locations throughout the entire retail area, which should be sufficient for the area, including for Firebirds.
- 3) **The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report of such activity at least 20 days before the hearing.**
N/A. New construction.
- 4) **Comparison of hours of operation of the proposed premises to the existing businesses in proximity.**
All other local Firebirds restaurants in the valley are opened every day from 11 AM to 10 PM during the week and open until 11 PM on Friday and Saturday nights. In the general area, brand new Cooper's Hawk Winery and Restaurant (series 12) has the hours of 11 AM to 9 PM every day, with exception of Fridays and Saturdays when they close at 10 PM. There are several new retail businesses in the expanding Prasada retail area, including fast casual eateries that all close approximately at the same time. Fat Cats Family Entertainment Center (Series 6) is in the vicinity as well and is from 10 AM to 11 PM every day.
- 5) **Appropriateness of series license requested.**
A series 12 license is appropriate for Firebirds, per Arizona state guidelines for restaurants.

Submitted by Officer Chris Tovar #2059



COMMUNITY DEVELOPMENT DEPARTMENT

Date: October 16, 2023
To: Charles Vasquez, Deputy City Clerk
From: Lloyd Abrams, Community Development Director
James Stewart, Zoning Specialist
Re: Liquor License Application for:

**Agent, Lauren Kay Merrett
Firebirds Wood Fired Grill
13388 N. Prasada Pkwy. N. Prasada Pkwy.
Surprise, Arizona 85379**

Series 12 (New Application - Restaurant)- Application # 255373

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

1. Walmart # 5429 (Series 9) – 14111 N. Prasada Gateway Ave.
2. Circle K Store (Series 10) – 16934 W. Waddell Rd. (NEW APPLICATION)
3. CVS Pharmacy # 5530 (Series 9) – 15300 N. Cotton Ln.
4. Fry's Marketplace # 680 (Series 9) – 15215 N. Cotton Ln.
5. 1 Brothers Pizza (Series 12) – 16995 W. Greenway Rd.
6. Frederico's Mexican Food (Series 12) – 16995 W Greenway Rd. #100
7. Ben's Pizza (Series 12) – 16630 W. Greenway Rd. # 326 (EXPIRED)
8. Big Buddha (Series 12) – 16572 W. Greenway Rd. #115
9. CVS Pharmacy # 5477 (Series # 9) – 15474 W Greenway Rd.
10. Barro's Pizza (Series 12) – 15403 W. Greenway Rd. #104
11. Wal-Mart Neighborhood Market # 4218 (Series 9) – 15431 W. Greenway Rd.
12. Walgreens # 7933 (Series 9) – 15514 W. Waddell Rd.
13. 4 Sons Food Store (Series 10) – 15445 W. Waddell Rd.
14. Bashas' # 137 (Series 9) – 15367 W. Waddell Rd.
15. Vogue Bistro (Series 12) – 15411 W. Waddell Rd. # 108
16. ARCO AM/PM (Series 10) – 15433 W. Cactus Rd. (EXPIRED)
17. Costco Wholesale #1375 (Series 09) – 16385 W. Waddell Rd.
18. Cooper's Hawk Winery & Restaurant (Series 12) – 16470 W. Alexandria Wy.
19. Barrio Queen (Series 12) – 13434 N. Prasada Pkwy.
20. Burros & Fries (Series 12) – 13544 N. Prasada Pkwy. #101
21. MOD Pizza (Series 12) – 13668 N. Prasada Pkwy. # 100
22. Sprouts Farmers Market # 46 (Series 10) – 13650 N. Prasada Pkwy.
23. Total Wine and More #1013 (Series 9) – 13440 N. Prasada Pkwy.
24. Fat Cats Entertainment Center (Series 6) – 13100 N. Prasada Pkwy.

The immediate area is comprised of commercial zoning. The property is zoned PAD, Prasada (Commercial) which is consistent with the proposed use.

Commercial and residential growth is expected.

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

W GREENWAY RD

PAD
COUNTRYSIDE

R-2,
RM

PAD
PRASADA

PAD
PRASADA

PAD
LEGACY
PARC

R-1,
RL-5

RR

CIRCLE K # 9576

MOD PIZZA

BARRIO QUEEN

C-2, CC

W WADDELL RD

W WADDELL RD

RR

SPROUTS # 46

COSTCO

R-2,
RM-9

PAD
TRUMAN
RANCH

TOTAL WINE AND
MORE #1013

COOPER'S HAWK
WINERY &
RESTAURANT

R-3,
RH-15

R-2,
RM-6

R-2,
RM-9

R-2,
RM-6

C-3,
CR

SITE

FAT CATS
ENTERTAINMENT
CENTER

PAD
MARLEY PARK

PAD
PRASADA

PAD
SYCAMORE
FARMS

PAD
SYCAMORE
FARMS

PAD
 GREER RANCH

W CACTUS RD



Surprise Fire-Medical Department
14250 W. Statler Plaza Ste. 101
Surprise, AZ 85374-7479
Phone: 623-222-5000
Fax: 623-222-5001



October 5, 2023

To: Charles Vasquez, Deputy City Clerk
From: Keith Tanner, Fire Marshal
Subject: Liquor License Application
Applicant: Firebirds Wood Fired Grill
13388 Prasada Pkwy

The Surprise Fire-Medical Department has been involved with the pre-construction / plan review process at the above referenced location within the last few months to ensure compliance with the applicable fire codes within the tenant space and building. Since construction work is still ongoing, there are no known fire code violations. Therefore, fire has no comment on the application at this time.

If you have any questions feel free to contact me.

Keith Tanner, Fire Marshal
Fire Prevention Division
Surprise Fire-Medical Department



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023

Contact Person: Jodi Tas, MNGMNT ANALYST - SR

Submitting Department: Human Svcs and Comm Vitality

District: Citywide

Staff Recommendations: None

Consent: No

Regular: Yes

Public Hearing: No

Report/Discussion: No

Agenda Wording:

Consideration and action pertaining to the Neighborhood Grant Program Awards for Fiscal Year 2024 as recommended by the sub-committee on Community Outreach, Partnerships and Grants.

Motion:

I move to approve the funding as recommended by the sub-committee on Community Outreach, Partnerships and Grants.

Background:

The Surprise Neighborhood Grant Program was designed to engage residents and increase community engagement, interest, and involvement within the City of Surprise. Funding will be available beginning November 2023. All funding must be spent by June 15, 2024. The Committee on Community Outreach, Partnerships and Grants has reviewed applications and is making funding recommendations to City Council.

Objective Analysis:

The Surprise Neighborhood Grant Program was designed to provide neighborhoods with options for funding programs, community events or improvements. This outlet would provide them the opportunity to request assistance with the goal of building community engagement and stronger relationships with the City of Surprise.

Policy Compliant:

The Surprise Neighborhood Grant Program is consistent with city and council policies.

Financial Impact:

This item will allow for one-time grants up to \$10,000 to be distributed to the qualified applicants to assist in completion of their projects.

Budget Impact:

The FY2024 budget includes an appropriation within the General Fund in the amount of \$160,000 for

the Community Outreach Program, \$10,000 of which is for the Neighborhood Grant Program. Since funding for both the Community Outreach Program and Neighborhood Grant Program are combined, no budget amendment is necessary.

FTE Impact:

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

ATTACHMENTS:

1. Staff Report - Neighborhood Grant Program FY 24
 2. Neighborhood Grant Council Presentation FY2024
-



HUMAN SERVICE AND COMMUNITY VITALITY

Date: November 6, 2023

To: Mayor and City Council

From: Jodi Tas, Government Relations Director
Seth Dyson, HSCV Director

Re: Neighborhood Grant Program FY24

Introduction

The Neighborhood Grant Program provides Surprise neighborhoods with grant opportunities or monetary assistance for funding community events, neighborhood functions or even improvements. This outlet provides the opportunity to request assistance with the goal of building community engagement and stronger relationships with the City of Surprise.

Background

The Neighborhood Grant Program began in FY16 when City Council approved the pilot program with a recommended budget of \$10,000. The city received five applications totaling \$31,976. Four of those programs were funded. In FY17, two rounds of applications were needed in order to fund four applications totaling \$11,460. In FY18 we received eight applications totaling \$53,158 in funding requests. FY19 we received seven applications totaling \$40,476 and for FY20 we received four applications totaling \$17,296. Due to the COVID-19 pandemic the program was suspended for FY21 but brought back in FY22 with two applications totaling \$15,339. In FY23 three applications were received for a total of \$22,437 and this year a total of 8 applications totaling \$62,360 were received.

Funding

The City Council designated \$10,000 for the Neighborhood Grant Program.

The Committee on Community Outreach, Partnerships and Grants reviewed applications and are making recommendations to the full City Council for which groups get funding.

Committee Recommendations

The Committee on Community Outreach, Partnerships and Grants held a meeting October 18th to review, discuss and act upon the eligible applications received. Applicants were invited to the meeting to present their project to the committee.

Committee recommendations are as follows:

Neighborhood/Applicant	Project Name	Requested Amount	Committee Recommendation
Arizona Traditions	Butterfly Garden	\$10,000	\$2,750
Homestead at Marley Park	Community Events	\$10,000	\$3,000
Sierra Verde	Community Event/Park Enhancements	\$10,000	\$1,750
Surprise Farms III	Table and benches	\$4,000	\$2,500
Sarah Ann Ranch	Accessible Swing Set	\$10,000	\$0
Rose Garden	Enhancing Fire Safety	\$6,860	\$0
Original Town Site	Community Event	\$6,000	\$0
Kingswood Parke	Water Fountain	\$5,500	\$0
	Request Total	\$62,360	\$10,000

The Subcommittee discussed alternative funding solutions for two applicants; Original Town Site and Rose Garden.

Future Actions

- Award notifications to be sent immediately after Council action
- Spending and projects must be complete by June 15, 2024

Recommendation

Approval of Neighborhood Grant Program awards as recommended by the Committee on Community Outreach, Partnerships and Grants.



Neighborhood Grant Program

FY2023-2024

PROGRAM PURPOSE & OVERSIGHT

- To empower residents and increase community engagement, interest and involvement within the City of Surprise
- Surprise Sub-Committee on Community Outreach, Partnerships & Grants makes funding recommendations
- Sub-Committee Members are Vice Mayor Chris Judd (Chair), Council Members Jack Hastings and Nick Haney

PROGRAM GUIDELINES

To receive support, projects must:

- Provide a public benefit,
- Result in a product, which benefits a neighborhood or the larger Surprise Community;
- Be feasible for completion by June 15, 2024;
- Involve the benefiting neighborhood in project identification, planning and execution;
- Emphasize neighborhood self-help, or
- Be educational, community-building, or a public physical improvement

APPLICATION PROCESS

- Application must be signed by a minimum of 5 neighbors within applicant's respective residential area supporting ideas and project applicant
- Must include a thorough description of how funding will be utilized
- Project must comply with City and HOA policies
 - Application must include approval of HOA Board, if necessary
- Nonprofit 501(c)3 organizations are not eligible

PROCESS TIMELINE

June 27, 2023 –
Sept. 30, 2023

Application Period

Information session
held July 11th

October 18, 2023

Committee on
Community
Outreach,
Partnerships & Grants
Meeting &
Recommendation

November 6, 2023

City Council
Recommendation

APPLICATION DESCRIPTION

Neighborhood/Applicant	Project Name	Requested Amount	Committee Recommendation
Arizona Traditions	Butterfly Garden	\$10,000	\$2,750
Homestead at Marley Park	Community Events	\$10,000	\$3,000
Sierra Verde	Community Event/Park Enhancements	\$10,000	\$1,750
Surprise Farms III	Table and benches	\$4,000	\$2,500
Sarah Ann Ranch	Accessible Swing Set	\$10,000	\$0
Rose Garden*	Enhancing Fire Safety	\$6,860	\$0
Original Town Site*	Community Event	\$6,000	\$0
Kingswood Parke	Water Fountain	\$5,500	\$0
	Request Total	\$62,360	\$10,000

*The Subcommittee discussed alternative funding solutions for two applicants; Original Town Site and Rose Garden.

PROGRAM GUIDELINES

- Funding would be available after City Council approval
- All funding must be spent by June 15, 2024
- Reporting will be similar to the Surprise Community Outreach Program



SURPRISE
ARIZONA

QUESTIONS OR COMMENTS?

Thank You



CITY OF SURPRISE Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Police
Staff Recommendations:

Contact Person: Benny Pina, POLICE CHIEF
District: Citywide

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

Consideration and action pertaining to an amendment to the comprehensive citywide fee schedule by adopting a police department video recording fee, and moving budget authority in the amount of \$37,500 within the General Fund Contingency to police records department charges for service; Resolution #2023-169.

Motion:

I move to approve Resolution #2023-169.

Background:

The Surprise Police Department has received almost 500 video requests this year. The hours that it takes staff to review and redact these videos totaled 817 hours. Each 15-minute video can take up to one hour to redact. When redacting, our staff watches the video looking for juvenile identities, address plates on homes, officer's computer screens, medical treatment, undercover officer's identities, severe injuries, and the inside of homes. While watching the video, staff simultaneously listens for personal information, radio inquiries, tactical plans, and medical information to mute.

Objective Analysis:

Senate Bill 1148, which was approved this past legislative session, authorizes the City of Surprise Police Department to establish a onetime fee per copy, not to exceed \$46 per video hour reviewed that is charged to a person who submits a public records request to a local law enforcement agency for a copy of a video recording.

Policy Compliant:

This action is consistent with City and Council Policy to recover costs for city services provided.

Financial Impact:

If approved, this fee will generate approximately \$37,500 in revenue within the General Fund.

Budget Impact:

The FY2024 adopted budget did not include appropriations for revenue related to the adoption of this fee. Acceptance of this fee will require a reallocation of \$37,500 from Contingency within the General

Fund to charges for service Police Records Department.

FTE Impact:

The number of full-time equivalents (FTE) is not impacted by this action.

ATTACHMENTS:

1. SB 1148 PRR fee for Police video recordings
 2. Citywide Fee Schedule (PDF)
 3. Res 2023-169 Video recording fee FINAL
-

House Engrossed Senate Bill

law enforcement; video recordings; fee

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

CHAPTER 190

SENATE BILL 1148

AN ACT

AMENDING SECTIONS 13-4405 AND 39-127, ARIZONA REVISED STATUTES; AMENDING
TITLE 39, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 39-129; RELATING TO PUBLIC RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-4405, Arizona Revised Statutes, is amended to
3 read:

4 13-4405. Information provided to victim by law enforcement
5 agencies

6 A. As soon after the detection of a criminal offense as the victim
7 may be contacted without interfering with an investigation or arrest, the
8 law enforcement agency that has responsibility for investigating the
9 criminal offense shall provide electronic forms, pamphlets, information
10 cards or other materials to the victim:

11 1. That ~~allows~~ ALLOW the victim to request or waive applicable
12 rights to which the victim is entitled, on request, under this article.

13 2. That ~~provides~~ PROVIDE the victim a method to designate a lawful
14 representative if the victim chooses pursuant to section 13-4403,
15 subsection A or section 13-4404.

16 3. That ~~provides~~ PROVIDE notice to the victim of all of the
17 following information:

18 (a) The victim's right under the victims' bill of rights, article
19 II, section 2.1, Constitution of Arizona, to be treated with fairness,
20 respect and dignity and to be free of intimidation, harassment or abuse
21 throughout the criminal or juvenile justice process.

22 (b) The availability, if any, of crisis intervention services and
23 emergency and medical services and, where applicable, that medical
24 expenses arising out of the need to secure evidence may be reimbursed
25 pursuant to section 13-1414.

26 (c) In cases of domestic violence, the procedures and resources
27 available ~~for the protection of~~ TO PROTECT the victim pursuant to section
28 13-3601.

29 (d) The names and telephone numbers of public and private victim
30 assistance programs, including the county victim compensation program and
31 programs that provide counseling, treatment and other support services.

32 (e) The police report number, if available, other identifying case
33 information and the following statement:

34 If within thirty days you are not notified of an arrest in
35 your case, you may call (the law enforcement agency's
36 telephone number) for the status of the case.

37 (f) Whether the suspect is an adult or juvenile, a statement that
38 the victim will be notified by the law enforcement agency at the earliest
39 opportunity after the arrest of a suspect.

40 (g) If the suspect is an adult and has been arrested, the victim's
41 right, on request, to be informed of the suspect's release, of the next
42 regularly scheduled time, place and date for initial appearances in the
43 jurisdiction and of the victim's right to be heard at the initial
44 appearance and that, to exercise these rights, the victim is advised to
45 contact the custodial agency regarding the suspect's release and to

1 contact the court regarding any changes to the initial appearance
2 schedule.

3 (h) If the victim chooses to exercise the right to be heard through
4 a written statement, how that statement may be submitted to the court.

5 (i) That the victim or the immediate family member of the victim,
6 if the victim is killed or incapacitated, has the right to receive one
7 copy of the police report, including any supplements to the report, AND
8 VIDEO RECORDINGS from the investigating law enforcement agency at no
9 charge pursuant to ~~section~~ SECTIONS 39-127 AND 39-129.

10 B. If at the time of contact with a law enforcement agency the
11 victim is physically or emotionally unable to request or waive applicable
12 rights, the law enforcement agency shall designate this in the format that
13 is authorized by subsection A of this section and the entities that may be
14 subsequently affected shall presume that the victim invoked the victim's
15 right to request applicable rights to which the victim is entitled, on
16 request, unless the victim later waives those rights.

17 C. The law enforcement agency shall submit a copy of the victim's
18 request or waiver of preconviction rights form to the custodial agency and
19 a copy to the prosecutor if a suspect is arrested, at the time the suspect
20 is taken into custody. If there is no arrest, the form copies shall be
21 submitted to the prosecutor at the time the case is otherwise presented to
22 the prosecutor for review. The prosecutor shall submit a copy of the
23 victim's request or waiver of preconviction rights form to the departments
24 or sections of the prosecutor's office, if applicable, that are mandated
25 by this article to provide victims' rights services on request.

26 D. If the suspected offender is cited and released, the law
27 enforcement agency responsible for investigating the offense shall inform
28 the victim of the court date and how to obtain additional information
29 about the subsequent criminal proceedings.

30 E. Law enforcement agencies within a county may establish different
31 procedures designed to efficiently and effectively provide notice of the
32 victim's rights pursuant to this section and notice to affected entities
33 of the victim request or waiver information. If different procedures are
34 established, the procedures shall:

35 1. Be reported to the entities within a county affected by the
36 procedures and reported to the attorney general.

37 2. Be designed so that custodial agencies and prosecutors within a
38 county receive notice of the victim's request or waiver of the victim's
39 preconviction rights at the same time that an adult suspect is arrested.

40 3. Be designed so that prosecutors within a county receive notice
41 of the victim's request or waiver of the victim's preconviction rights, if
42 there is no arrest, at the same time that the case is otherwise presented
43 to the prosecutor for review.

44 4. Provide that the notice to affected entities of a victim's
45 request or waiver of the victim's preconviction rights includes

1 information that affords the affected entity the ability to contact the
2 victim.

3 5. Be supported by use of electronic forms, brochures or other
4 written materials that are developed by the law enforcement agencies
5 within a county and reviewed by the attorney general pursuant to section
6 13-4417, subsection B.

7 F. If a suspect has not been arrested at the time of contact with
8 the victim pursuant to subsection A of this section, the law enforcement
9 agency that is responsible for investigating the offense shall notify the
10 victim of the arrest of a suspect at the earliest opportunity after the
11 arrest and of the time, place and date for the initial appearance.

12 Sec. 2. Section 39-127, Arizona Revised Statutes, is amended to
13 read:

14 39-127. Free copies of police reports, video recordings and
15 transcripts for crime victims; definition

16 A. A victim of a criminal offense that is a part I crime under the
17 statewide uniform crime reporting program, the victim's attorney on behalf
18 of the victim or an immediate family member of the victim if the victim is
19 killed or incapacitated has the right to receive one copy of the police
20 report AND VIDEO RECORDINGS from the investigating law enforcement agency
21 at no charge and, on request of the victim, the court or the clerk of the
22 court shall provide, at no charge, the minute entry or portion of the
23 record of any proceeding in the case that arises out of the offense
24 committed against the victim and that is reasonably necessary for the
25 purpose of pursuing a claimed victim's right. For the purposes of this
26 subsection, "criminal offense", "immediate family" and "victim" have the
27 same meanings prescribed in section 13-4401.

28 B. A victim of a delinquent act that is a part I crime under the
29 statewide uniform crime reporting program, the victim's attorney on behalf
30 of the victim or an immediate family member of the victim if the victim is
31 killed or incapacitated has the right to receive one copy of the police
32 report AND VIDEO RECORDINGS from the investigating law enforcement agency
33 at no charge and, on request of the victim, the court or the clerk of the
34 court shall provide, at no charge, the minute entry or portion of the
35 record of any proceeding in the case that arises out of the offense
36 committed against the victim and that is reasonably necessary for the
37 purpose of pursuing a claimed victim's right. For the purposes of this
38 subsection, "delinquent act", "immediate family" and "victim" have the
39 same meanings prescribed in section 8-382.

40 C. For the purposes of this section, "attorney" means any person
41 who is a member in good standing of the bar of the highest court of any
42 state, possession, territory, commonwealth or district of the United
43 States and who is not under any order of any court suspending, enjoining,
44 restraining, disbaring or otherwise restricting the person in the
45 practice of law.

1 Sec. 3. Title 39, chapter 1, article 2, Arizona Revised Statutes,
2 is amended by adding section 39-129, to read:

3 39-129. Local law enforcement; video recordings; fee

4 EXCEPT AS PROVIDED IN SECTION 39-127, A COUNTY, A CITY, A TOWN OR
5 ANY POLITICAL SUBDIVISION OF THIS STATE MAY ESTABLISH A ONETIME FEE PER
6 COPY, NOT TO EXCEED \$46 PER VIDEO-HOUR REVIEWED, THAT IS CHARGED TO A
7 PERSON WHO SUBMITS A PUBLIC RECORDS REQUEST TO A LOCAL LAW ENFORCEMENT
8 AGENCY FOR A COPY OF A VIDEO RECORDING. A COUNTY, A CITY, A TOWN OR ANY
9 POLITICAL SUBDIVISION OF THIS STATE MAY TAKE INTO CONSIDERATION THE
10 FOLLOWING INFORMATION WHEN DETERMINING THE AMOUNT OF THE ONETIME FEE PER
11 COPY:

12 1. THE REASONABLE COST OF REVIEWING, TRANSMITTING, MAKING A COPY OF
13 AND, AS NECESSARY, REDACTING THE VIDEO RECORDING.

14 2. ANY OTHER RELEVANT INFORMATION.

APPROVED BY THE GOVERNOR JUNE 20, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 20, 2023.



Citywide Fee Schedule

Fees are separated by service area to facilitate the identification of a particular fee within the document, however fees as adopted on this schedule may be assessed citywide.

<u>FEE</u>	<u>AMOUNT</u>	<u>UNIT OF MEASURE</u>
Arts, Culture & Library		
Library Printing Fees - black & white > 20 (first 20 b&w prints are free)	\$0.10	Per Page
Library Printing Fees - color	\$0.25	Per Page
CITY CLERK		
Passports		
Execution*	\$35.00	Per Card or Book
Photocopies		
8.5" x 11" or 8.5" x 14"	\$0.50	Per Page
11" x 17"	\$1.00	Per Page
CITY COURT		
Arrest Warrant Processing	\$200.00	Per Warrant
Compliance Monitoring	\$100.00	Per Case
Deferred Prosecution	\$200.00	Per Case
Diversion Program	\$300.00	Per Case
Driver's License Suspension	\$50.00	Per Case
Indigent Administrative Assessment (Determined by the Judge based on financial affidavit.)	\$25.00	Per Charge
Jury Cancellation	\$500.00	Per Case
Municipal Court Enhancement	\$16.40	Per Case
Probation Program	\$100.00	Per Case
Public Defender	\$150.00	Per Case (Determined by Judge based on financial affidavit)
PARKS AND RECREATION		
Aquatics Admissions		
Special Event Admissions/Aquatics	\$0-\$25.00	Per Person/Per Event
Open Swim & Lap Swim		
Youth- Resident	\$2.00-\$5.00	Per Person/Per Day
Adult- Resident	\$3.00-\$6.00	Per Person/Per Day
Youth/Adult- Non-Resident	\$5.00-\$8.00	Per Person/Per Day
Swim Passes (Residents Only)		
Youth Individual	\$30.00-\$50.00	Per Season
Adult Individual	\$50.00-\$80.00	Per Season
Family (Up to 5)	\$100.00-\$160.00	Per Season
Family (Additional persons over 5)	\$10.00-\$20.00	Per Person/Per Season
Racquet/Paddle Sports Admissions		
Ball Machine Rental		
Resident	\$7.00	Per Machine/Per 1/2 Hour
Resident	\$11.00	Per Machine/Per 1 Hour
Non-Resident	\$9.00	Per Machine/Per 1/2 Hour



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<u>FEE</u>	<u>AMOUNT</u>	<u>UNIT OF MEASURE</u>
Non-Resident	\$13.00	Per Machine/Per 1 Hour
Tennis Court Fees-Day		
Day 90 min - Resident	\$2.00-\$4.00	Per Person/Per 90 min
Day 120 min - Resident	\$3.00-\$5.00	Per Person/Per 120 min
Day 90 min - Non-Resident	\$3.00-\$5.00	Per Person/Per 90 min
Day 120 min - Non-Resident	\$4.00-\$6.00	Per Person/Per 120 min
Tennis Court Fees-Night		
After 4pm 90 min - Resident	\$3.00-\$5.00	Per Person/Per 90 min
After 4pm 120 min - Resident	\$4.00-\$6.00	Per Person/Per 120 min
After 4pm 90 min - Non-Resident	\$4.00-\$6.00	Per Person/Per 90 min
After 4pm 120 min - Non-Resident	\$5.00-\$7.00	Per Person/Per 120 min
Racquetball/Paddleball Court Fees		
Racquetball/Paddleball Court Fees 60 min - Resident	\$3.00-\$5.00	Per Person/Per 60 min
Racquet Sports Organized Play		
Racquet Sports Organized Play (Drop –In) Day- Resident	\$3.00-\$5.00	Per Person/Per 120 min
Racquet Sports Organized Play (Drop –In) After 4pm- Resident	\$4.00-\$6.00	Per Person/Per 120 min
Racquet Sports Organized Play (Drop –In) Day- Non-Resident	\$4.00-\$6.00	Per Person/Per 120 min
Racquet Sports Organized Play (Drop –In) After 4pm-Non- Resident	\$5.00-\$7.00	Per Person/Per 120 min
Tennis League Group Rates		
Day 90 min - Resident	\$10.00-\$12.00	Per Person/Per 90 min
Day 120 min - Resident	\$14.00-\$16.00	Per Person/Per 120 min
Day 90 min - Non-Resident	\$12.00-\$14.00	Per Person/Per 90 min
Day 120 min - Non-Resident	\$16.00-\$18.00	Per Person/Per 120 min
After 4pm 90 min - Resident	\$14.00-\$16.00	Per Person/Per 90 min
After 4pm 120 min - Resident	\$18.00-\$20.00	Per Person/Per 120 min
After 4pm 90 min - Non-Resident	\$16.00-\$18.00	Per Person/Per 90 min
After 4pm 120 min - Non-Resident	\$20.00-\$22.00	Per Person/Per 120 min
Warm-up Fee	\$4.00-\$5.00	Per Person/Per 30 min
Basket of Tennis Balls	\$2.00	Per Person/Per Day
Racquet Stringing Services	\$15.00 - \$35.00	Per Item
Backboard Rental	\$1.00	Per Person/Per 30 minutes
Special Events Admissions		
Special Event Admissions/Teens	\$0-\$25.00	Per Person/Per Event
Event & Promotion Activity Tickets (Fees vary depending on event)	\$1.00-\$50.00	Per Ticket
Aquatics Rentals		
Category** I	No charges apply	
Surprise Aquatic Center/Hollyhock Community Pool		
Category** II (A) (B)	\$100.00	Per Day
Category** III	See Aquatic Private Rental Fees	
Staff (Requirements based on specific event, projected attendance & required number of personnel for safety.)		
Category** II (A) (B)	\$25.00	Per Hour



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FEE	AMOUNT	UNIT OF MEASURE
Category** III	Included in Rental Fee	
Utilities (Gas/Electric/Water)	\$20.00	Per Hour
Excessive Utilities (To restart heat/utilities when closed for winter/season)	\$500.00	Per Day
Aquatic Private Rental Fees (2 Hr. Min.)- Category* III		
Lap Lane Rental	\$50.00	Per Hour
Diving Well Rental	\$50.00	Per Hour
Surprise Aquatic Center		
≤100	\$280.00	Per Hour
101-150	\$310.00	Per Hour
151-200	\$330.00	Per Hour
201-250	\$350.00	Per Hour
251-400	\$450.00	Per Hour
Hollyhock Community Pool		
≤100	\$210.00	Per Hour
101-150	\$240.00	Per Hour
151-200	\$260.00	Per Hour
Municipal Pools Birthday Party (Residents only)		
Surprise Aquatic Center (SAC)		
≤15	\$120.00	Per 2 Hour Rental
16-20	\$140.00	Per 2 Hour Rental
21-25	\$160.00	Per 2 Hour Rental
26-30	\$180.00	Per 2 Hour Rental
31-50	\$240.00	Per 2 Hour Rental
Hollyhock Community Pool		
≤15	\$40.00	Per 2 Hour Rental
16-20	\$45.00	Per 2 Hour Rental
21-25	\$50.00	Per 2 Hour Rental
26-30	\$55.00	Per 2 Hour Rental
31-50	\$75.00	Per 2 Hour Rental
Facility Rentals		
Category** I	No charges apply	
Dance Room at Countryside Rec Center		
Category** II (A)	\$50.00	Per Hour
Category** III	\$50.00	Per Hour
Sierra Montana		
Basic Rental Package	\$150.00	Every 3 Hours
Basic Rental Package- Additional Time	\$50.00	Every 3 Hours
Ultimate Rental Package	\$300.00	Every 3 Hours
Ultimate Rental Package- Additional Time	\$50.00	Per Hour
Dreamcatcher Park/Recreation Center Gymnasium		
Category** II (A) (B)	\$100.00	Per Hour
Category** III	\$125.00	Per Hour



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
Multi-Purpose Room (2 Hr. Min.)		
Category** II (A) (B)	\$75.00	Per Hour
Category** III	\$100.00	Per Hour
Classroom		
Category** II (A) (B)	\$30.00	Per Hour
Category** III	\$35.00	Per Hour
Study Room		
Category** II (A) (B)	\$25.00	Per Hour
Category** III	\$30.00	Per Hour
Field Rentals		
All City Fields (excluding Surprise Recreation Campus fields and the Fields at Countryside)		
Sport Field w/o Lights		
Category** II (A) (B)	\$15.00	Per Hour
Category** III	\$30.00	Per Hour
Sport Field w/ Lights	\$15.00	Per Hour
Field Rentals- Mon-Thurs- Before 3pm	\$7.50	Per Hour
Field Prep Fee	\$15.00-\$150.00	Per Field
Fields at Countryside		
Category II (B) – Before 6pm	\$50.00	Per Hour
Category II (B) – After 6pm	\$65.00	Per Hour
Category III – Before 6pm	\$75.00	Per Hour
Category III – After 6pm	\$90.00	Per Hour
Field Prep Fee	\$15.00-\$150.00	Per Field
Surprise Tennis & Racquet Complex Rentals		
Tennis Courts w/o Lights		
Category** II (A)	\$5.00-\$8.00	Per Hour
Category** II (B)	\$6.00-\$11.00	Per Hour
Category** III	\$12.00-\$18.00	Per Hour
Tennis Courts w/ Lights		
Category** II (A)	\$7.00-\$11.00	Per Hour
Category** II (B)	\$8.00-\$12.00	Per Hour
Category** III	\$15.00-\$21.00	Per Hour
Tennis Classroom		
Category** II (A) (B)	\$30.00-\$40.00	Per Hour
Category** III	\$35.00-\$45.00	Per Hour
Tennis Ping Pong Room		
Category** II (A) (B)	\$25.00-\$35.00	Per Hour
Category** III	\$30.00-\$40.00	Per Hour



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FEE	AMOUNT	UNIT OF MEASURE
Racquetball Courts/Sand Volleyball Courts/Pickleball Courts Rentals-All Categories		
Category** II (A) (B) & III	\$5.00-\$9.00	Per Hour
Facility Cleaning/Excessive Utilities (weekends/holidays)		
Category** II (A) (B) & III	\$20.00	Per Hour
Staff- See Staffing Fees		
Accessories		
Portable PA System/Water/Ice/Coolers	\$30.00	Per Item
Podium/Microphone/Inflatable	\$10.00	Per Item
Ramadas		
Category** I	No charges apply	
Ramada Small		
Resident	\$20.00	Per 4 Hour Block
Non-Resident	\$35.00	Per 4 Hour Block
Ramada Large		
Resident	\$30.00	Per 4 Hour Block
Non-Resident	\$55.00	Per 4 Hour Block
Ramada Heritage Park Pavillion (Special event premiums may apply.)		
Resident	\$65.00	Per 4 Hour Block
Non-Resident	\$125.00	Per 4 Hour Block
Group Events (Must use approved vendor list, with insurance on file.)		
Category** I (No charges apply)		
Amplified Sound - Dj (Must reserve all ramada's within 50 ft.)		
Category** II (A)	\$50.00	Every 4 Hours
Category** II (B)	\$50.00-\$100.00	Every 4 Hours
Category** III	\$100.00-\$250.00	Per Location
Amplified Sound - Live Music (Must reserve all ramada's within 50 ft.)		
Category** II (A)	\$100.00	Every 4 Hours
Category** II (B)	\$100.00-\$200.00	Every 4 Hours
Category** III	\$200.00-\$400.00	Per Location
Beer Permit		
Resident	\$10.00	Per Permit
Non-Resident	\$20.00	Per Permit
Admin Fee	\$250.00	Per Event
Staff Required- See Staffing Fees		
Staffing (2 Hr. Min. Requirements Based On Specific Event, Attendance, And Required Personnel For Safety.)		
Category** I (No charges apply)		
Recreation/Maintenance/Tennis Pro	\$20.00	Per Hour/Per Staff Member



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
Janitor/Custodian	\$15.00	Per Hour/Per Staff Member
Tennis Supervisor	\$40.00	Per Hour/Per Staff Member
COMMUNITY DEVELOPMENT		
Community Facilities District (CFD)		
CFD Application (per A.R.S. § 48-708 (E))	\$15,000.00	Per CFD
CFD Administrative Expense (per A.R.S. § 48-708 (E))	\$50,000.00 (or actual cost, whichever is less)	Per CFD
CFD Administrative Expense Additional Deposits	\$25,000.00	Per CFD
Building Permit And Inspections		
Annual Facilities Permit	\$275.00	Per Permit
Building/Fire Permit		
Building/Fire Permit Fee - Valuation of \$1,000.00 or Less	\$75.00	Each Based on Valuation
Building/Fire Permit Fee - Valuation of \$1,000.01 to \$999,999.99 Fee 1 of 2	\$100.00	Each
Fee 2 of 2	\$6.00	Per \$1,000.00 Of Valuation
Building/Fire Permit Fee - Valuation of \$1,000,000.00+ Fee 1 of 2	\$100.00	Each
Fee 2 of 2	\$5.00	Per \$1,000.00 Of Valuation
Commercial Factory Built Building	Per Arizona Department of Housing Intergovernmental Agreement	Each
Deferred Permit Submittal	\$165.00	Per Deferral
Designated Slum Property Inspection (2 hr. min. outside normal business hours)	\$150.00	Per Inspection
Finished Floor Elevation Verification	\$415.00	Per Verification
Re-Inspection	\$100.00	Per Hour (\$200.00 min.)
After Hour Inspection	\$100.00	Per Hour (\$200.00 min.)
After Hour Inspection - Weekends/Holidays/3rd Shift	\$100.00	Per Hour (\$300.00 min.)
Manufactured Home	Per Arizona Department of Housing Intergovernmental Agreement	Each



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<u>FEE</u>	<u>AMOUNT</u>	<u>UNIT OF MEASURE</u>
Residential Factory Built Building	Per Arizona Department of Housing Intergovernmental Agreement	Each
Swimming Pool Signs	Actual Cost to Jurisdiction	Per Sign
Temporary Sales/Construction Trailer Permit		
Fee 1 of 2	\$100.00	Each
Fee 2 of 2	\$6.00	Per \$1,000.00 of Valuation
Temporary Power Permit	\$75.00	Based on Valuation
Temporary Use Permit/Special Event	\$135.00	Per Permit
Self-Certification Meeting	\$300.00	Per Meeting
Solar Permit	\$250.00	Per Permit
Building And Fire Plan Review		
Building/Fire Plan Review	65% of the Building/Fire Permit Fee	Per Permit
Landscape Plan Review		
Fee 1 of 2	\$100.00	Each
Fee 2 of 2	\$6.00	Per \$1,000.00 of Valuation
Plan Revisions - After Permit is Approved	\$25.00	Per 15 mins.
Civil Engineering Permit And Inspections		
Annual Traffic Control Permit	\$750.00	Per Permit
City Jurisdiction or Service Area - Civil Construction Permit	3% of Construction Cost	Per Permit
City Jurisdiction or Service Area - Private Utility	1% of Construction Cost	Per Permit
Civil Construction Permit Renewal Or Extension	50% of the original permit fee paid	Per Permit
Inspection And Re-Inspection (2 hr. min. outside normal business hours)	\$75.00	Per Hour
Water, Wastewater, And Reclaimed Water Facility Permits (Wells, water supply facilities, lift stations, etc.)	3% of Construction Cost	Per Permit
Excavation In Paved Streets Within 2 Years Of Street Construction		
5 sq. yds. or less	\$330.00	Per Square Yard
5 - 100 sq. yds.- Fee 1 of 2	\$1,650.00	Per Review
5 - 100 sq. yds.- Fee 2 of 2	\$18.00	Per Square Yard
100 sq. yds. or more- Fee 1 of 2	\$3,360.00	Per Review



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FEE	AMOUNT	UNIT OF MEASURE
100 sq. yds. or more- Fee 2 of 2	\$14.00	Per Square Yard
Facility Plan Review 100%	\$190.00	Per Hour
Facility Plan Review 30%/60%/90%	\$190.00	Per Sheet
Civil Plan Review		
1st and 2nd Review	\$380.00	Per Sheet
3rd and Subsequent Review / Revisions to Approved Plans	\$190.00	Per Hour
Dry Utility Plan Review	Per Franchise / License Agreement	Per Hour
Development Fees		
404 Documentation/Phase 1 Environmental Assessment/Title Report	\$180.00	Per Report
Administrative Use Permit (AUP)	\$400.00	Each
Alta Survey	\$95.00	Per Sheet
Appeals	\$250.00	Per Appeal
Annexation	\$800.00	Per Annexation
Comprehensive Sign Program (CSP)	\$1,750.00	Each
Concept Review	\$300.00	Per Review
Conditional Use Permit (Use Only)	\$1,250.00	Each
Conditional Use Permit with Site Plan		
Fee 1 of 2	\$3,600.00	Each
Fee 2 of 2	\$30.00	Per Acre
Development Agreement	\$5,000.00	Per Agreement
Development Agreement Amendment	\$2,500.00	Per Amendment
Design Review Elevation Only (Remodel, Colors)	\$50.00	Hourly
Preliminary Grading, Drainage and Utilities	\$135.00	Per Sheet
Traffic Impact Analysis/Engineering Report	\$180.00	Per Hour/ Per Report
Final Plat		
Fee 1 of 2	\$1,200.00	Each
Fee 2 of 2	\$17.00	Per Lot/Tract/Parcel
Fire Flow Test Results	\$110.00	Per Test
Follow Up Concept Review	\$150.00	Per Review
General Plan Amendment Major	\$6,000.00	Each
General Plan Amendment Minor	\$2,500.00	Each
Home Product Review	\$125.00	Per Plan
Landscape Design Review	\$300.00	Per Sheet
Lot Line Adjustment	\$400.00	Each
Map of Dedication	\$750.00	Each
Minor Land Division		
Fee 1 of 2	\$400.00	Each
Fee 2 of 2	\$17.00	Per Lot/Tract/Parcel
Model Home Complex		
Fee 1 of 2	\$600.00	Each



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
Fee 2 of 2	\$30.00	Per Lot/Tract/Parcel
Parcel Assemblage	\$400.00	Each
Planned Unit Development Overlay	\$3,540.00	Per Overlay
Preliminary Plat		
Fee 1 of 2	\$2,500.00	Each
Fee 2 of 2	\$30.00	Per Lot/Tract/Parcel
Project Name Change/Site Plan Extension/Continuance Per Applicant Request	\$220.00	Per Request
Rezone		
Fee 1 of 2	\$3,000.00	Each
Fee 2 of 2	\$20.00	Per Acre
Site Plan (Narrative and elevations included in per sheet fee)		
Fee 1 of 2	\$3,000.00	Each
Fee 2 of 2	\$30.00	Per Acre
Temporary Use Permit/Special Event	\$135.00	Per Permit
Text Amendment	\$2,000.00	Each
Utility Plan Review	\$255.00	Per Sheet
Variance		
Fee 1 of 2	\$500.00	Each
Fee 2 of 2	\$25.00	Per Item Requested
Zoning Amendment Major	\$2,500.00	Each
Zoning Amendment Minor	\$885.00	Per Amendment
Water, Wastewater, Or Reclaimed Water Master Plan	\$180.00	Per Review
Address Assignment From Dedicated Access (At time of Permit/Development Review)	\$10.00	Per Address
Address Assignment On Vacant Property Or From Easement (At time of Permit/Development Review)	\$25.00	Per Address
Address Change At Time Of Permit	\$50.00	Per Address
Document Handling	Actual Cost to Jurisdiction	Per Document
Native Plant Inventory – 1st And 2nd Review	\$160.00	Per Sheet
Native Plant Inventory – 3rd And Subsequent Review	\$100.00	Per Sheet
Miscellaneous 4th and subsequent reviews (any plan type)	20% of Initial Base Fee	Each
Plan Revisions - After Permit is Approved	\$100.00	Per Hour
Plan Revision Requested by Applicant	50% of Initial Base Fee	Each
Public Meeting Notice/Advertising	Actual Cost to Jurisdiction	Per Advertisement
Recordation Fee	Actual Cost to Jurisdiction	Per Recording

General Services



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
Civil Permit and Design Review Administrative Processing	\$140.00	Per Permit/Review
Building Permit Administrative Processing Fee - Valuation of \$1.00 - \$999,999.99	0.50% of Valuation	Valuation
Building Permit Administrative Processing Fee - Valuation of \$1,000,000.00+	0.052% of Valuation	Valuation
Archived Document Retrieval (Copies are additional)	\$80.00	Per Request
Asbuilts		
12" x 18"	\$2.50	Per Page
24" x 36"	\$5.00	Per Page
CD's Containing Documents	\$5.00	Per CD
Custom Maps (\$150 min.)	\$80.00	Per Hour
Digital Data		
Boundary Shapes	\$25.00	Per Shape
Centerlines	\$250.00	Per Centerline
Land Use or Zoning	\$100.00	Per Request
Parcels	\$500.00	Per Parcel
Maps		
8.5" x 11"	\$2.50	Per Page
11" x 17"	\$5.00	Per Map
24" x 36"	\$20.00	Per Map
36" x 48" or 40" x 60"	\$30.00	Per Map
Zoning Verification, Compliance Letter	\$100.00	Each
Right-Of-Way Facilities Fees		
Annual Use Fees		
Right-Of-Way Use Fee	\$50.00	Per year x number of Small Wireless Facilities
Right-Of-Way Use Fee for Monopoles and Associated Wireless Facilities	\$100.00	Per year x number of Small Wireless Facilities
Application for collocating Small Wireless Facilities (Existing with no modifications)		
One (1) to five (5) applications	\$100.00	Each
Six (6) through 25 applications	\$50.00	Each
Application for Utility Pole and Monopole (New or existing with modifications)		
New, replacement, or modified utility poles not subject to zoning review	\$400.00	Each
New, replacement, or modified monopoles, utility poles, collocations, or wireless facilities subject to zoning review	\$400.00	Each
Miscellaneous		
Outside Consultant	Actual Cost to Jurisdiction	Per Consultant
Abatement Administrative Fee (\$150 min.)	10% of Actual Cost	Per Abatement

ECONOMIC DEVELOPMENT

TechCelerator

The Economic Development Director has the authority to reduce or waive the program fee based on business evaluation criteria.

Program Fee



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
Tier 1	\$0.35	Per Square Foot/Per Month
Tier 2	\$0.51	Per Square Foot/Per Month
Tier 3	\$0.68	Per Square Foot/Per Month
Tier 4	\$0.85	Per Square Foot/Per Month
Tier 5	\$1.01	Per Square Foot/Per Month
Tier 6	\$1.18	Per Square Foot/Per Month
Tier 7	\$1.34	Per Square Foot/Per Month

FINANCE

Business Licensing

Business - Initial License	\$168.00	Per License
Business - Annual Renewal Fee	\$84.00	Per License
Short Term Rental License Fee	\$250.00	Per License/Application

Pro-Rated Initial Business License

Start date 1st Quarter (Jan, Feb, & Mar)	\$168.00	Per License
Start date 2nd Quarter (Apr, May, & Jun)	\$126.00	Per License
Start date 3rd Quarter (Jul, Aug, & Sept)	\$84.00	Per License
Start date 4th Quarter (Oct, Nov, & Dec)	\$42.00	Per License
Late Payment (Failure to pay by a specified due date.)	25% of Base Rate	Per License

Miscellaneous

Returned Payment Fee	\$15.00	Per Transaction
City Sales and Use Tax Application Fee	\$10.00	Per License
Department of Public Safety Background Check*	\$22.00	Per Check
In-Person Development Services Payment Processing Fee for Credit Card Transactions	2.0%	Per Transaction Amount
Online Development Services Payment Processing Fee for Credit Card/Debit Transactions	2.8% or \$1.25 minimum	Per Transaction Amount

FIRE-MEDICAL

Fire Suppression

Engine Company/Ladder Tender	\$427.00	Per Hour
Ladder Company	\$514.00	Per Hour
Command Vehicle	\$244.00	Per Hour
Brush Truck/Support Truck	\$228.00	Per Hour
Water Tender	\$184.00	Per Hour
Staff Vehicle	\$148.00	Per Hour

Fire Code Compliance

Annual Fire Inspections- 3rd, 4th, and 5th Re-Inspection	\$150.00	Per Inspection
Electronic Filing- Fire Code Compliance	\$12.00	Per Inspection

License Inspection

Adult/Child Day Care Facility	\$100.00	Per Inspection
Residential Group Homes/Nursing Care/Supervisory Care/Behavioral Health and Assisted Living Facilities	\$150.00	Per Inspection

Inspection

Pyrotechnics Display	\$300.00	Per Inspection
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Citywide Fee Schedule

Fees are separated by service area to facilitate the identification of a particular fee within the document, however fees as adopted on this schedule may be assessed citywide.

FEE	AMOUNT	UNIT OF MEASURE
90 day Firework Vendor- Store	\$150.00	Per Inspection
90 day Firework Vendor- Tent	\$350.00	Per Inspection
Lock Box		
Device and Installation	\$65.00	Per Box
Records Request		
Compact Disc	\$20.00	Per Disc
Less than 10 pages	\$5.00	Per Request
10 to 19 pages	\$10.00	Per Request
20 - 29 pages	\$15.00	Per Request
30 - 49 pages	\$25.00	Per Request
50 - 100 pages	\$35.00	Per Request
Remote Alarm		
Installation		
Fee 1 Of 2	\$100.00	Per Installation
Fee 2 Of 2	\$150.00	Per Day
Alarm System Non-Compliance	\$75.00	Per Call
Incident Investigation – Car 3099	\$75.00	Per Hour
Tactical Premise	\$75.00	Per Call
Annual Tomar Gate Inspection	\$50.00	Per Inspection
Resuscitation Training		
Instructor Fee (required for all classes/training)	Per HR Compensation Plan (see COS website)	Per Hour
CPR/AED Digital Certification Card with Access to Digital Book (6 Student Minimum)	\$20.00	Materials Per Student
CPR/AED First Aid Digital Certification Card with Access to Digital Book (6 Student Minimum)	\$30.00	Materials Per Student
Fire-Medical Staffing		
	Per HR Compensation Plan (see COS website)	Per Hour
HUMAN SERVICE & COMMUNITY VITALITY		
Senior Center Rentals		
Classroom	\$30.00	Per Hour
Dining Hall	\$80.00	Per Hour
Game Room	\$60.00	Per Hour
Dining Hall and Kitchen	\$100.00	Per Hour
Entire Building	\$125.00	Per Hour
Senior Center Staff (required for all rentals)	\$20.00	Per Hour / Per Staff
Fitness Center		
Resident	\$30.00	Per Person/Per Month
Non-Resident	\$35.00	Per Person/Per Month



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
Holiday Parties		
Member	\$0.00 - \$50.00	Per Person/Per Party
Non-Member	\$0.00 - \$60.00	Per Person/Per Party
Special Interest Classes		
Senior Center Annual Membership	\$1.00 - \$150.00	Per Person/Per Session
Resident	\$12.00	Per Person/Per Year
Non-Resident	\$15.00	Per Person/Per Year
Crafts	\$1.00 - \$25.00	Per Person/Per Session
POLICE		
Reports		
Less Than 10 Pages	\$5.00	Per Request
10 - 19 Pages	\$10.00	Per Request
20 - 29 Pages	\$15.00	Per Request
30 - 49 Pages	\$25.00	Per Request
50 - 100 Pages	\$35.00	Per Request
Per Page Over 100 Pages	\$0.15	Per Request
Photos		
Photos	\$20.00	Per CD
Fingerprint Cards		
2 Or Less	\$15.00	Per Request
Per Card Over 2	\$5.00	Per Card
Miscellaneous		
Letter Of Clearance	\$10.00	Per Letter
Recording 911/Phone/Video- VHS/Cassette/Macro-Cassette/CD	\$20.00	Per Recording
Tow Fee 28-3511*	\$150.00	Per Tow
Transaction- Pawnshop/Secondhand Dealer	\$3.00	Per Transaction
PUBLIC WORKS		
Sanitation Hauler's License		
Application	\$500.00	Per Application
License	\$1,000.00	Per Vehicle
Water Meter Installation		
3/4"	\$275.00	Per Permit
1"	\$310.00	Per Permit
1.5"	\$565.00	Per Permit
2"	\$750.00	Per Permit
3" Hydrant	\$95.00	Per Permit
3"	\$2,005.00	Per Permit
4"	\$2,480.00	Per Permit
6"	\$3,910.00	Per Permit
8"	\$5,635.00	Per Permit
2" Electromagnetic Meter or Compound	\$2,255.00	Per Permit
3" Electromagnetic Meter or Compound	\$3,020.00	Per Permit
4" Electromagnetic Meter or Compound	\$3,700.00	Per Permit



Citywide Fee Schedule

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FEE	AMOUNT	UNIT OF MEASURE
6" Electromagnetic Meter or Compound	\$5,460.00	Per Permit
8" Electromagnetic Meter or Compound	\$7,585.00	Per Permit
5/8" Displacement	\$255.00	Per Permit
1.5" Turbine	\$1,125.00	Per Permit
2" Turbine	\$1,385.00	Per Permit

Stormwater Utility Services

Monthly Rate

FY2017	\$2.00	Per Equivalent Dwelling Unit (EDU)
FY2018	\$2.00	Per Equivalent Dwelling Unit (EDU)
FY2019	\$2.00	Per Equivalent Dwelling Unit (EDU)
FY2020	\$2.00	Per Equivalent Dwelling Unit (EDU)
FY2021	\$2.75	Per Equivalent Dwelling Unit (EDU)

Classifications

Residential	Number of EDU's	Unit of Measure
Single Family Residence	1	Per Residence

Non-Residential

RV Park	1	Per Pad
Commercial/Industrial	1	Per 3,420 Square Feet of Impervious Area
Schools/Churches	1	Per 3,420 Square Feet of Impervious Area
Agriculture- Impervious Area	1	Per 3,420 Square Feet of Impervious Area
Agriculture- Farmed Area	1	Per 3,420 Square Feet of Farmed Area

(Fee applied only to 10% of total farmed area)

Undeveloped Land is exempt from Stormwater Utility Fee.

Improved Land Stormwater Utility Fee is based on land use classification rates above.

Non-residential classifications may qualify for the commercial credit program detailed below.

Non-residential EDU calculations are rounded to the nearest one-hundredth and subject to a minimum of 1 EDU per parcel.

Commercial Credit Programs

Infrastructure Program (Up to 25% Credit)

1. > 10% Above Standard Requirements	5% Credit
2. > 25% Above Standard Requirements	10% Credit
3. > 35% Above Standard Requirements	15% Credit
4. > 50% Above Standard Requirements	20% Credit
5. Creative means to achieve Above Standard Requirements	5% Credit

Regulatory Credit Program (Up to 13% Credit)

School Education Credit (participate in County Program)	8% Credit
Public Participation	5% Credit
Partnership Donations	5% Credit
Industrial AZPDES Credit	5% Credit
Bonus: Participate in any 2	3% Credit

*This fee is established by a federal, state, or county agency and is subject to change.

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Category I: City of Surprise, Official City Sponsored Events or Programs, Texas Rangers, Kansas City Royals per Lease Agreement.

Rental Fee- No, Direct Expenses- No



Citywide Fee Schedule

Fees are separated by service area to facilitate the identification of a particular fee within the document, however fees as adopted on this schedule may be assessed citywide.

<u>FEE</u>	<u>AMOUNT</u>	<u>UNIT OF MEASURE</u>
Category II (A): Partnerships with City of Surprise, Dysart Unified School District IGA, Ottawa University Agreement		
Rental Fee- Yes, Direct Expenses- Yes		
Category II (B): Surprise Youth Sports Organizations with 90% Residency Requirements		
Rental Fee- No, Direct Expenses- Yes		
Category III: Individuals, Companies, Organizations, Commercial Entertainment, Consumer Events, Concerts, Trade Shows.		
Rental Fee- Yes, Direct Expenses - Yes		

RESOLUTION # 2023-169

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, ADOPTING A VIDEO RECORDING FEE, AMENDING THE COMPREHENSIVE CITYWIDE FEE SCHEDULE, AND MOVING BUDGET AUTHORITY IN THE AMOUNT OF \$37,500 WITHIN THE GENERAL FUND CONTINGENCY TO CHARGES FOR SERVICE POLICE RECORDS DEPARTMENT.

WHEREAS, the City of Surprise Comprehensive Financial Management Policies, user fees and charges will be examined periodically;

WHEREAS, the Comprehensive Citywide Fee Schedule was last adopted on May 2, 2023, via Resolution #2023-17;

WHEREAS, the City has statutory authority to assess these fees and charges, consistent with state law;

WHEREAS, it is necessary that the City of Surprise establish a fee to charge a person who submits a public records request for a copy of a police video recording;

WHEREAS, the establishment of the video recording fee will allow the City to recover operational costs incurred by police staff to review and redact an estimated 817 hours of video annually;

WHEREAS, the video recording fee is in addition to the existing fee of \$20 per recording for a hardcopy included in the Citywide Fee Schedule;

WHEREAS, the City of Surprise also wishes to update the Comprehensive Citywide Fee Schedule to reflect the video recording fee;

WHEREAS, The FY2024 budget was adopted by Council Resolution #2023-85 on June 6, 2023; 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 Video Recording Fee, as identified in Exhibit A, is hereby authorized and established and shall become effective on November 7, 2023.

Section 2. The Comprehensive Citywide Fee Schedule shall be amended accordingly.

Section 3. That the statements and schedules attached to Exhibit B and incorporated by reference are adopted, amending the budget of the City of Surprise, Arizona for the fiscal year July 1, 2023, through June 30, 2024.

APPROVED AND ADOPTED this ____ day of _____, 2023.

Skip Hall, Mayor

Attest:

Approved as to form:

Kristi Passarelli, City Clerk

Robert Wingo, City Attorney

RESOLUTION # 2023-169
Exhibit A

POLICE

	Current Amount	Proposed Amount	
Video Recording Fee	\$ 0.00	\$46.00	Per Copy of Video Hour Reviewed 1 to 60 minutes

RESOLUTION # 2023-169
Exhibit B

1. Appropriation - The Police Department has received approximately 500 video requests this year. The hours that it takes staff to review and redact these videos totaled 817 hours. The allocation below would allow the City to offset some of the cost of associated with the amount of time spent by staff reviewing and redacting video from approximately 500 videos. This action represents a transfer of spending authority and does not increase or decrease the total adopted citywide expenditure budget.

Fund	Department	Project/Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Contingency	General Operations	Other	R	78,479,300	(37,500)	78,441,800
General Fund	Police	Charges for Services	R	533,200	37,500	570,700



CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 6, 2023
Submitting Department: Water Resource
Management
Staff Recommendations:

Contact Person:
District: Citywide

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

Agenda Wording:

Consideration and action to recess into executive session for discussion and consultation with the city attorney for legal advice and to consider the city council's position and instruct the city attorney pertaining to the 3M and Dupont PFAS public water provider settlements pursuant to A.R.S. 38-431.03A.3. and 4.

Motion:

I move to recess into executive session for the purpose noticed.

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:
