CITY OF SURPRISE
Regular City Council Meeting
16000 N. Civic Center Plaza
Surprise, AZ 85374
Tuesday, November 19, 2019 @ 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.
Download the Call to the Public form (PDF download requires Adobe Acrobat Reader)
Fill out the Call to the Public form online If submitting form electronically, please submit to City Clerk at least one hour before the meeting start time.
The Call to the Public form is also available at the front counter.

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

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

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:

1.	District 1	Consideration and action pertaining to approval of the Agreement for Termination of the SPA3 South Sewer Interceptor between the City of Surprise and various owners of property in Spa 3.	None Terry Lowe Water Resource Management
2.	District 4	Consideration and action to approve a request by Naresh Mago (Agent/Owner) for a Series 12 liquor license for 5 & Diner 2 located at 11340 W. Bell Road, #125A, Surprise, AZ 85374.	None Sherry Aguilar City Clerk
3.	Internal	Consideration and action on the Regular Council Work Session, Regular Council Meeting and Executive Session minutes from November 5th, 2019.	None Sherry Aguilar City Clerk

REGULAR AGENDA ITEM - PUBLIC HEARING:

4.	District 2	Consideration and action pertaining to an application by Jasinski Trading LLC (Mariusz Jasinksi -Agent/member) for a Series 004 Wholesaler Liquor License located at 20162 N. Windsong Drive, Surprise, AZ 85374.	None Sherry Aguilar City Clerk

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

5.	Internal	Presentation and discussion pertaining to the FY2019 Financial Status Report through June 2019.	None Andrea Davis Finance
6.	Citywide	Presentation and discussion regarding development roadway.	None Lloyd Abrams Community Development
7.	Internal	Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations of $300,000 within the Water Operations Fund to support increased demand for meter installations and an amendment of the Fiscal Year 2020 Capital and Operating list of items over $50,000; Resolution # 2019-140.	None Andrea Davis Finance

I. Other Business and Future Agenda Items

J. City Council Reports

K. Executive Session

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

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

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

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

L. Adjournment

SHERRY ANN AGUILAR, CITY CLERK, MMC

POSTED: November 14, 2019 at 12:40 PM

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

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019
Submitting Department: City Clerk
Staff Recommendations:

Contact Person:
District: Internal

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

Agenda Wording:
Invocation

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019
Contact Person: Michael Frazier, CITY MANAGER
Submitting Department: City Manager Office
District: Internal
Staff Recommendations: None

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

Agenda Wording:

Surprise Police Department Explorer Program Recognition.

Motion:

None

Background:

The Surprise Police Explorers participated in the "Best of the West" Explorer competition in San Diego and earned multiple awards.

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019
Submitting Department: Water Resource Management
Staff Recommendations: None

Contact Person: Terry Lowe, DIRECTOR - WRM
District: District 1

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

Agenda Wording:
Consideration and action pertaining to approval of the Agreement for Termination of the SPA3 South Sewer Interceptor between the City of Surprise and various owners of property in Spa 3.

Motion:
I move to approve the Termination of SPA3 South Sewer Interceptor Agreement.

Background:
The SPA3 South Sewer Interceptor Agreement was approved by Council on September 14, 2006 between the City of Surprise and the ownership group of: Surprise-Sun Valley & 219th/Assemblage LLC, CPH Foothills East LLC, Sierra Norte LLC, and FRI Surprise Assemblage LLC, the "Owners".

Since that time, no movement has been made on this agreement by the Owners. Additionally, the ownership group has slightly changed with L+4 LLC replacing CPH Foothills East LLC.

Objective Analysis:
The development group seeks to terminate the agreement citing that this agreement is no longer the most viable solution for providing sewer service to the Owners' properties. City staff have no objection to terminating this agreement.

Policy Compliant:
N/A

Financial Impact:
There is no financial impact to the City from the termination of this agreement.

Budget Impact:
There is no budget impact to the City from the termination of this agreement.
FTE Impact:
There is no FTE impact to the City from the termination of this agreement.

ATTACHMENTS:

1. Termination of SPA 3 South Sewer Interceptor Agreement - Landowner Executed
2. SPA3 BEARDSLEY WITH EXHIBITS

TERMINATION OF SPA 3 SOUTH SEWER INTERCEPTOR AGREEMENT
(Beardsley Road)

THIS TERMINATION OF SPA 3 SOUTH SEWER INTERCEPTOR AGREEMENT (Beardsley Road) (the "**Termination**") is entered into effective as of ____________________ ______, 2019 by and among the **City of Surprise**, an Arizona municipal corporation (the "**City**"), and **Surprise-Sun Valley & 219th/Assemblage LLC**, a Delaware limited liability company, **L + 4, LLC**, an Arizona limited liability company, **Sierra Norte, LLC**, an Arizona limited liability company, and **FRI Surprise Assemblage, LLC**, an Arizona limited liability company (collectively the "**Owners**"). The City and Owners are referred to herein individually as a "**Party**" or collectively as the "**Parties**".

RECITALS

A. The City and Surprise-Sun Valley & 219th/Assemblage LLC, a Delaware limited liability company (acting on behalf of the Ana Mandara property), CPH Foothills East, LLC, a Delaware limited liability company (acting on behalf of the Foothills East property), Sierra Norte, LLC., an Arizona limited liability company, (acting on behalf of the Sonoran Trails property), and FRI Surprise Assemblage, LLC, an Arizona limited liability company, (acting on behalf of the Surprise Ranch property), entered into that SPA 3 South Sewer Interceptor Agreement (Beardsley Road) dated on or about December 11, 2006 and recorded on October 29, 2019 in the Official Records of Maricopa County, Arizona as Document No. 2019-0866727 (the "**SPA 3 Interceptor Agreement**") regarding the installation of certain sewer and wastewater facilities.

B. Subsequent to entering into the SPA 3 Interceptor Agreement, CPH Foothills East, LLC's interest in the SPA 3 Interceptor Agreement has been assigned (through the multiple sales of the Foothills East property) to L + 4, LLC.

C. The south sewer interceptor contemplated in the SPA 3 Interceptor Agreement is no longer the most viable solution for providing sewer service to the Owners' properties.

D. The Parties are all of the Parties to the SPA 3 Interceptor Agreement and the Owners own (or represent all of the owners of) the Properties (as defined in the SPA 3 Interceptor Agreement).

E. The Parties hereby desire to terminate the SPA 3 Interceptor Agreement and release all of the obligations and liabilities arising thereunder as provided in this Termination.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party to this Termination hereby agrees as follows:

1. The SPA 3 Interceptor Agreement is hereby terminated and shall be of no further

force or effect.

2. This Termination shall be binding upon, and inure to the benefit of the Parties, their respective legal representatives, successors and assigns. Each Party hereby represents and warrants that it has full right, power and authority to enter into this Termination and that the person executing this Termination on behalf of such Party is duly authorized to do so. This Termination may be executed in one or more counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument. This Termination may be executed by facsimile transmission or by email via .pdf format, in each case, with the same force and effect as originals.

3. Each Party hereby represents and warrants to the other Parties that it has not assigned its right, title, duties, interest or obligations under the SPA 3 Interceptor Agreement and that it is the correct party to be executing this Termination with respect to the property so identified above. Each Party agrees to indemnify, defend and hold harmless the other Parties for, from and against any and all claims, actions, causes of action, damages, losses, obligations and liabilities of whatsoever nature arising from or relating to the representation and warranty contained in this paragraph and its execution of this Termination.

4. This Termination encompasses the entire agreement of the Parties and supersedes all previous understandings and agreements between the Parties, whether oral or written. By signing this Termination, the Parties acknowledge that they have not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set out in this Termination, made by or on behalf of any other party or any other person or entity whatsoever, prior to the execution of this Termination. In the event any legal action is necessary regarding enforcement of this Termination, the prevailing party shall be entitled to reasonable attorney's fees and costs. If any provision of this Termination is found to be illegal or unenforceable, then any such provision shall be deemed stricken; and the remaining provisions hereof shall, nevertheless, remain in full force and effect. In the event of a breach, this Termination may be specifically enforced. This Termination shall be governed by and construed under and in accordance with the laws of the State of Arizona.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Termination effective as of the date first above written.

CITY OF SURPRISE, an Arizona municipal corporation

By:________________________________
Skip Hall, Mayor

Date:________________________________

APPROVED AS TO FORM:

____
City Attorney

ATTESTED:

____
City Clerk

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on ____________________ 2019, by Skip Hall, the Mayor of the CITY OF SURPRISE, an Arizona municipal corporation, on behalf of the City of Surprise.

____
Notary Public

My Commission Expires:

____

SURPRISE-SUN VALLEY & 219TH/ASSEMBLAGE, LLC, a Delaware limited liability company

By: [signature]

Name: Wayne Moretti

Title: managing member

Date: 9/23/19

STATE OF ILLINOIS)
) **ss.**
COUNTY OF COOK)

This instrument was acknowledged before me on September 23, 2019, by Wayne Moretti, as Managing Member of SURPRISE-SUN VALLEY & 219TH ASSEMBLAGE, LLC, a Delaware limited liability company, on behalf of the company.

[signature]
Notary Public

My Commission Expires:
3/25/2021

JAY WENDT
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
March 25, 2021

57045\384941\222296570.v3

FRI SURPRISE ASSEMBLAGE, LLC, an Arizona limited liability company

By: The Survivor's Trust established under the Bassham Family Trust dated May 29, 1984

By: Howard W Bassham
Name: Howard W. Bassham
Its: Trustee

STATE OF CALIFORNIA)
) **ss.**
COUNTY OF San Diego)

This instrument was acknowledged before me on September 23, 2019, by Howard W. Bassham, as Manager of FRI SURPRISE ASSEMBLAGE, LLC, an Arizona limited liability company, on behalf of the company.

MMoore
Notary Public

My Commission Expires:
10/28/2022

NICHOLAS CHARLES MOORE
COMM. #2264807
Notary Public - California
San Diego County
My Comm. Expires Oct. 28, 2022

57045\384941\222296570.v3

SIERRA NORTE, LLC,
an Arizona limited liability company

By: Deborah L. Flowers

Name: Deborah L. Flowers

Title: 9/19/2019- Managing General Partner

Date: 9/19/2019

STATE OF ARIZONA)
) ss.
COUNTY OF ~~MARICOPA~~)
Yavapai

This instrument was acknowledged before me on Sept. 19th, 2019, by Kayla Warhurst, as Managing Partner-Deborah Flowers of SIERRA NORTE, LLC, an Arizona limited liability company, on behalf of the company.

Kayla Warhurst
Notary Public

My Commission Expires:
NOV 16 2021

KAYLA WARHURST
Notary Public - State of Arizona
YAVAPAI COUNTY
My Commission Expires
November 16, 2021

57045\384941\222296570.v3

L + 4, LLC, an Arizona limited liability company

By: Larry Management, Inc., an Arizona corporation, Manager

By: Lisa Kazan
Lisa Kazan, Vice President

Date: 10-2-2019

STATE OF ARIZONA)
) **ss.**
COUNTY OF MARICOPA)

This instrument was acknowledged before me on October 2nd, 2019, by Lisa Kazan, Vice President of L + 4, LLC an Arizona limited liability company, on behalf of the company.

Luis Mariscal
Notary Public

My Commission Expires:
10-02-2022

LUIS MARISCAL, NOTARY PUBLIC
COMM. NO. 555044
COMM. EXP. 10-02-2022
MARICOPA CO., AZ

57045\384941\222296570.v3

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190866727 10/29/2019 02:12
ELECTRONIC RECORDING

Recording requested by:

SPA3SewerInter-35-1-1--
Hoyp

City of Surprise
City Clerk's Office
16000 N Civic Center Plaza
Surprise, Arizona 85374

SPA 3 SOUTH

SEWER INTERCEPTOR AGREEMENT

(BEARDSLEY ROAD)

SPA 3 SOUTH SEWER INTERCEPTOR AGREEMENT
(Beardsley Road)

THIS SPA 3 SOUTH SEWER INTERCEPTOR AGREEMENT (this "Agreement") is entered into by and between the **City of Surprise**, an Arizona municipal corporation (the "City"), and **Surprise-Sun Valley & 219th/Assemblage LLC**, an Arizona limited liability company ("Surprise-SunValley") acting on behalf of the Benach/Rotolo – Ana Mandara development, **CPH Foothills East, LLC**, a Delaware limited liability company ("Capital"), acting on behalf of the Foothills East development, **Sierra Norte, L.L.C.**, an Arizona limited liability company ("Sierra Norte") acting on behalf of the Sonoran Trails development, **FRI Surprise Assemblage LLC**, a Delaware limited liability company ("FRI") acting on behalf of the Surprise Ranch development (Surprise-Sun Valley, Capital, Sierra Norte, and FRI are referred to herein individually as the "Owner" or collectively as "Owners"), as of the date the last Party signs and dates this Agreement (the City and the Owners are referred to herein individually as a "Party" or collectively as the "Parties").

RECITALS:

A. In order to provide sewer and wastewater services to the properties depicted in Exhibit A (the "Properties") and the real property benefited by the Interceptor and Lift Station, both defined below, as depicted in Exhibit B (the "Interceptor Area"), the City requires that a sewer interceptor and related facilities generally located within the Beardsley Road and 187th Avenue alignments from the intersection of Beardsley Road and a quarter mile west of 211th Avenue to the City's SPA 3 wastewater treatment facility, as depicted in Exhibit C (the "Interceptor") and a sewer lift station to be located north of the Trilby Wash as depicted in Exhibit C (the "Lift Station") be constructed, installed and operationalized. The Interceptor shall be broken down into phases, each of which shall be constructed and installed in sequential order starting from the SPA 3 wastewater treatment facility. Each Owner's percentage share of the costs associated with the Interceptor and Lift Station has been calculated and depicted in Exhibit D, ("Percentage Share").

B. Owners are part of the West Surprise Landowners Group (the "WSLG"), consisting of various landowners/developers in the western portion of special planning area #3 within the City of Surprise general planning area ("SPA 3"), and the WSLG has secured six hundred thousand (600,000) gallons of wastewater capacity in the 1.8 million gallons per day ("MGD") "developer phase" being constructed by Courtland Homes pursuant to the terms of the development agreement for its project being developed north of Deer Valley Road and south of Grand Avenue (the "Austin Ranch Development Agreement").

C. Owners and the City have entered into a development agreement addressing the financing and construction of the first 2.5 MGD "city phase" of the regional water reclamation facility (the "SPA 3 WRF Development Agreement").

D. Owners are willing to design, engineer, permit, construct and install the Interceptor and Lift Station and dedicate the Interceptor and Lift Station to the City in consideration for reimbursement of a portion of the (i) hard and soft costs incurred in connection with the design (including all engineering expenses), construction and installation of the Interceptor, including, but not limited to, costs of labor, materials and suppliers, architectural, engineering, design and consultant fees and costs, blue printing services, construction staking, demolition, soil amendments or compaction, any processing, plan check or permit fees, legal and engineering services required to obtain a permit for and complete the Interceptor, costs of insurance required by this Agreement, any corrections, changes or additions to work required by the City or necessitated by site conditions, state and county sales taxes imposed in connection with construction of the Interceptor (but not any City sales taxes or other City taxes, including any City speculative builder tax, which shall be the responsibility of the Owners) and any construction management fees (the "Interceptor Costs"), (ii) hard and soft costs incurred in connection with the design (including all engineering expenses), construction and installation of the Lift Station, including, but not limited to, costs of labor, materials and suppliers, architectural, engineering, design and consultant fees and costs, blue printing services, construction staking, demolition, soil amendments or compaction, any processing, plan check or permit fees, legal and engineering services required to obtain a permit for and complete the Lift Station, costs of insurance required by this Agreement, any corrections, changes or additions to work required by the City or necessitated by site conditions, state and county sales taxes imposed in connection with construction of the Interceptor (but not any City sales taxes or other City taxes, including any City speculative builder tax, which shall be the responsibility of the Owners) and any construction management fees, including the costs for the land (the "Lift Station Costs") and (iii) costs incurred to acquire right-of-way for the Interceptor, including without limitation legal fees incurred in contracting to acquire such right-of-way (the "Land Costs"), and the City's commitment to provide sewer service to the Properties.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the premises and mutual promises set forth in this Agreement, the City and Owners state, confirm and agree as follows:

1. <u>Sewer</u>.

1.1 <u>Sewer Plant</u>. Owners have secured wastewater treatment capacity in the "developer phase" pursuant to the Austin Ranch Development Agreement, and have entered into the SPA 3 WRF Development Agreement to address the financing and construction of the first "city phase" in order to secure the remainder of the wastewater treatment capacity necessary to develop the Properties.

1.2 <u>Sewer Service</u>. Upon completion of the Interceptor, or phase(s) of the Interceptor that connect some or all of the Properties to the SPA 3 water reclamation facility, and the Lift Station, and the City's conditional acceptance thereof; and as the construction of the "developer phase" and the first "city phase" are completed, the City commits to provide municipal sewer service to the Properties, or portions thereof, served by the Interceptor or completed phase(s), with the City's most current service-related fees imposed in accordance with the terms of this Agreement.

1.3 Reimbursable Sewer Infrastructure. Owners shall finance, design, engineer, permit, construct, install and test the Interceptor and the Lift Station. The Interceptor may be constructed, installed and dedicated to the City in phases, provided the phases occur in sequential order starting with phase 1, as such phases are depicted in Exhibit C. Additionally, in order to insure that the Interceptor shall be completed, Owners shall deposit into an escrow account the entire estimated amount needed to complete the Interceptor, prior to the construction of the first phase. Owners shall enter into that certain SPA 3 South Sewer Interceptor Owners' Financing and Construction Management Agreement that will address how Owners will finance and manage the construction of the Interceptor and the Lift Station. Owners shall be entitled to be reimbursed for certain costs related to the sewer infrastructure described in this Agreement as set forth below.

A. Reimbursable Amounts. The City acknowledges that the Interceptor is sized to serve the Interceptor Area and that the Lift Station is oversized above and beyond the needs of the Owners. Owners shall be reimbursed the Interceptor Costs, and the Land Costs, minus the portion of the Interceptor Costs and Land Costs allocable to the Properties (the "Properties' Allocable Share"), without interest. Owners shall also be reimbursed for all costs incurred both to oversize and to accommodate future expansions of the Lift Station above and beyond the needs of the Owners (the "Lift Station Oversizing Costs"), plus the additional land costs for future expansion of the Lift Station. Owners shall bid out the construction of the Interceptor with the base bid being the installation of a fifteen inch (15") sewer interceptor, and the "add alternate" bid being the installation of a sewer interceptor sized in accordance with the sizes depicted in Exhibit C. The Interceptor Costs shall be broken down into two categories for purposes of reimbursement, "15" Costs" and the "Interceptor Oversizing Amount." The base bid for a fifteen inch (15") sewer interceptor shall be used to determine the "15" Costs", and the net difference between the base bid and the "add alternate" bid shall be used to determine the "Interceptor Oversizing Amount." Due to the complexity of determining the Lift Station Oversizing Costs, Owners have employed the services of an engineering firm to review the design plans, and based on the engineering firm's review the Owners and City agree that Owners shall incur approximately fifteen percent (15%) in additional Lift Station Costs in order to oversize the Lift Station for future expansions (a copy of the engineering firm's estimation is attached hereto as Exhibit J). Therefore the Lift Station Oversizing Costs shall be calculated by multiplying the Lift Station Costs by fifteen percent (15%). The Parties anticipate that the Interceptor and Lift Station will be constructed as one project under one contract, and as such, the Parties acknowledge that it will be difficult to separate project costs and allocate portions amongst the 15" Costs, Interceptor Oversizing Amounts and Lift Station Oversizing Costs. Therefore, for purposes of identifying the various reimbursable amounts, the percentage breakdown contained in the bid of the winning contractor shall be used to establish the various reimbursable amounts following the completion of the work. By way of example only, assume the costs below reflected the costs provided by the winning bidder for the construction contract:

- Interceptor base bid was $1,500,000 (15" Costs)
- Interceptor "add alternate" bid was $2,000,000 (the difference between the "add alternate" and the base bid would be $500,000 (the Interceptor Oversizing Amount)
- Lift Station bid was $2,000,000

- Total Lift Station and Interceptor bid amount was $4,000,000

Based on these numbers the percentage breakdown of the reimbursable amounts and the actual reimbursable amounts would be as follows: (1) the 15" Costs -- 37.5% (1,500,000/4,000,000), (2) the Interceptor Oversizing Amount – 12.5% (500,000/4,000,000) and (3) the Lift Station Oversizing Amount – 7.5% (2,000,000 x .15/4,000,000). If the actual project cost was $5,000,000, the 15" Costs would be $1,875,000 (5,000,000 x .375), the Interceptor Oversizing Amount would be $625,000 (5,000,000 x .125) and the Lift Station Oversizing Costs would be $375,000 (5,000,000 x .075).

B. Method of Reimbursement. The 15" Costs and the Land Costs, minus the Properties' Allocable Share (the "Interceptor Reimbursable Amount") shall be reimbursed using the fee assessed against other properties within the Interceptor Area (the "Interceptor Buy-In Fee") as set forth in Paragraph 1.3(B)(1) below. The Interceptor Oversizing Amount shall be reimbursed using the portion of the wastewater development fee allocable to sewer interceptor oversizing (this amount is referred to in the City's impact fee study, dated January 23, 2004, as the "Growth related CIP cost per gallon" and in the City's impact fee study dated July 11, 2006, as the "planned Developer Reimbursement Sewer Interceptors") assessed against all properties in the Interceptor Area. The Lift Station Oversizing Costs, plus the additional land costs for future expansion of the Lift Station shall be reimbursed using the Lift Station Oversizing Fee as set forth in Paragraph 1.3(B)(4) below.

(1) Interceptor Buy-In Fees. The City shall collect the Interceptor Buy-In Fee from every person developing property within the Interceptor Area (excluding the Properties) to reimburse Owners the Inceptor Reimbursable Amount. The City shall collect the Interceptor Buy-In Fee prior to approval of, and as a condition to recording, the first final subdivision plat for any property within the Interceptor Area or prior to approval of, and as a condition to approving a site plan for any property within the Interceptor Area, and with respect to any real property within the Interceptor Area that will not be finally platted, prior to construction of improvements on such real property, at the time the first building permit is issued for construction on such real property. The City shall account for the Interceptor Buy-In Fees separately and make payments to First American Title Insurance Company or another Arizona licensed escrow agent reasonably acceptable to a majority in interest (based on Percentage Share) of all of Owners (the "Escrow Agent") on a semi-annual basis (*i.e.*, May 31 and November 30) within thirty (30) days after the end of each six (6) month period, or within thirty (30) days after the accumulation of Fifty Thousand and No/100 Dollars ($50,000.00), including the fees collected pursuant to Paragraph 1.3(B)(3) below, whichever occurs first. The City shall collect the Interceptor Buy-in fees but no payments shall be made to Escrow Agent until such time as Interceptor Costs have been approved, as evidenced by one or more addenda then attached hereto pursuant to the procedure set forth in Subsection 1.3(C) below. The following process shall be used to determine the Interceptor Buy-In Fee for a particular piece of property.

- Identify the Section within which the property is located.
- Identify the per acre share of the 15" Costs and Land Costs associated with the Section, as depicted in Exhibit F.

- Multiply the number of acres within the property by the per acre share of the 15" Costs and the Land Costs to determine the property's share of the 15" Costs and the Land Costs.
- Multiply the property's share of the 15" Costs and the Land Costs by the 15" Costs and the Land Costs to determine the Interceptor Buy-In Fee for the property

  By way of example only, if property A consists of 110 acres located within Section 13. The per-acre share for Section 13 is .0000651. If the 15" Costs are $2,000,000 and the Land Costs are $100,000, then the Interceptor Buy-In Fee for property A would be (110 x .0000651 x 2,000,000) + (110 x .0000651 x 100,000) = $15,038.10.

(2) On-site Wastewater Development Fees. Owners, or any person developing property within the Properties, shall receive a credit against the portion of the wastewater development fee allocable to sewer interceptor oversizing typically collected at the time of building permit issuance. Owners, or any person developing property within the Properties, shall continue to receive such credits until such time the Interceptor Oversizing Amount has been fully reimbursed.

(3) Off-site Wastewater Development Fees. The City shall use the portion of the wastewater development fee allocable to sewer interceptor oversizing collected from persons developing property within the Interceptor Area (excluding the Properties) to reimburse Owners the Interceptor Oversizing Amount. The City shall retain the portions of the wastewater development fees allocable to sewer interceptor oversizing, separately account for such fees and make payments to Escrow Agent on a semi-annual basis (*i.e.*, May 31 and November 30) within ten (10) days after the end of each six (6) month period, or within ten (10) days after the accumulation of Fifty Thousand and No/100 Dollars ($50,000.00), including the fees collected pursuant to Paragraph 1.3(B)(1), whichever occurs first. The City shall collect the Interceptor Buy-in fees but no payments shall be made to Escrow Agent until such time as Interceptor Costs have been approved, as evidenced by one or more addenda then attached hereto pursuant to the procedure set forth in Subsection 1.3(C) below.

(4) Lift Station Oversizing Fee. Because a number of the Lift Station components are being oversized to accommodate future expansions and the ultimate buildout of the Lift Station, and additional land has been acquired for the build-out of the Lift Station, the City shall collect the Lift Station Oversizing Fee from the person or entity developing the next phase of the Lift Station. The Lift Station Oversizing Fee shall be equal to the Lift Station Oversizing Costs, plus the additional land costs for future expansion of the Lift Station. The City shall collect the Lift Station Oversizing Fee from the person or entity developing the next phase of the Lift Station prior to approval of, and as a condition to recording, the such person or entities first final subdivision plat or prior to approval of, and as a condition to approving such person or entities first site plan. Upon collecting the Lift Station Oversizing Fee, the City shall remit such fee to the Escrow Agent for disbursement to Owners.

C. Accounting Procedures. The Parties agree that once actual expenditures have been made by Owners for all or any part of the Interceptor, the Lift Station

Oversizing Costs, the right-of-way for the Interceptor or the land for the Lift Station, an addendum to this Agreement will be administratively executed that specifies the Interceptor Costs (including a breakdown of such costs into 15" Costs and the Interceptor Oversizing Amount), the Lift Station Oversizing Costs and the Land Costs represented by such expenditures, with such reimbursable amounts being broken down as described in Paragraph 1.3(B)(1). Owners shall submit each such addendum on the Reimbursement Form attached hereto as Exhibit G, and when such addendum has been approved and countersigned by the person employed by the City who is in charge of water services (the "Water Services Director") and the person employed by the City to be the chief administrative officer (the "City Manager") on behalf of the City, it shall be incorporated into and become a part of this Agreement.

D. Payments to Escrow Agent. Reimbursement payments made by the City to Escrow Agent in accordance with the provisions of this Agreement shall be deemed as making payments to Owners and shall qualify as reimbursements to Owners for the appropriate portion of the Interceptor Costs and Land Costs. It shall be the responsibility of Escrow Agent to allocate the reimbursement payments amongst the Owners. Escrow Agent shall disburse all payments received from the City to Owners in accordance with each Owner's Percentage Share, without regard to the generation of such amounts.

1.4 Ownership of Wastewater. The City shall own all wastewater and effluent generated from the Properties.

2. Construction and Dedication of the Interceptor and Lift Station.

2.1 Design and Construction. All design, construction, and installation of the Interceptor and the Lift Station shall be pursuant to the City's review and approval and shall be in accordance with the rules, regulations, ordinance, policies and procedures of the City. The City shall review and approve all plans and specifications prior to the work being put to bid and, if there are any revisions to those plans and specifications after the work is put to bid, the City shall review and approve changes to the revised plans and specifications prior to the award of the contract, and any significant change orders thereafter. If, during the construction and installation process a change order is requested by any consultant or contractor, the City shall be provided with a copy of the change order. The City shall have fourteen (14) calendar days to review the change order and notify the Owners' Representative in writing if the City has an objection to the change order. Failure to respond within the fourteen (14) calendar day period shall be deemed concurrence with the change order. In addition, the City shall have the right and authority to inspect, or hire a third-party, at Owners' cost, to inspect the ongoing construction and installation in order to ensure that such is being performed in accordance with the final approved plans, specifications and applicable City standards; however, Owners are ultimately responsible for ensuring that the Interceptor and Lift Station are constructed in accordance with the final approved plans. Owners shall provide the City with a videotape of the completed Interceptor.

2.2 Conveyance of Interceptor and Lift Station. After the City has inspected and approved the Interceptor and Lift Station, Owners shall convey to the City (A) the personal property included in the Interceptor and the Lift Station, by bill of sale free and clear of all liens and encumbrances that could affect marketability of title and (B) the real property acquired by the Owners for the construction and installation of the Interceptor and the Lift Station, and the

City shall conditionally accept the Interceptor and Lift Station (subject only to the warranty period) and shall thereafter own, operate and maintain the Interceptor and Lift Station at its sole cost and expense (subject only to Owners' warranty obligations). Owners shall warrant the Interceptor and Lift Station against defects in materials or workmanship for two (2) years after conditional acceptance thereof by the City.

2.3 Construction Access. Owners and its employees, agents and contractors shall have the right to enter, remain upon and cross over any City easement or right-of-way to the extent reasonably necessary to design, construct or install the Interceptor, provided that (A) Owners' use does not materially impede or adversely affect the use and enjoyment of the subject property, (B) Owners shall obtain any required permit and pay any required fee for the use of such easement or right-of-way and (C) Owners shall restore such easement or right-of-way to substantially the same condition as existed prior to Owners' entry.

3. Miscellaneous Provisions.

3.1 Amendments. In order for an amendment to become effective, the Party seeking the amendment shall submit its proposed amendment in writing to all of the other Parties for review. All amendments sought by Owners shall be reviewed by the Water Services Director and approved by the Surprise City Council (the "Council") prior to becoming effective. Amendments shall be signed by the Parties and attached to this Agreement as an addendum.

3.2 Fees. Owners shall pay all City fees related to the Interceptor and Lift Station that are in effect at the time construction is occurring, or permit application is submitted. The fees contemplated by this Paragraph 3.2 shall be considered as part of the Interceptor Costs and the Lift Station Oversizing Costs.

4. Cooperation and Development Regulation.

4.1 Representatives. The Parties agree to designate and appoint a representative to act as a liaison between the City and its various departments and Owners. The initial representative for the City shall be the Water Services Director and the initial representative for Owners shall be Charlie Potter (the "Owners' Representative"). Either Party may change its representative upon prior written notice to the other Party. In the event a new Owners' Representative is needed or desired, the Owners shall choose a representative by majority vote of the Owners, with each Owner having one vote. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties relative to the terms of this Agreement.

4.2 Review Process. The implementation of this Agreement shall be in accordance with the City's development review process. To the extent available and qualified, independent consultants and advisors may be retained by the City at Owners' request in order to expedite the review process to the extent reasonably possible; provided, however, that the retention of such consultants shall not guarantee that the development review process will be significantly expedited. In addition to the City's standard fee, Owners shall pay all costs incurred by the City for any private, independent consultants and advisors retained by the City, at

Owners' request, for assistance in the review process, and such consultants and advisors shall take instruction from, be controlled by and be responsible to the City, not Owners.

4.3 Building Permits. The City understands that Owners may desire to begin residential construction prior to completion of the Interceptor or Lift Station, so that Owners can finalize homes sales coterminous with the completion of the Interceptor and Lift Station. Therefore, the City shall issue building permits, not certificates of occupancy, within the Properties without regard to the status of the Interceptor or Lift Station provided: (i) two (2) City approved points of emergency vehicle access are in place, and (ii) adequate fire flow pursuant to City standards exists. Owners understand, and Owners, or the entity selling homes within the Properties, shall provide every home buyer with notice that the City will not issue certificates of occupancy until such time the Interceptor, or applicable phase of the Interceptor, and Lift Station are complete, sewer service is being provided and all other standard City requirements for certificate of occupancy issuance have been met, e.g. water service, utility completion, street improvements, etc.

5. General Provisions.

5.1 Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the Party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (C) given to a recognized and reputable overnight delivery service, to the address set forth below or (D) delivered by facsimile transmission to the number set forth below:

If to the City:	City of Surprise 12425 W. Bell Road, Suite D-100 Surprise, Arizona 85374 Facsimile: 623-875-4229 Attn: James Rumpeltes, City Manager
With copies to:	City of Surprise 12425 W. Bell Road, Suite D-100 Surprise, Arizona 85374 Facsimile: 623-875-4229 Attn: Michael Bailey, Esq., City Attorney
Owners:	Identified in Exhibit E
With a copy to:	Beus Gilbert, PLLC 4800 N. Scottsdale Rd., Suite 6000 Scottsdale, Arizona 85251 Facsimile: 480-429-3100 Attn: Jeffrey M. Blilie, Esq.

or at such other address, and to the attention of such other person or officer, as any Party may designate in writing by notice duly given pursuant to this Paragraph 5.1. Notices shall be deemed received (A) when delivered to the Party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (D) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

5.2 Default. Failure or unreasonable delay by any Party to perform or otherwise act in accordance with any term or provision hereof shall constitute a breach of this Agreement by such Party. Any failure to pay money not cured within ten (10) days after written notice is received from another Party shall constitute a default under this Agreement by the non-paying Party. Any other breach not cured within thirty (30) days after written notice is received from another Party, shall constitute a default by the breaching Party under this Agreement; provided, however, that if the failure is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then the breaching Party shall have such additional time as may be necessary to perform or comply so long as the breaching Party commences performance or compliance within said thirty (30) day period and diligently proceeds with and completes such performance or fulfills such obligation within ninety (90) days after written notice is received from another Party. Any notice of a breach shall specify the nature of the alleged breach and the manner in which said breach may be satisfactorily cured, if possible. The thirty (30) day cure period shall not apply where a requirement requires the City to perform or otherwise act in a period in excess of thirty (30) days.

5.3 Choice of Law, Venue and Attorney's Fees. Any dispute, controversy, claim or cause of action arising out of or related to this Agreement (a "Dispute") shall be governed by Arizona law. The venue for any such Dispute shall be Maricopa County, Arizona, and each Party waives the right to object to venue in Maricopa County for any reason. In the event any Dispute arises between the City and any Owner; no Party shall be entitled to recover any of its attorneys' fees, expert witness fees, litigation related expenses or other court costs from the other Party incurred in any such Dispute, but each Party shall bear its own attorneys' fees, expert witness fees, litigation related expenses and court costs, whether the same is resolved through mediation, litigation in a court, or otherwise.

5.4 Dispute Resolution. In the event that there is a Dispute hereunder which the Parties cannot resolve between themselves, the Parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the Parties agree to attempt to settle the dispute by non-binding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association, but not under the jurisdiction of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by the Parties. In the event that the Parties cannot agree upon the selection of a mediator within seven (7) days, then within three (3) days thereafter, the City and Owners shall request the presiding judge of the Superior Court in and for the County of Maricopa, State of Arizona, to appoint an independent mediator. The mediator selected shall have at least five (5) years' experience in mediating or arbitrating disputes relating to real estate development. The cost of any such mediation shall be divided equally between the City and Owners, with each Party paying its own attorney's fees. The results of the mediation shall not be binding on the Parties, and any Party shall be free to initiate litigation subsequent to the moratorium set forth in this Paragraph 5.4. The foregoing shall apply to Disputes involving the City, in the event a Dispute arises between or among the Owners, such Dispute shall be resolved through arbitration in accordance with the provisions attached hereto as Exhibit H.

5.5 Good Standing and Authority. Each Owner represents and warrants that it is duly formed and validly existing under the laws of its state of formation. The City represents and warrants that it is duly formed and validly existing municipal corporation within the State of Arizona. Each Party represents and warrants that the individuals executing this Agreement on behalf of its respective Party are authorized and empowered to bind the Party on whose behalf each such individual is signing.

5.6 Assignment. The provisions of this Agreement are binding upon and shall inure to the benefit of the Parties, and all of their successors in interest and assigns. In the event of a complete or partial assignment by any Owner, all or a portion of the Owner's rights and obligations hereunder shall terminate effective upon the assumption by the Owner's assignee of such rights and obligations and the execution of an addendum that recognizes the assignment. Upon the assumption by the Owner's assignee of such rights and obligations, the Owner shall be relieved of all liability and obligations assumed by the Owner's assignee. Owner shall submit each such addendum on the form attached hereto as Exhibit I, and when such addendum has been approved and countersigned by the City Manager on behalf of the City, it shall be incorporated into and become a part of this Agreement.

5.7 No Joint Venture; No Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other agreement between the Parties. No term or provision of this Agreement is intended to, or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.

5.8 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver of any breach shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant, or condition of this Agreement. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

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

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

5.11 Headings. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

5.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

5.13 Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so completed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day that is not a Saturday, Sunday or legal holiday. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Phoenix time) on the last day of the applicable time period provided herein.

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

5.15 Owners' Representations. Nothing contained herein shall be deemed to obligate Owners to complete any part of the development of the Properties.

5.16 Entire Agreement. This Agreement, together with the following Exhibits attached hereto (which are incorporated herein by this reference) constitutes the entire agreement between the Parties.

A.	Exhibit A:	Depiction of Properties
B.	Exhibit B:	Depiction of the Interceptor Area
C.	Exhibit C:	Depiction of the Interceptor, Phases and Lift Station
D.	Exhibit D:	Owner's Percentage Share
E.	Exhibit E:	Owners Notification List
F.	Exhibit F:	Section per-acre Share
G.	Exhibit G:	Reimbursement Form
H.	Exhibit H:	Arbitration Provisions
I.	Exhibit I:	Assignment Form
J.	Exhibit J:	Engineering Firm's Estimation of Lift Station Oversizing Costs

All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written are superseded by and merged in this Agreement.

5.17 Time. Time is of the essence of this Agreement and with respect to the performance required by each Party.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) written below.

CITY OF SURPRISE, an Arizona municipal corporation

By: Joan H. Shafer

Name: Joan H. Shafer

Title: Mayor

Date: 12-11-06

APPROVED AS TO FORM:

____
City Attorney

ATTESTED:

____
City Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on Dec. 11, 2006, by Joan H. Shafer, the Mayor of the CITY OF SURPRISE, an Arizona municipal corporation, on behalf of the City of Surprise.

Linda B. Stevens
Notary Public in and for the State of Arizona

My Commission Expires:

Feb. 7, 2008

LINDA B. STEVENS
NOTARY PUBLIC - STATE OF ARIZONA
COMM. #201987
IN MARICOPA COUNTY
MY COMM. EXPIRES FEBRUARY 7, 2008

CONSENT AND AGREEMENT

The undersigned agrees to the foregoing Agreement and agrees to act as Escrow Agent thereunder.

ESCROW AGENT:

By: Monica Davison

Name: MONICA DAVISON

Title: Development Project Administrator

Date: 11/29/06

Address: 4801 E. Washington St.
Ste 140
Phoenix, AZ 85034

Attn: Trust Officers: Simin Berry / Charlotte Knoll
FAX: (602) 685-7029

SURPRISE-SUN VALLEY & 219TH/ASSEMBLAGE LLC,
a Delaware limited liability company

By:______________________

Name: RONALD J. BENACH

Title: MEMBER

Date: 10/5/06

(ACKNOWLEDGEMENT)

STATE OF ~~ARIZONA~~ Illinois)
) ss.
COUNTY OF ~~MARICOP~~A Cook)

This instrument was acknowledged before me on October 5, 2006, by Ronald J. Benach, as Member of SURPRISE-SUN VALLEY & 219TH/ASSEMBLAGE LLC, a Delware limited liability company, on behalf of the company.

Marilyn Magafas

Notary Public in and for the State of Arizona

My Commission Expires:

4-13-07

"OFFICIAL SEAL"
MARILYN MAGAFAS
Notary Public, State of Illinois
My Commission Expires 04/13/07

FRI SURPRISE ASSEMBLAGE, LLC, an Arizona limited liability company

By: FARNAM REALTY INC., an Arizona limited liability corporation, Member

By: _[signature]_
Peter M. Gooding, It's Authorized Agent

Date: November 21, 2006

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on November 21, 2006, by Peter M. Gooding, Authorized Agent of FARNAM REALTY INC., an Arizona limited liability corporation, Member of FRI SURPRISE ASSEMBLAGE, LLC, an Arizona limited liability company, on behalf of the company.

Karen Stoll
Notary Public in and for the State of Arizona

My Commission Expires:

OFFICIAL SEAL
KAREN STOLL
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 13, 2008

SIERRA NORTE L.L.C., an Arizona limited liability company

By: David A. Burrows

Name: DAVID A. BURROWS

Title: MANAGER

Date: 9/28/06

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on September 28, 2006, by David A. Burrows, as Manager of SIERRA NORTE L.L.C., an Arizona limited liability company, on behalf of the company.

OFFICIAL SEAL
SHERRY A. PORTER
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires Aug. 6, 2010

Sherry A. Porter
Notary Public in and for the State of Arizona

My Commission Expires:

August 6, 2010

CPH FOOTHILS EAST, LLC,
a Delaware limited liability company

By: CPH SFE Holding, LLC, a Delaware Limited Liability Company, its Managing Member

By: Capital Pacific Holdings, LLC, a Delaware Limited Liability Company, its Sole Member

By: Capital Pacific Holdings, Inc., a Delaware Corporation, its Managing Member

By: Capital Pacific Arizona, Inc., a Delaware corporation, its Authorized Agent

By:____________________

Name: Anthony Clyde Dowell

Title: Pres

Date: 10/2/2006

By:____________________

Name: Sara Ridgway

Title: CFO

Date:____________________

(ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on October 2nd 2006, 2006, by, Anthony Clyde Dinnell, President, of Capital Pacific Arizona, Inc., a Delaware corporation, the authorized agent for Capital Pacific Holdings, Inc., a Delaware corporation, the managing member of Capital Pacific Holdings, LLC, a Delaware Limited Liability Company, the sole member of CPH SFE Holding, LLC, a Delaware Limited Liability Company, the managing member of CPH Foothills East, LLC, a Delaware limited liability company, on behalf of the corporation.

Notary Public State of Arizona
Maricopa County
Jennifer Gentile
My Commission Expires
07/19/2009

Notary Public in and for the State of Arizona

My Commission Expires:

7/19/2009

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on October 2nd 2006, 2006, by, Sara Ridgway, CFO, of Capital Pacific Arizona, Inc., a Delaware corporation, the authorized agent for Capital Pacific Holdings, Inc., a Delaware corporation, the managing member of Capital Pacific Holdings, LLC, a Delaware Limited Liability Company, the sole member of CPH SFE Holding, LLC, a Delaware Limited Liability Company, the managing member of CPH Foothills East, LLC, a Delaware limited liability company, on behalf of the corporation.

Notary Public State of Arizona
Maricopa County
Jennifer Gentile
My Commission Expires
07/19/2009

Notary Public in and for the State of Arizona

My Commission Expires:

7/19/2009

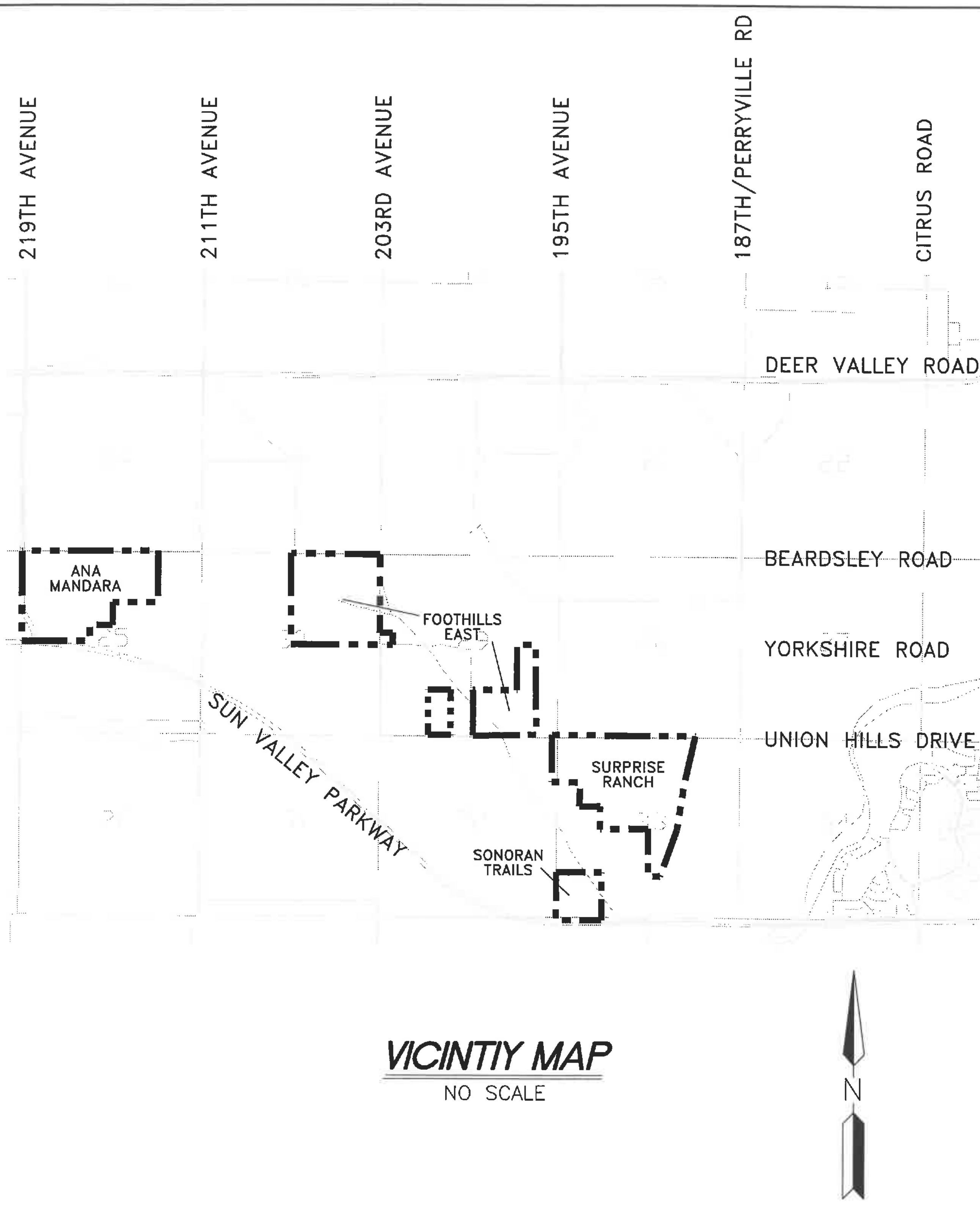
EXHIBIT A
(Depiction of Properties)

is not recordable
due to: image is too light

for a copy of Exhibit A
contact the Surprise City Clerk
16000 N. Civic Center Plaza
Surprise, Arizona 85374
623-222-1200

EXHIBIT A

Depiction of Properties



VICINTIY MAP

NO SCALE

CMX PROJ.	7162.04	TRILBY WASH LIFT STATION 191ST AVENUE & TRILBY WASH SURPRISE, ARIZONA	EAST VALLEY OFFICE 3100 WEST RAY RD. STE.201 CHANDLER, AZ 85226 PH (480) 648-1900 FAX (480) 648-1918 www.cmxinc.com
DATE:	JULY 2006		
SCALE:	N.T.S.		
DRAWN BY:		FIGURE 1: VICINITY MAP	
CHECKED BY:			

W:\7100\7162.04\W-RES\W-Exhibit\Drainage Report\CLIENT\F1-7162-VICINITY MAP.dwg 07-26-2006 - 9:15am

CMX

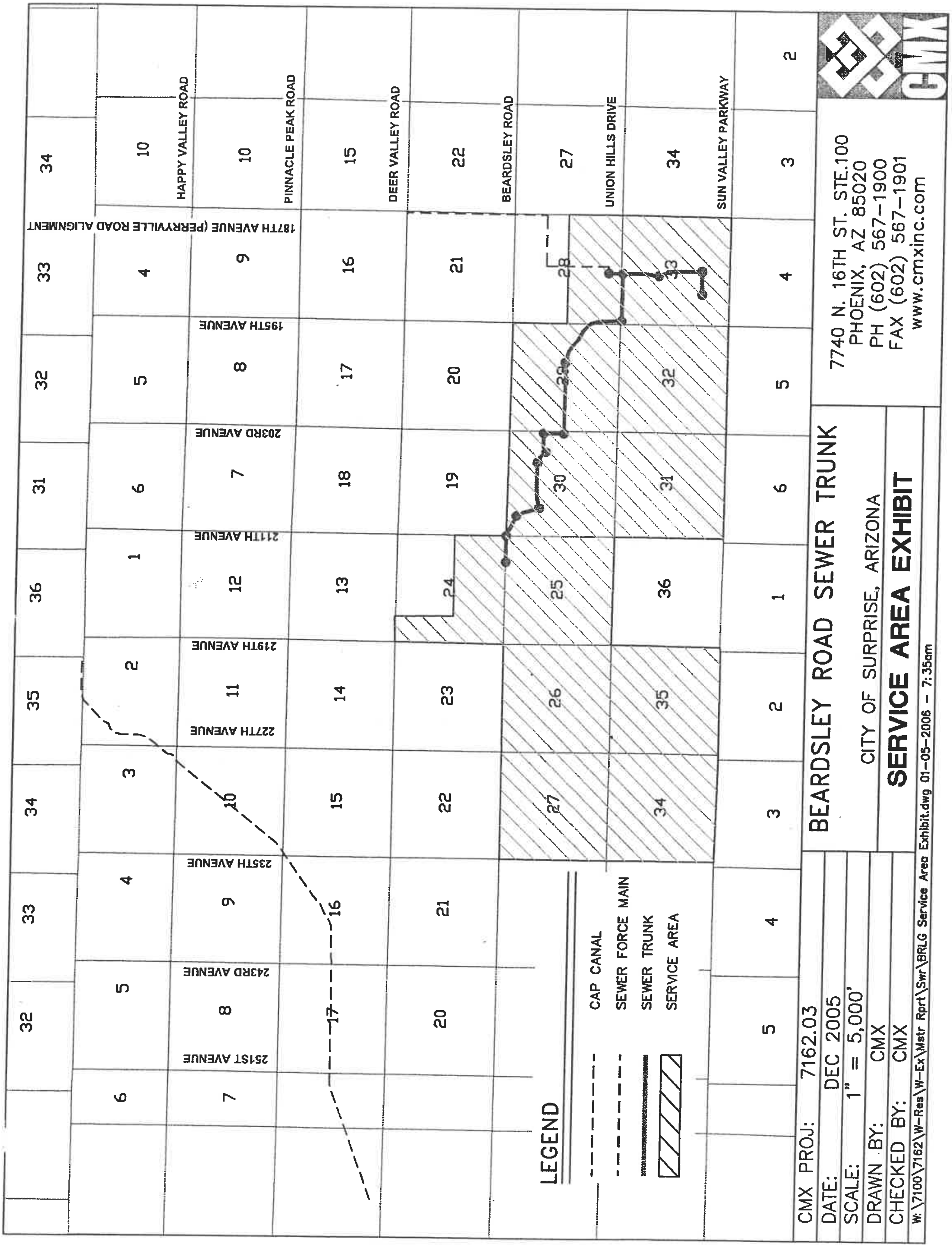
EXHIBIT B
(Depiction of the Interceptor Area)

is not recordable
due to: lines through text

for a copy of Exhibit B
contact the Surprise City Clerk
16000 N. Civic Center Plaza
Surprise, Arizona 85374
623-222-1200

EXHIBIT B

Depiction of the Interceptor Area



BEARDSLEY ROAD SEWER TRUNK
CITY OF SURPRISE, ARIZONA
SERVICE AREA EXHIBIT
W:\7100\7162\W-Res\W-Ex\Mstr Rprt\Swr\BRLG Service Area Exhibit.dwg 01-05-2006 - 7:35am
CMX PROJ: 7162.03
DATE: DEC 2005
SCALE: 1" = 5,000'
DRAWN BY: CMX
CHECKED BY: CMX
CMX
7740 N. 16TH ST. STE.100
PHOENIX, AZ 85020
PH (602) 567-1900
FAX (602) 567-1901
www.cmxinc.com
LEGEND
CAP CANAL
SEWER FORCE MAIN
SEWER TRUNK
SERVICE AREA
HAPPY VALLEY ROAD
PINNACLE PEAK ROAD
DEER VALLEY ROAD
BEARDSLEY ROAD
UNION HILLS DRIVE
SUN VALLEY PARKWAY
187TH AVENUE (PERRYVILLE ROAD ALIGNMENT)
195TH AVENUE
203RD AVENUE
211TH AVENUE
219TH AVENUE
227TH AVENUE
235TH AVENUE
243RD AVENUE
251ST AVENUE

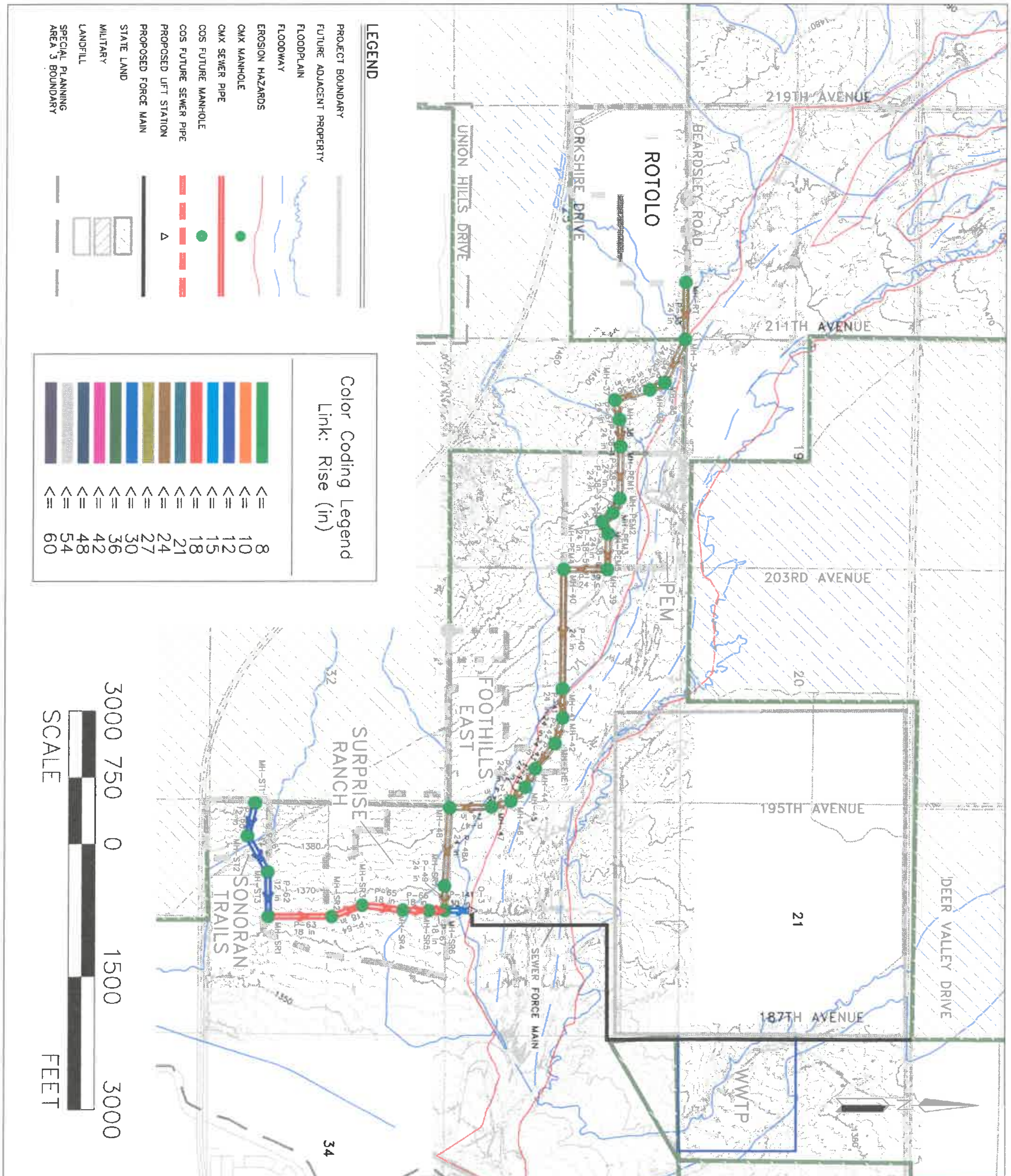
EXHIBIT C
(Depiction of the Interceptor, Phases and Lift Station)

is not recordable
due to: font size and lines through text

for a copy of Exhibit C
contact the Surprise City Clerk
16000 N. Civic Center Plaza
Surprise, Arizona 85374
623-222-1200

EXHIBIT C

Depiction of Interceptor, Phases and Lift Station



CMX PROJ.	7162.03
DATE:	JULY 2005
SCALE:	1" = 3000'
DRAWN BY:	JWC
CHECKED BY:	

SOUTH SURPRISE LANDOWNERS GROUP

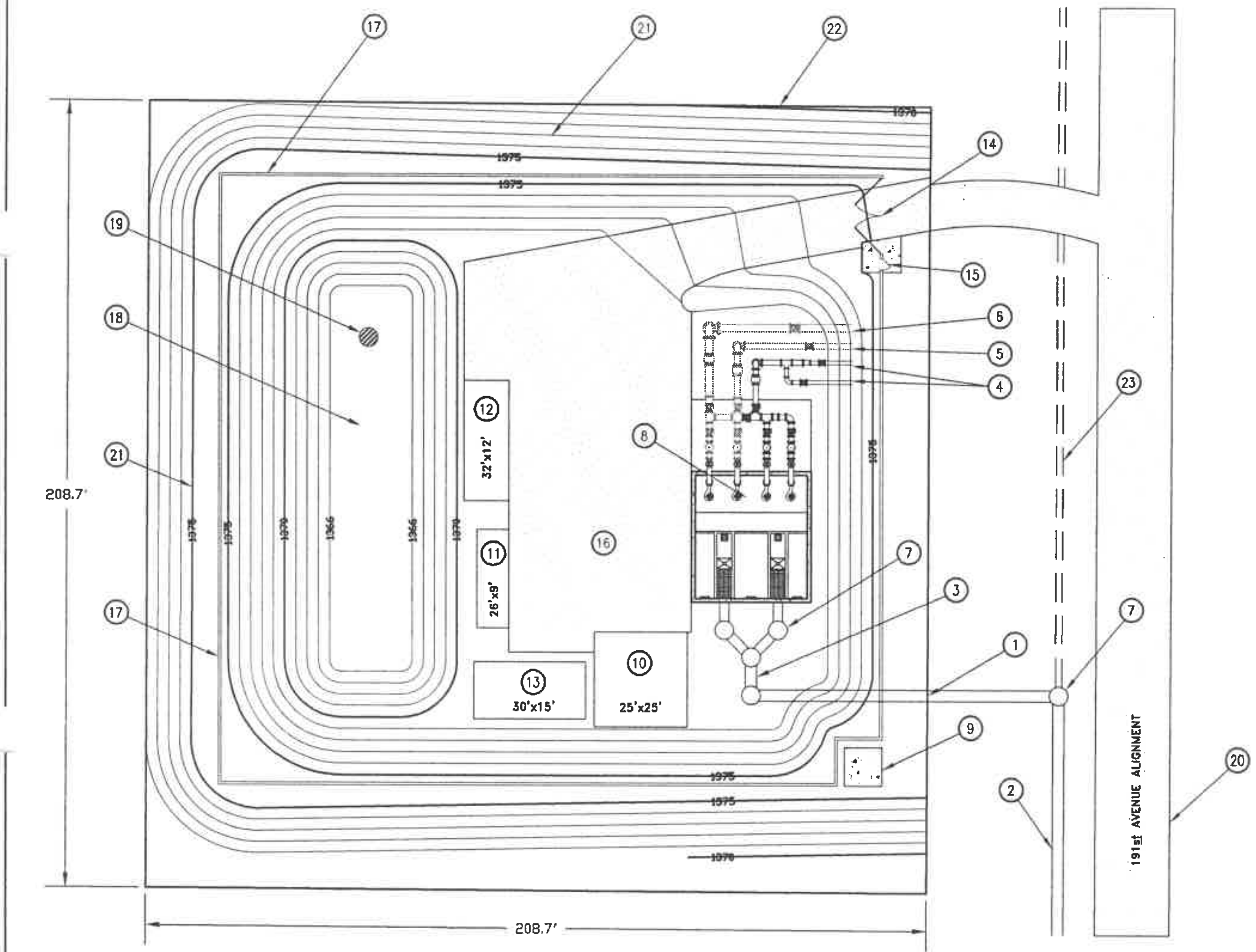
243 AVENUE & HAPPY VALLEY ROAD
SURPRISE, ARIZONA

MASTER WASTEWATER EXHIBIT

EAST VALLEY OFFICE
3100 WEST RAY RD. STE.201
CHANDLER, AZ 85226
PH (480) 648-1900
FAX (480) 648-1918
www.cmxinc.com

CMX

W:\7100\7162\Exhibits\Agreements\7162.03- BRLG WASTEWATER EXHIBIT 072406-.dwg 07-24-2006 - 7:23am



CONSTRUCTION NOTES

1. CONNECT TO EX 36" SEWER LINE
2. 36" SEWER PIPE
3. 30" SEWER LINE
4. 12" FORCE MAIN
5. 18" FORCE MAIN
6. 24" FORCE MAIN
7. 5'ø FORCE MAIN MANHOLE
8. LIFT STATION
9. SERVICE ENTRANCE SECTION
10. ODOR CONTROL EQUIPMENT
11. GENERATOR
12. ELECTRICAL BUILDING
13. FUTURE BIOXIDE EQUIPMENT AREA
14. 20' SWING-GATE
15. 3' MAN GATE
16. 2" AC PAVING OVER 6" COMPACTED ABC
17. 8' BLOCK WALL
18. SITE RETENTION BASIN 9982ft?
19. DRY WELL
20. 20' ACCESS ROAD
21. EARTHEN BERM
22. SITE LIMITS
23. FUTURE SEWER LINE

N

30 0 30 60
SCALE FEET

CMX PROJ:	7162.04
DATE:	JUNE, 2006
SCALE:	1"=30'
DRAWN BY:	
CHECKED BY:	FDK

W:\7100\7162.04\BASESHEETS\Site Plan_REV 3.dwg 07-21-2006 - 8:58am

TRILBY WASH LIFT STATION

SURPRISE, ARIZONA

FIGURE 4

7740 N. 16TH ST. STE.100
PHOENIX, AZ 85020
PH (602) 567-1900
FAX (602) 567-1901
www.cmxinc.com

CMX

EXHIBIT D

Owner's Percentage Share

Owner (Project Name)	Percentage Share
Surprise-Sun Valley (Ana Mandara/Benach)	52.1%
Capital (Foothills East)	24.9%
FRI (Surprise Ranch)	14.7%
Sierra Norte (Sonoran Trails)	8.3%

EXHIBIT E

Owners Notification List

Ana Mandara/Benach

SURPRISE-SUN VALLEY & $219^{TH/}$ ASSEMBLAGE LLC
c/o TWJ Associates Ltd., L.L.C.
Attn: Bill Rotolo
3260 N. Hayden Road, Suite 106
Scottsdale, Arizona
Facsimile: 480.607.0508

Foothills East

CPH FOOTHILLS EAST, LLC
c/o Capital Pacific Homes of Arizona, Inc.
Attn: Division President
1855 W. Baseline Road, Suite 101
Mesa, AZ 85202-9098
Phone: (480) 777-2400
Fax: (480) 777-2407

Surprise Ranch

FRI SURPRISE ASSEMBLAGE, LLC
Attn: Elden E. von Lehe
von Lehe Financial Corporation
7150 East camelback Road, Suite 444
Scottsdale, AZ 85251
Facsimile: 480.477.8047

Sonoran Trails

SIERRA NORTE, L.L.C.
Attn: David Burrows
18403 N. 13th Place
Phoenix, AZ 85022
Facsimile: 602.334.1458

EXHIBIT F

Section per-acre Share

Section/Township/Range	Per-acre Share
28/4N/2W	.0000037 (.00037%/acre)
29/4N/2W	.0000236 (.00236%/acre)
30/4N/2W	.0000836 (.008367%/acre)
31/4N/2W	.0000836 (.008367%/acre)
32/4N/2W	.0001757 (.01757%/acre)
33/4N/2W	.0001757 (.01757%/acre)
24/4N/3W	.000166 (.0166%/acre)
25/4N/3W	.000166 (.0166%/acre)
26/4N/3W	.0001858 (.01858%/acre)
27/4N/3W	.0001858 (.01858%/acre)
34/4N/3W	.0001858 (.01858%/acre)
35/4N/3W	.0001858 (.01858%/acre)

EXHIBIT G

Reimbursement Form

ADDENDUM NO. _______

This Addendum No.___ dated _______________, 200_, ("Addendum") is made and entered into by and between the City and Owners with respect to the Agreement, and, when countersigned below by the Water Services Director on behalf of Surprise, it shall become an addendum to the Agreement for all purposes, and shall thereafter be construed to be integrated into such document.

By its signature set forth below, Owners hereby represent and warrant to the City that since their last submittal of an Addendum to the City to be incorporated into the Agreement, Owners have incurred and paid the costs, charges and expenses itemized below for the development of the Interceptor or the acquisition of land in accordance with the terms of the Agreement and that they are entitled to reimbursement with respect to same as contemplated by and agreed to in the Agreement:

___________________________________	$__________	
___________________________________	$__________	
___________________________________	$__________	
___________________________________	$__________	
	Subtotal	$__________

Copies of paid bills or invoices, cancelled checks, or other written evidence reasonably evidencing these sums are attached to the copy of this Addendum being delivered to the City and incorporated therein. When added to the costs, charges, fees and other expenses previously submitted to and approved by the Water Services Director for the Interceptor Oversizing Amount, the Lift Station Oversizing Costs and the Interceptor Reimbursable Amount, this amount brings the total submitted by Owners to Surprise for the Interceptor and Land Costs to $_ ___________.

By the signature of the Owners' Representative below, Owners hereby represent and warrant to Surprise that all costs, fees, charges and expenses set forth above have been paid in full by Owners incident to the development of the Interceptor or the acquisition of land as contemplated by the Agreement, that no such amounts or sums are duplicative of amounts previously reported and submitted on prior Addenda, and that Owners in good faith believe that all such costs, fees, charges and expenses qualify as Interceptor Costs and/or Land Costs.

Unless otherwise separately defined in this Addendum, all capitalized terms contained herein shall be given the meaning set forth for such terms in the Agreement. All of the terms, provisions and conditions of the Agreement that are not expressly modified, amended or clarified by this Addendum (or which, in context, must be deemed modified, amended or clarified hereby) shall remain in full force and effect.

OWNERS' REPRESENTATIVE:

____

By:________________________________

Name:______________________________

Date:_______________________________

The undersigned hereby acknowledges the information set forth above and has accepted such costs for addition to the portion of the Interceptor Costs and/or Land Costs for which Owners are entitled to receive reimbursement pursuant to the Agreement, and by its signature set forth below, authorizes that this Addendum No._____ be attached to and hereafter be deemed a part of the Agreement for all purposes set forth therein.

SURPRISE:

CITY OF SURPRISE, an Arizona municipal corporation

By:________________________________

Name:______________________________

Title:__Water Services Director__________

Date:_______________________________

EXHIBIT H

Arbitration Provisions

Final Offer Arbitration. Any Dispute on which the Owners (including any Owner in its capacity as Contracting Party or Replacement Contracting Party) cannot agree shall be resolved by mandatory final offer arbitration in accordance with the Arbitration Rules for the Real Estate Industry of the American Arbitration Association ("**AAA**") currently in effect (the "**Rules**"), except to the extent modified herein, but shall not be adjudicated under the auspices of the AAA:

Dispute Notice. If any Owner believes that a Dispute exists, it may notify the other Owners thereof, which notice (a "**Dispute Notice**") shall identify the Dispute. As promptly as practicable, and in any event within ten (10) days following the delivery of the Dispute Notice, the Owners shall meet in an attempt to resolve the Dispute. If the Dispute cannot be resolved at that meeting, any Owner may submit the Dispute to arbitration as hereinafter provided.

Qualifications of Arbitrator. The arbitrator shall be a practicing attorney licensed to practice law in the State of Arizona with at least ten (10) years in practice and shall be knowledgeable in the legal issues that are the subject of the Dispute. No arbitrator shall personally have represented any Owner to the Dispute in any material matter within the preceding two (2) years.

Selection of Arbitrator. If the Dispute cannot be resolved, any Owner may deliver a written notice to the other Owners requesting arbitration and stating the basis of the Owner's claim (an "**Arbitration Notice**"). Gary L. Birnbaum will serve as the arbitrator. If Gary L. Birnbaum is unable or unwilling to serve as the arbitrator, or cannot hear the arbitration case within thirty (30) days from the Arbitration Notice, the Owners to the arbitration jointly shall appoint a single arbitrator (which can be Gary L. Birnbaum). If the Owners are unable to agree upon an arbitrator within ten (10) days after the delivery of the Arbitration Notice, then any Owner, on behalf of all of the Owners, may request the appointment of the arbitrator by making an application to the presiding judge of the Superior Court of the State of Arizona, in and for the County of Maricopa, in accordance with applicable law. If the Court either declines or fails to make such appointment within ten (10) days after receipt of such application, any Owner may thereafter file a complaint in the Superior Court of Maricopa County, Arizona, and prosecute such complaint unless and until the court appoints an arbitrator to resolve such dispute or controversy. The term "**Arbitrator**" as used herein shall mean and refer to the single arbitrator selected pursuant to this Section.

Conduct of Arbitration. On or before five (5) business days prior to the date set for the arbitration hearing, each Owner shall submit to the others its final and best position as to the Dispute (hereinafter referred to as a "**Final Offer**"), which shall remain the position of such Owner throughout the arbitration process. If any Owner fails to timely submit its Final Offer, such Owner may not participate in the arbitration. If only one Owner (or one group of Owners with the same Final Offer) submits a Final Offer, the Arbitrator shall select the Final Offer submitted by such Owner(s). Notwithstanding the foregoing, the Owners may make offers in settlement at any time, but no such proposal shall be considered by the Arbitrator. The arbitration shall be conducted in Phoenix, Arizona. The arbitration process shall generally be conducted by the designated Arbitrator in accordance with the Rules, but the Arbitrator shall have discretion to vary from those Rules in light of the nature or circumstances of any particular Dispute. In all events, unless waived by the Owners, the Arbitrator will conduct an arbitration hearing at which the Owners and their counsel shall be present and have the opportunity to present evidence and examine the evidence presented by the other Owner. The proceedings at the arbitration hearing shall, unless waived by the Owners, be conducted under oath and before a court reporter. The Owners shall cooperate in good faith to permit, and the Arbitrator shall render a decision in the arbitration proceeding, within thirty (30) days following the appointment of the Arbitrator. The Owners shall also endeavor to submit a joint statement setting forth each Dispute to be submitted to arbitration, including a summary of each Owner's position on each Dispute. In addition, the Arbitrator shall require the non-prevailing Owner(s) to pay all reasonable costs, fees and litigation related expenses, including attorney's fees, of the prevailing Owner(s) and costs and fees of the Arbitrator.

Standards of Conduct. The Owners agree that with respect to all aspects of the arbitration process contained herein they will conduct themselves in a manner intended to assure the integrity and fairness of that process. To that end, if a Dispute is submitted to arbitration, the Owners agree that they will not contact or communicate with the Arbitrator who was appointed as arbitrator with respect to any Dispute either *ex parte* or outside of the contacts, and the Owners further agree that they will cooperate in good faith in the production of documentary and testimonial evidence in a prompt and efficient manner to permit the review and evaluation thereof by the other Owners.

Decision. The Arbitrator shall select from the Final Offers proposed by the Owners and the decision of the Arbitrator shall be final and binding on all Owners and not subject to appeal, in the absence of fraud, and the prevailing Owner(s) may enforce the same by application for entry of judgment in any court of competent jurisdiction or by other procedures established by law.

Time of the Essence. The Owners agree that time is of the essence with respect to the resolution of any Disputes arising hereunder.

EXHIBIT I

Assignment Form

ADDENDUM NO. _______

This Addendum No.___ ("Addendum") is made and entered into by and between Owner and New Owner (defined herein) with respect to the Agreement and, when countersigned below by the City Manager on behalf of the City, it shall become an addendum to the Agreement for all purposes, and shall thereafter be construed to be integrated into such document.

Pursuant to Paragraph 5.6 of the Agreement, the Parties hereby approve the following assignment (attach a copy of the title report).

Owner (Assignor)	"New Owner" (Assignee)
______________________	______________________
______________________	______________________
______________________	______________________
______________________	______________________

"Affected Property" (attach a depiction of the property transferred)

____

____

The definition of Owners and Parties within the Agreement shall now include New Owner, and New Owner shall be entitled to the rights and responsible for the obligations within the Agreement related to the Affected Property (or as further defined herein).

Unless otherwise separately defined in this Addendum, all capitalized terms contained herein shall be given the meaning set forth for such terms in the Agreement. All of the terms, provisions and conditions of the Agreement that are not expressly modified, amended or clarified by this Addendum (or which, in context, must be deemed modified, amended or clarified hereby) shall remain in full force and effect.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

OWNER:

____

By:_________________________________

Name:______________________________

Title:_______________________________

Date:_______________________________

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on __________________________, 2006, by ______________________, as ______________________ of _____________________________ ______, an____________________________, on behalf of the_________________.

____
Notary Public in and for the State of Arizona

My Commission Expires:

____

NEW OWNER:

____

By:_____________________________________

Name:__________________________________

Title:___________________________________

Date:___________________________________

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____________________________, 2006, by ________________________, as _______________________ of ______________________________ ______, an______________________________, on behalf of the__________________.

____

Notary Public in and for the State of Arizona

My Commission Expires:

____

CITY:

CITY OF SURPRISE, an Arizona municipal corporation

By:______________________________

Name:____________________________

Title: City Manager

Date:_____________________________

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on ________________________, 2006, by _____________________, the Mayor of the CITY OF SURPRISE, an Arizona municipal corporation, on behalf of the City of Surprise.

____
Notary Public in and for the State of Arizona

My Commission Expires:

____

EXHIBIT J

Engineering Firm's Estimation of Lift Station Oversizing Costs

CMX

Phoenix

Chandler

September 8, 2006

Mr. Rich Williams
Director of Water Resources
City of Surprise
12425 West Bell Road
Suite D-100
Surprise, AZ 85374

Re: Trilby Wash Lift Station Engineers Estimate of Over-sizing Percentage - Project No. 7162.03

Dear Mr. Williams:

CMX has evaluated the preliminary design efforts of the Trilby Wash Lift Station (TWLS) through the preparation of the 30% Conceptual Design Report. Based on these efforts and design point of the Project, CMX estimates that approximately 15% of the anticipated construction costs incurred are the result of over-sizing the Lift Station beyond what would be required for the sewer capacity of the dwelling units associated with the South Sewer Line Group.

Please call me at 480-648-1900 if you have any questions.

Sincerely,

Seth

Seth Fronk
Senior Project Manager

SF:jw

Q:/7100/7162.03/correspondence/TWLS % oversizing ltr RWilliams 9-8-06

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019
Submitting Department: City Clerk
Staff Recommendations: None

Contact Person: Sherry Aguilar, City Clerk
District: District 4

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

Agenda Wording:
Consideration and action to approve a request by Naresh Mago (Agent/Owner) for a Series 12 liquor license for 5 & Diner 2 located at 11340 W. Bell Road, #125A, Surprise, AZ 85374.

Motion:
I move to approve a request by Naresh Mago (Agent/Owner) for a Series 12 liquor license for 5 & Diner 2 located at 11340 W. Bell Road, #125A, Surprise, AZ. 85374.

Background:

Objective Analysis:

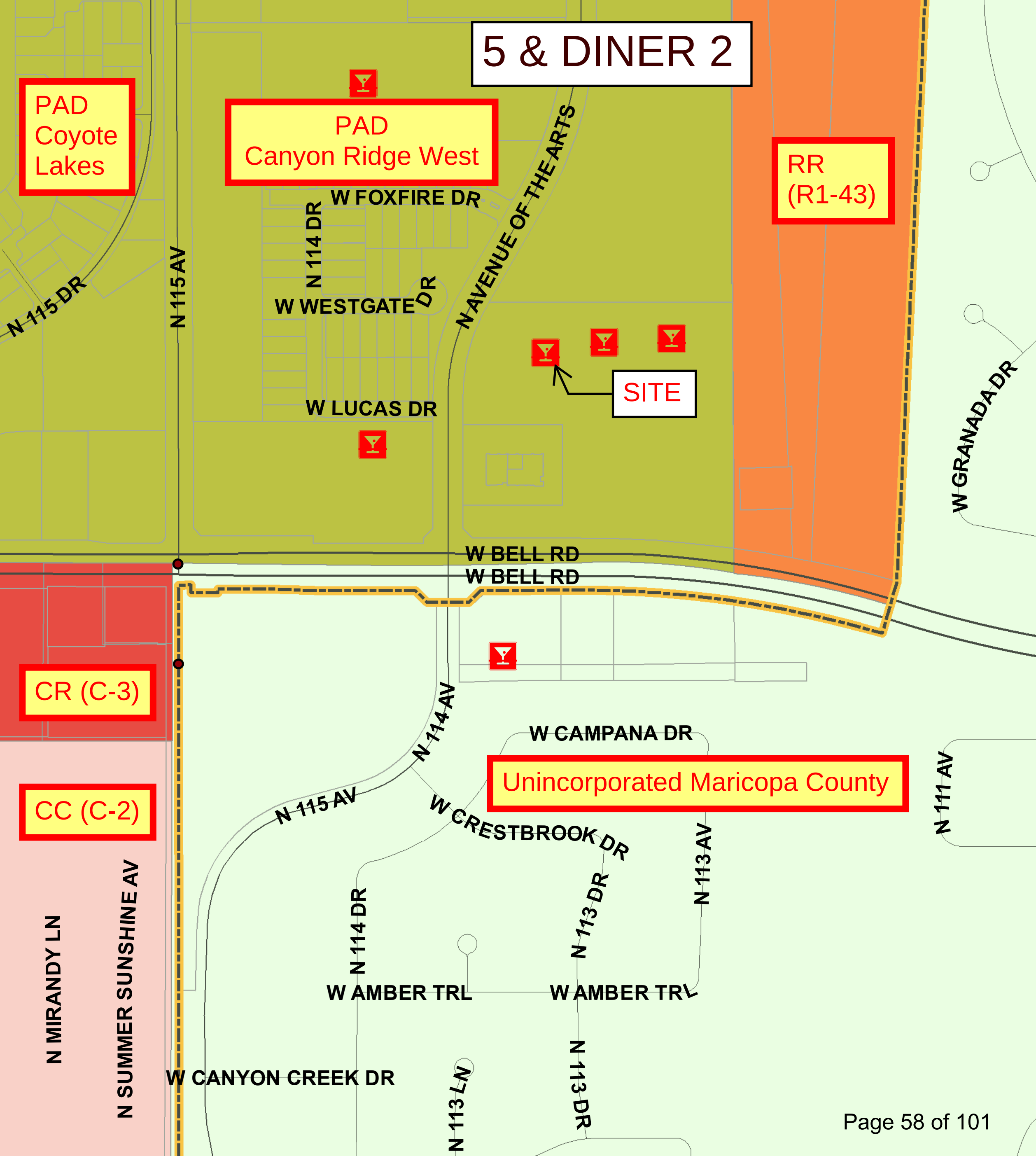
Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:
1. 5 & DINER 2 MAP
2. 5 & Diner 2 REPORT
3. 5 & Diner.police
4. 5 and Diner Liquor License Fire


5 & DINER 2
PAD
Coyote
Lakes
PAD
Canyon Ridge West
RR
(R1-43)
W FOXFIRE DR
N 114 DR
N AVENUE OF THE ARTS
W WESTGATE DR
N 115 DR
N 115 AV
SITE
W LUCAS DR
W GRANADA DR
W BELL RD
W BELL RD
CR (C-3)
N 114 AV
W CAMPANA DR
Unincorporated Maricopa County
N 111 AV
CC (C-2)
N 115 AV
W CRESTBROOK DR
N 113 AV
N 113 DR
N 114 DR
N MIRANDY LN
N SUMMER SUNSHINE AV
W AMBER TRL
W AMBER TRL
W CANYON CREEK DR
N 113 LN
N 113 DR

COMMUNITY DEVELOPMENT DEPARTMENT

Date: November 5, 2019

To: Sherry Aguilar, City Clerk

From: Chris Boyd, Acting Community Development Director
James Stewart, Zoning Specialist

Re: Liquor License Application for:

5 & Diner 2
Series 12 - Restaurant – Job # 80322
11340 W. Bell Road, 125A
Surprise, Arizona 85374

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

1. Hurricane Grill & Wings (Series 12) – 11340 W. Bell Rd. #103
2. Gifts To Go (Series 10) – 11340 W Bell Rd. #12
3. Café on the Avenue (Series 12) – 17420 N. Avenue of the Arts (Expired)
4. Circle K #6285 (Series 9) – 11339 W. Bell Rd. (Unincorporated Maricopa County)
5. Quiktrip #494 (Series 10) – 11420 W. Bell Rd.

The immediate area is comprised of commercial establishments. The property is zoned PAD (CC) Canyon Ridge West which is consistent with the proposed use.

Commercial and residential growth is expected to remain static.

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

SURPRISE POLICE DEPARTMENT
LIQUOR LICENSE APPLICATION REVIEW

REFERENCE: DATE: October 29, 2019

JOB NUMBER - 80322
Series #12 – New License
Current License at Location: 12078032

APPLICANT:

5 & Diner 2
11340 W. Bell Road, Ste 125A
Surprise, Arizona 85374

FINDINGS:

1) ***Evidence concerning the nature of the proposed business, its potential market and its likely customers.***
5 & Diner 2 is a full service restaurant specializing in traditional American Cuisine, including breakfast, lunch and dinner. The restaurant has been open since 2009 under the name 5 & Diner Delux and is changing ownership and a slight name change. there is a seating capacity of 183 persons with 8 of those as part of a very small designated bar area. There are two televisions for viewing and a DJ is expected once a month for live entertainment. The potential market should continue be for patrons of all ages.

2) ***Effect of vehicular traffic in close proximity.***
The main egress and ingress is off of Avenue of the Arts Blvd, north of Bell Road. There is also egress and ingress off of Bell Road into the shopping plaza for east bound Bell Road only, due to a raised median on Bell Road, preventing west bound traffic from the plaza. There is a traffic signal light at 114th Avenue and Bell Road which is adequate to handle the traffic flow in this area.

3) ***The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report of such activity at lest 20 days before the hearing.***
Over the past five years, there have been two reported vehicle burglaries from the parking lot of the plaza in 2014 and two more in 2016. There was a claim of a theft by a citizen who said the gun he mailed, using the small post office of a gift shop in the plaza never got to it's out of state destination. There have been miscellaneous calls for suspicious persons in the parking lot, along with kids on bikes on the plaza, but no other criminal activity that stands out, including any liquor violations.

4) ***Comparison of hours of operation of the proposed premises to the existing businesses in close proximity.***
5 & Diner 2 is in the smaller retail Bel Mar shopping plaza, with hours of operation from 7 AM to 8 PM every day except Fridays and Saturdays, when they close at 9 PM. Hurricane Grill & Wings is another restaurant in the same plaza, which also has a current series 12 license. Their hours are from 11 AM to 9 PM, with the exception of Fridays, when it closes at 10 PM. There are some smaller shops in the plaza and a medical office which all have normal business type hours.

5) ***Appropriateness of series license requested.***
A series 12 license is appropriate and applicable for the Hurricane Grill & Wings, per state guidelines for restaurants.

Submitted by Officer Chris Tovar #2059

Surprise Fire-Medical Department
14250 W. Statler Plaza Ste. 101
Surprise, AZ 85374-7479
Phone: 623-222-5000
Fax: 623-222-5001

October 23, 2019

To: Sherry Ann Aguilar, City Clerk

From: Keith Tanner, Fire Marshal

Subject: Liquor License Application

Applicant: 5 & Diner 2
11340 W Bell Road, #125
Surprise, AZ 85374

The Surprise Fire-Medical Department recently conducted a fire inspection at the above referenced location to ensure compliance with the applicable fire codes within the tenant space and building. There are no known fire code violations at this time.

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

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019
Submitting Department: City Clerk
Staff Recommendations: None

Contact Person: Sherry Aguilar, City Clerk
District: Internal

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

Agenda Wording:
Consideration and action on the Regular Council Work Session, Regular Council Meeting and Executive Session minutes from November 5th, 2019.

Motion:

Background:

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:
1. Nov 5 WKS
2. Nov 5 REG

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

Tuesday, November 5, 2019 @ 4:00PM

Call To Order

Roll Call

Mayor Hall called to order the Regular City Council Work Session of November 5, 2019 at 4:00 PM at Surprise City Hall Council Chambers, 16000 N Civic Center Plaza, Surprise, Arizona 85374. Also in attendance with Mayor Hall were Vice Mayor Winters, Council Members; Duffy, Hayden, Judd, Sanders and Remley.

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

Pledge of Allegiance

Call To The Public

Regular City Council Work Session Agenda

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

1. Presentation and discussion to recognize all donors and supporters of the Veterans Reflection Circle - NO ACTION

City Manager Frazier made a brief introduction to recognize all donors and supporters of the Veterans Reflection Circle. Mr. Frazier asked Michael Boule to continue the presentation. Mr. Boule thanked City staff that took part in this project. A powerpoint presentation was followed.

Mr. Boule thanked all of the contractors for their participation with this project, comments were made for each business that participated.

Mayor thanked Mr. Boule for the presentation.

2. Presentation and discussion pertaining to the Tobacco 21 Initiative - NO ACTION

Brian Hummell, Arizona Director of Government Relations for Arizona Cancer Society to discuss the Tobacco 21 Initiative. A powerpoint presentation was followed.

Topics included E-Cigarettes and the current epidemic. Legislation, regulations and legal battles were reviewed as well.

Vice Mayor Winters asked that this needs to be regulated like alcohol?

Mr. Hummell commented that Yes, very similar, the license fee will be typically less, and include an annual inspection.

Council Member Duffy commented on how many tobacco retailers there are? Is the potency higher?

Council Member Sanders - It appears that I am seeing a lot more of e-cig usage. I found a study online, the age was raised to 21 and had a 39% decrease and 50% of the friends of those people decreased.

Vice Mayor Winters - The different flavors are attracting the kids. Can this be looked at?

Council Member Judd - I am interested in the licensing aspect of this. Enforcement is a big problem, if they are making a lot of money, then it will be more difficult to enforce.

Mayor Hall - We are talking about billions from the tobacco industry.

3. Presentation and discussion pertaining to the Proposition 400 Extension by Maricopa Association of Governments - NO ACTION

Jodi Tas introduced Eric Anderson and Audra Thomas MAG Transportation Planning Program Manager gave a powerpoint presentation on the Prop 400 Extension by MAG.

Mayor Hall asked for clarification on the funding vs. the planning. When we plan, we make sure the funding has to be established at Pinal County before Maricopa County will make the decisions. Two separate funding mechanisms.

Projected revenue estimates for Prop 400 were discussed in detail.

Mayor Hall - Didn't you do a study on alternates for rubberized?

Ms. Thomas - Yes, on the Pima Freeway there are 3 test sections right now.

Council Member Remley - I am overwhelmed, so much information. What do you expect our sales tax increase will need to be to cover all of your plans presented tonight? People are moving to Arizona from other states.

4. Presentation and discussion pertaining to the FY2019 Financial Status Report through June 2019 - ITEM MOVED TO THE NEXT WORK SESSION

Adjournment

Vice Mayor Winters made the motion to adjourn the Regular City Council Work Session of November 5, 2019 at 6:04 PM. Council Member Remley seconded the motion. Seven yes votes, motion carried.

____
Skip Hall, Mayor

ATTEST:

____
Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Work Session of **Tuesday, November 5, 2019.**

____
Sherry Ann Aguilar, City Clerk, MMC

CITY OF SURPRISE

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

Tuesday, November 5, 2019 @ 6:00PM

Call To Order

Roll Call

Mayor Hall called to order the Regular City Council Meeting of November 5, 2019 at 6:29 PM at Surprise City Hall Council Chambers, 16000 N Civic Center Plaza, Surprise, Arizona 85374. Also in attendance with Mayor Hall were Vice Mayor Winters, Council Members; Duffy, Hayden, Judd, Sanders and Remley.

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

Pledge of Allegiance

Proclamation and Community Acknowledgements

Mike Cassidy, Youth Coordinator introduce students form Paradise Honors to speak about activities at their school.

Be Kind Proclamation

Fire Chief Abbot and Julie Moore received the award from the American Heart Association.

Mayor read aloud the Be Kind Proclamation.

City Manager Report

Youth Students at the dais gave a brief report on school activities.

<u>**1. Paradise Honors Middle School and Youth Council member's will provide a report pertaining to current Youth Council events and projects.**</u>

2. Mission: Lifeline EMS award presentation

City Clerk Report

3. Update on upcoming 2020 Elections

Brief update on candidate packets for 2020 and the Presidential Preference Election in March 2020.

4. Consideration and action to remove Donald Jeffrey and approve the Mayor appointment of Chandler Brown as a citizen member of the City of Surprise local PSPRS Boards and direct City Clerk Aguilar to administer the Oath of Office - APPROVED

Vice Mayor Winters made the motion to approve the appointment of Chandler Brown. Council Member Remley seconded the motion. Seven yes votes, motion **carried.**

Regular City Council Meeting Agenda

Call To The Public

Edie Cook, Vice-Mayor Town of Gilbert spoke on Civility in the workplace. Attended a conference where this topic was discussed. Do you have a policy on civility? I did research and we did not have one about a year ago, but Council adopted one for our Town. My journey is to visit our 91 cities and towns sharing the resolution we adopted in Gilbert. I look forward to see you joining us in changing the culture.

CONSENT AGENDA:

Council Member Sanders made the motion to approve the consent agenda excluding item 16. Council Member Duffy seconded the motion. Seven yes votes, motion carried.

5. Consideration and action to enter into an intergovernmental agreement for mutual aid for solid waste collection and transportation services; Resolution # 2019-128 - APPROVED

6. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations of $400,000 from Rancho Gabriela Arsenic Treatment capital project dollars (P71230) to Water Asset Replacement capital (A71010) to re-sleeve Royal Ranch well; Resolution # 2019-129 - APPROVED

7. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations of $230,000 from the Digester Modification project (P71250) to TTHM Consent Order capital project (P71290) of $150,000 and $80,000 to advance the design of SPA2 influent line project (P71400); Resolution # 2019-130 - APPROVED

8. Consideration and action pertaining to approval of a sponsorship agreement with the Surprise Pops Band - APPROVED

9. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations in the amount of $5,000 within the Grants Fund and acceptance of an award from the AZ Department of Homeland Security (AZ DOHS) to support the purchase of equipment and training costs; Resolution # 2019-132 - APPROVED

10. Consideration and action pertaining to approval of a Master License Agreement for Verizon Wireless, under Case FS19-692 - APPROVED

11. Consideration and action pertaining to approval of the Final Plat entitled, Rancho Mercado Parcel A and dated August 27, 2019, a 39.198 acre property located in the Rancho Mercado PAD generally north of McMicken Way and east of 147th Avenue - APPROVED

12. Consideration and action pertaining to approval of the Final Plat entitled, NWC Cotton & Cactus and dated August 22, 2019, a 35.41 acre property generally located at the northwest corner of Cactus Road and Cotton Lane - APPROVED

13. Consideration and action pertaining to approval of the re-platted Final Plat entitled, Toll at Prasada, Phase 1 Unit A Lot 322â€ and dated September 5, 2019, a 0.28 acre property generally located west of Cotton Lane between Cactus Road and Peoria Avenue - APPROVED

14. Consideration and action pertaining to approval of the Final Plat entitled, "Rancho Mercado Parcel A and dated September 12, 2019,Â a 28.82 acre property generally located in the Rancho Mercado PAD at the southwest corner of Happy Valley Road and McMicken Way - APPROVED

15. Consideration and action pertaining to approval of the Final Plat entitled, Rancho Mercado Parcel A and dated September 12, 2019, a 41.78 acre property generally located in the Rancho Mercado PAD at the southeast corner of Happy Valley Road and McMicken Way - APPROVED

16. Consideration and action pertaining to accepting three Dedications of Public Rights-of-Way from the George J & Arlene G Kamarata Trust along Happy Valley and 147th avenue - APPROVED

Vice-Mayor Winters asked that the item be removed from Consent for questions.

Vice Mayor Winters questioned how much is left to complete the roadway in this area.

Vice Mayor Winters made the motion to approve accepting three Dedication of Public Right-of-Way. Council Member Sanders seconded the motion. Seven yes votes, motion carried.

17. Consideration and action pertaining to acceptance of a Quit Claim Deed from Ashor Shlimon for rights-of-way along Dale Lane near 175th avenue - APPROVED

18. Consideration and action pertaining to acceptance of a Dedication of Public Rights-of-Way from James D Smith and Susan E Smith, Trustees of the Smith Family Trust, for rights-of-way along Dale Lane near 159th avenue - APPROVED

19. Consideration and action pertaining to a Grant of an Utility Easement to APS at Gaines Park for ongoing activity associated with Heritage at Surprise - APPROVED

20. Consideration and action pertaining to conditional acceptance of certain streets and public utility improvements at Homestead at Marley Park Phase 4 & 5 Parcel 3, generally located at W. Waddell Road and N. 142nd Lane; Resolution # 2019-133 - APPROVED

21. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations in the amount of $15,000 within the Grants Fund for the acceptance of three awards from the Arizona Department of Homeland Security (AZ DOHS) to support the Surprise Fire-Medical Department CERT program, CBRNE program and conduct a Central Region deployment exercise; Resolution #2019-135 - APPROVED

Public Comments:

Merrill Edelstein spoke on this item. This is exciting that we are taking new steps to get this going.

22. Consideration and action to approve a request by Irudayaraj Vondoh, Agent for a Series 12 Restaurant liquor license for Haldi Indian Cuisine located at 13761 W. Bell Road, #B213, Surprise, AZ 85374 - APPROVED

23. Consideration and action on the Regular City Council Meeting minutes of October 15, 2019 - APPROVED

24. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2019 budget by reallocating appropriations from various funds required to close the Fiscal Year 2019 budget, inter-fund cash transfers and loans; Resolution # 2019-137 - APPROVED

REGULAR AGENDA ITEM - PUBLIC HEARING:

25. Consideration and action pertaining to approval of a re-zone of approximately 4.19 acres of real property, generally located at the northwest corner of Cactus Road and Cotton Lane, from Residential Ranch (RR) to Northwest Corner of Cactus Road and Cotton Lane Planned Unit Development (PUD) with the underlying land use of Regional Commercial (CR-PUD); Ordinance 2019-29 - APPROVED

City planner Hobart Wingard gave a brief presentation on this item.

Council Member Duffy made the motion to approve Ordinance 2019-29. Council Member Hayden seconded the motion. Seven yes votes, motion carried.

26. Presentation, discussion and public hearing pertaining to case FS19-445 Paradise Education Annexation, a proposed annexation of approximately 30.84 acres of property generally located east of 175th Avenue, one-quarter of a mile north of Cactus Road - NO ACTION

City planner, Hobart Wingard gave a brief powerpoint presentation.

27. Consideration and action pertaining to the Neighborhood Grant Program Awards for Fiscal Year 2020 as recommended by the Committee on Community Outreach, Partnerships and Grants - APPROVED

Jodi Tas gave a brief powerpoint presentation on this item.

Council Member Remley - We are not spending the $10,000.?

Ms. Tas - No they only approved 2 projects.

Council Member Sanders - I think this is a great program but I am hearing that residents are not aware of this. Can you please share the process?

Council Member Duffy - Is going to abstain from voting since he is a resident of Sarah Ann Ranch.

Council Member Judd made the motion to approve FY2020 Neighborhood Grant Program Awards. Council Member Hayden seconded the motion. Seven yes votes, motion carried.

REGULAR AGENDA ITEM - NON-PUBLIC HEARING:

28. Consideration and action to amend Surprise Municipal Code, Chapter 3, Article I, Section 3-15 a(2) pertaining to Categories of Employment and Article IV, Section 3-40 (d) pertaining to Corrective Action and Appeals; Ordinance # 2019-27 – APPROVED

HR Director, Lisa Angelini gave a brief powerpoint presentation on this item.

Council Member Sanders made the motion to approve Ordinance 2019-27. Vice Mayor Winters seconded the motion. Seven yes votes, motion carried.

29. Consideration and action pertaining to approval of an amendment to the Fiscal Year 2020 budget by reallocating appropriations of $3,206,800 from Transportation Fund Contingency, HURF Fund Contingency and Grants Fund Contingency to Waddell Road project P61440, Litchfield Road project P61450, replenish Traffic Signal project P61500 and establish two new capital projects: Waddell Median Modifications project P61550 and Kingswood Parke Street-lighting Upgrade project P61560; Resolution # 2019-134 - APPROVED

Michael Boule and Andrea Davis gave a powerpoint presentation on this item.

Council Member Judd - How much did you factor in for inflation while budgeting. Did we plan poorly or were we hit by the economy. If this gets approved tonight, can you give me the timeline for Dale's Feed Store entrance?

Mr. Boule - Should be 4 weeks, early December.

Council Member Judd - How quick can we light the neighborhood again.

Mr. Boule - Looking for early spring turn on.

Council Member Sanders - Are there other projects down the road that might be impacted by these costs? The Kingswood lighting project, it is really dark in this area, it's about the safety of our residents.

Council Member Remley - I'm wondering why that lighting in Kingswood Park wasn't in our budget this year? Didn't we know about this before this?

Mayor Hall - I think we didn't know about it until August or September.

Council Member Duffy - Light at Cactus and Sarival, I really appreciate this.

Ms. Davis - The greater economy could be causing inflation to rise.

Mayor Hall - Do we package bids for our projects?

Mr. Boule - We currently do not do this.

Council Member Sanders made the motion to approve Resolution 2019-134. Council Member Hayden seconded the motion. Seven yes votes, motion carried.

Other Business and Future Agenda Items

City Council Reports

Mayor and Council attended and/or reported on events.

Vice Mayor Winters made the motion to recess the Regular City Council Meeting and enter into executive session at 7:34 PM. Council Member Remley seconded the motion. Seven yes votes, motion carried.

Executive Session

30. Consideration and action to recess into executive session for discussion and consultation with the City's attorneys for legal advice pertaining to the City's current opioid litigation.

Adjournment

Vice Mayor Winters made the motion to adjourn the Regular City Council Meeting of November 5, 2019 at 8:08 PM. Council Member Remley seconded the motion. Seven yes votes, motion carried.

____
Skip Hall, Mayor

ATTEST:

____
Sherry Ann Aguilar, City Clerk, MMC

CERTIFICATION:

I, Sherry Ann Aguilar, City Clerk for the City of Surprise, Maricopa County, Arizona, do hereby verify that these are the true and correct minutes of the Regular City Council Meeting of **Tuesday, November 5, 2019.**

____
Sherry Ann Aguilar, City Clerk, MMC

CITY OF SURPRISE
Regular City Council Meeting

SURPRISE
ARIZONA

Council Meeting Date: November 19, 2019
Submitting Department: City Clerk
Staff Recommendations: None

Contact Person: Sherry Aguilar, City Clerk
District: District 2

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

Agenda Wording:

Consideration and action pertaining to an application by Jasinski Trading LLC (Mariusz Jasinksi - Agent/member) for a Series 004 Wholesaler Liquor License located at 20162 N. Windsong Drive, Surprise, AZ 85374.

Motion:

I move to recommend to the state liquor board that it the Series 004 Wholesaler liquor license for Jasinski Trading LLC located at 20162 N. Windsong Drive, Surprise, AZ. 85374.

Background:

On or about October 22, 2019, the City of Surprise received the application of Jasinski Trading LLC for a Series 004 Wholesaler liquor license. The requested license proposes a liquor wholesale operation conducted out of a private residence located at 20162 N. Windsor Drive, Surprise, Arizona.

Because reviewing city staff has raised concerns with a wholesale operation conducted from a private residence, which will presumably include commercial trucks delivering substantial quantities of liquor and storage of same in a residential neighborhood, this application has been agendized for a hearing pursuant to A.R.S 4-201(B).

At the hearing, City Council sits in a quasi-judicial capacity and must decide, based on the record presented, which will include all attachments, whether to recommend to the state liquor board whether it should grant or deny the proposed Series 004 wholesale liquor license. **Pursuant to A.R.S. 4-201(G), the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of the license. In determining whether public convenience requires and the best interest of the community will be substantially served, City Council, in accordance with Arizona Administrative Code R19-1-702 may consider the following:**

1. Written petitions or testimony of those who reside in or own property within one mile of the premises;
2. Number and type of licenses within one mile;
3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained;
4. Residential and commercial population of the community and likelihood of it

increasing/decreasing/remaining static;
5. Residential and commercial population density within one mile of the premises;
6. Evidence concerning the nature of the proposed business, its potential market, and likely customers;
7. Effect on vehicular traffic within one mile of the premises;
8. Compatibility of the proposed business with other activities within one mile of the premises;
9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting the license;
10. History for the past five years of liquor violations or reported criminal activity at the premises;
11. Comparison of business hours for the premises and other businesses within one mile;
12. Proximity of premises to licensed childcare facilities.

Again, it is the applicant's burden to show that these criteria favor the granting of the license. If the applicant meets this burden, then City Council should recommend approval of the license to the state liquor board. If the applicant does not meet this burden, then City Council should recommend that the state liquor board deny the application.The City Clerk's Office notified the applicant of the scheduled hearing and also posted the appropriate statutory notice on the residence per state law.

Objective Analysis:

Council will need to make a determination as to whether the applicant has met their burden of proving that **public convenience requires and the best interest of the community will be substantially served** by issuing of the proposed Series 044 wholesale license.

As with all liquor license applications, city staff have submitted summary comments on this application. They are attached and will be entered into the record at this hearing.

If after consideration of testimony and all reports or documents made part of the record at the hearing City Council determines that the applicant has met their burden, then City Council should recommend that the state liquor board approve the application.

If after consideration of testimony and all reports or documents made part of the record at the hearing City Council determines that the applicant has **not** met their burden, then City Council should recommend that the state liquor board deny the application.

Policy Compliant:

A hearing on this matter is consistent with A.R.S. 4-201(B). All legal notices and procedures have been posted and are in compliance with A.R.S. 4-201 and A.R.S. 38-431 et seq. Per state law, City Council is required to make a recommendation to the Arizona State Liquor Board on all liquor license applications submitted within the jurisdiction of the City of Surprise.

Financial Impact:

N/A.

Budget Impact:

N/A.

FTE Impact:

N/A.

ATTACHMENTS:

1. Jasinski Trading LLC REPORT 1
2. Jasinski Trading LLC_Memo to Clerk_20191106
3. 20162 N Windsong Dr Jasinski Trading Liquor License Application
4. Jasinski Trading LLC - Wholesale License
5. 20162 N Windsong Dr
6. jasinski trading LLC

COMMUNITY DEVELOPMENT DEPARTMENT

Date: November 1, 2019

To: Sherry Aguilar, City Clerk

From: Chris Boyd, Acting Community Development Director
James Stewart, Zoning Specialist

Re: Liquor License Application for:

Mariusz Jasinski, Agent/Owner
Jasinski Trading, LLC.
Series 004 – Wholesaler
20162 N. Windsong Drive
Surprise, Arizona 85374

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

1. Sun City Grand Community Association (Series 6) – 19726 N. Remington Dr.
2. Angela's Kitchen (Series 12) – 19900B N. Remington Dr.
3. Bert's Bistro - SCG (Series 12) – 19781 N. Remington Dr. (Expired)
4. 4 Sons Food Store (Series 10) – 15059 W.RH Johnson Blvd.(Maricopa County)

The subject property is zoned PAD (Sun City Grand). The proposed use involves wholesale distribution, which is not a permitted use in this zoning district. This type of use would require Industrial Performance (IP) or Industrial General (IG) zoning; however, a change of zoning to accommodate this use would be inconsistent with the Surprise General Plan and would not be supported. The use also does not qualify as a Home Occupation. Since the zoning of the property does not support the proposed use, and it is unlikely that a change of zoning to support the proposed use would occur, staff would be unable to issue a Business License at this location for this use. The immediate area is comprised of single-family houses and residential growth is expected to remain static in the immediate area.

Staff believes that granting this liquor license will negatively impact the surrounding residential area and recommends the Liquor License be denied.

SURPRISE
ARIZONA

MEMO

Date: 11/06/2019

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

RE: Liquor License Application – Jasinski Trading LLC – 20162 N Windsong Dr

Business License Status:

No existing business license in the City of Surprise.

Surprise Fire-Medical Department
14250 W. Statler Plaza Ste. 101
Surprise, AZ 85374-7479
Phone: 623-222-5000
Fax: 623-222-5001

October 31, 2019

To: Sherry Ann Aguilar, City Clerk

From: Keith Tanner, Fire Marshal

Subject: Liquor License Application

Applicant: Jasinski Trading, LLC
20162 N Windsong Dr,
Surprise, AZ 85374

The Surprise Fire-Medical Department recently received notification of a Liquor License Application for the above referenced structure. Upon reviewing the address, it was found that this address is for a single family residence and beyond the scope of normal inspections as we do not inspect single family residences.

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

SURPRISE POLICE DEPARTMENT
LIQUOR LICENSE APPLICATION REVIEW

REFERENCE: November 6, 2019

Series 004 - Wholesaler
New License

APPLICANT:

Mariusz Jasinski, Agent/Owner
Jasinski Trading, LLC
20162 N. Windsong Drive, Surprise, AZ. 85374
Surprise, Arizona 85374

FINDINGS:

1) **Evidence concerning the nature of the proposed business, its potential market and its likely customers.**
Mr. Mariusz Jasinski of Jasinski Trading, LLC wants to operate a wholesale distribution out of a residence in the Sun City Grand community of Surprise. There would be no visits by the general public for consumption. The only customers would be large trucks coming in and out of the residence, in order to load and unload liquor product and various times of the day.

2) **Effect of vehicular traffic in close proximity.**
Mr. Jasinski's residence is on the southeast corner of Queen Hollow Drive and Windsong Drive in Sun City Grand. Mr. Jasinski did not know the size or type of vehicles that would be delivering the liquor to his residence. There is ingress/egress into the community from the north off of Mountain View Blvd.

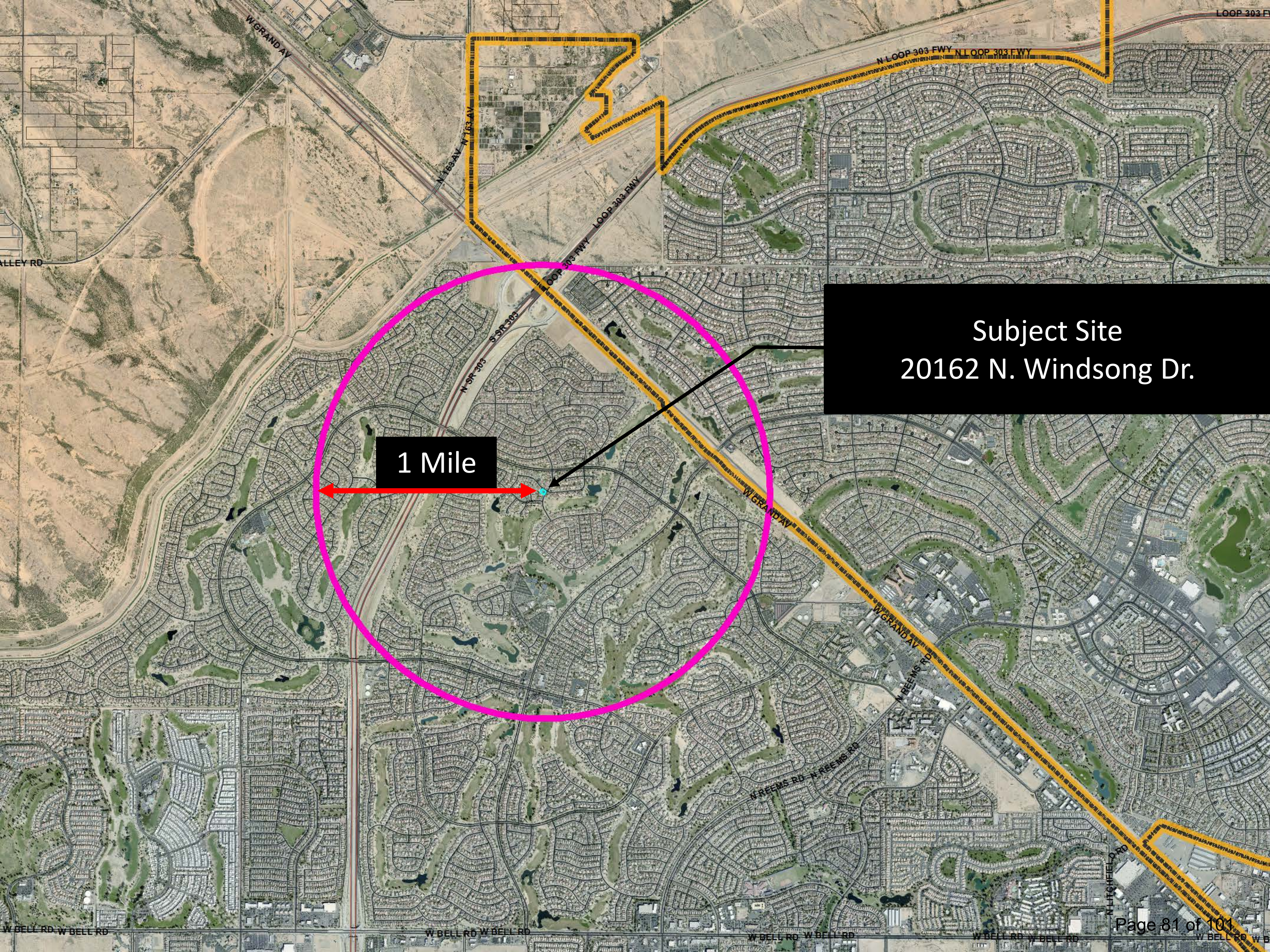
3) **The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report of such activity at lest 20 days before the hearing.**
There is no history of any liquor violations at this location in the last five years. There have only been two calls for service in the last five years, but non-criminal related.

4) **Comparison of hours of operation of the proposed premises to the existing businesses in close proximity.**
I spoke with Mr. Jasinski who said he would only have vehicles dropping off product to his house during normal business hours, which he clarified should be between 8 AM and 5 PM. He said he was also going to be receiving approximately one pallet of liquor from Poland, approximately once a month, or once every two months. He plans on storing the liquor in half of his residential garage. He then plans to transport the liquor personally to local bars and restaurants in the valley, while maintaining his real estate career.

5) **Appropriateness of series license requested.**
I will defer to the City of Surprise whether this type of license is valid in a residential neighborhood. I did have a few concerns after speaking to Mr. Jasinski, which were; he didn't know the size of vehicles that would be delivering the liquor to him in his residential

neighborhood; his application map shows the garage where he would store the liquor was over 24,000 square feet on a house that is just under 2,000 square feet; and on his questionnaire, he lists his business name as MJE Trading LLC, to which he claims somebody must have made a mistake. (Note: There is no record of MJE Trading with the Arizona Corporation Committee.) Additionally, Mr. Jasinski told me he does not anticipate being at the local hearing for this license, due to having to be with his wife, who is out of the country for unrelated reasons. He said he plans on having another unnamed person speak for him in his place.

Submitted by Officer C. E. Tovar #2059


Subject Site
20162 N. Windsong Dr.
1 Mile
N LOOP 303 FWY
LOOP 303 FWY
W GRAND AV
N SR 303
S SR 303
N 163 AV
N REEMS RD
W BELL RD
N LITCHFIELD RD

State of Arizona
Department of Liquor Licenses and Control

Created 10/22/2019 @ 09:39:32 AM

Local Governing Body Report

LICENSE

Number:
Type: 004 WHOLESALER
Name: JASINSKI TRADING LLC
State: Pending
Issue Date:
Expiration Date:
Original Issue Date:
Location: 20162 N WINDSONG DRIVE
SURPRISE , AZ 85374
USA
Mailing Address: 20162 N WINDSONG DRIVE
SURPRISE , AZ 85374
USA
Phone: (973)583-4884
Alt. Phone:
Email: MMJASINSKI@GMAIL.COM

AGENT

Name: MARIUSZ JASINSKI
Gender: Male
Correspondence Address: 20162 N WINDSONG DRIVE
SURPRISE , AZ 85374
USA
Phone: (973)583-4884
Alt. Phone:
Email: MMJASINSKI@GMAIL.COM

OWNER

Name: JASINSKI TRADING LLC
Contact Name: MARIUSZ JASINSKI
Type: LIMITED LIABILITY COMPANY
AZ CC File Number: 1995441
State of Incorporation: AZ
Incorporation Date: 06/25/2019
Correspondence Address: 20162 N WINDSONG DRIVE
SURPRISE , AZ 85374
USA
Phone: (973)583-4884
Alt. Phone:
Email: MMJASINSKI@GMAIL.COM

Officers / Stockholders

Name: Title: % Interest:

MARIUSZ JASINSKI	MEMBER	50.00
JOLANTA JASINSKA	MEMBER	50.00

JASINSKI TRADING LLC - MEMBER

Name:	MARIUSZ JASINSKI
Gender:	Male
Correspondence Address:	20162 N WINDSONG DRIVE SURPRISE , AZ 85374 USA
Phone:	(973)583-4884
Alt. Phone:	
Email:	MMJASINSKI@GMAIL.COM

JASINSKI TRADING LLC - MEMBER

Name:	JOLANTA JASINSKA
Gender:	Female
Correspondence Address:	20162 N WINDSONG DRIVE SURPRISE , AZ 85374 USA
Phone:	(201)888-1029
Alt. Phone:	
Email:	

APPLICATION INFORMATION

Application Number: 80602
Application Type: New Application
Created Date: 10/22/2019

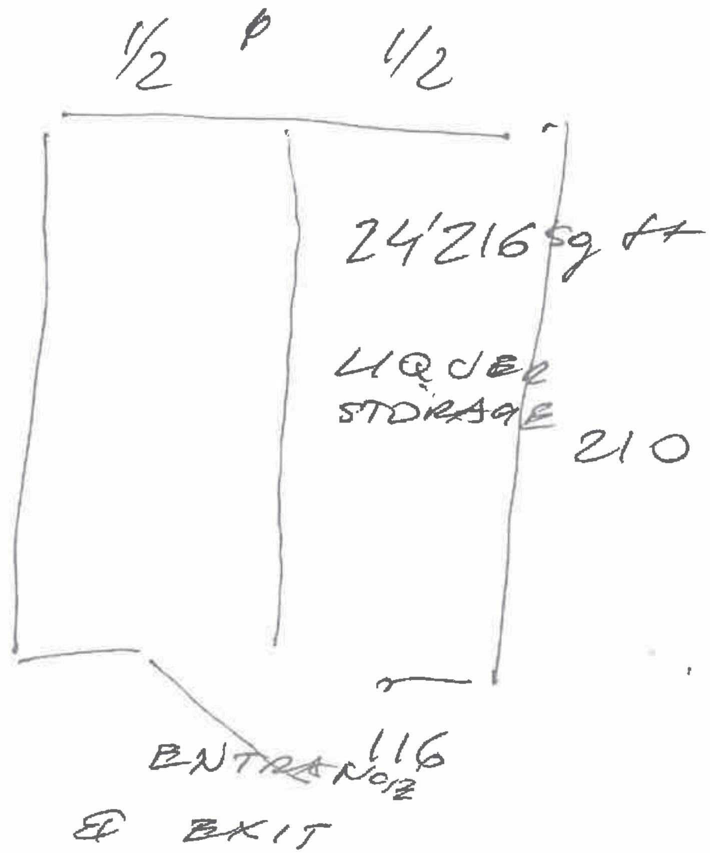
QUESTIONS & ANSWERS

004 Wholesaler

1) If you intend to operate the business while your application is pending you will need an interim permit pursuant to A.R.S.§4-203.01. Would you like to apply for an Interim Permit?
If yes, after completing this application, please go back to your Licensing screen, under New License Application choose "Interim Permit" from the drop-down window.
No
2) Have you submitted a questionnaire? Each person listed must submit a questionnaire and mail in a fingerprint card along with a $22. processing fee per card.
Yes
3) Are you a tenant? (A person who holds the lease of a property; a lessee)
No
4) Is there a penalty if lease is not fulfilled?
No
5) Are you a sub-tenant? (A person who holds a lease which was given to another person (tenant) for all or part of a property)
No
6) Are you the owner?
Yes
7) Are you a purchaser?
No
8) Are you a management company?
No
9) Is the Business located within the incorporated limits of the city or town of which it is located?
Yes
10) What is the total money borrowed for the business not including the lease?
Please list lenders/people owed money for the business.
NONE
11) Have you provided a diagram of your premises?
Yes
12) Is there a drive through window on the premises?
No
13) If there is a patio please indicate contiguous or non-contiguous within 30 feet.
NONE
14) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?
No

20162 N. WINDSONG DR
SURPRISE AZ 85374

'19 OCT 22



20162 N. WINDSONG DR SURPRISE AZ 85374

'19 OCT 22 ...

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE

A.R.S.§4-202, 4-210

Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks. 804 800

ATTENTION APPLICANT: This is a legally binding document. Please type or print in **black ink**. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A $22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL $13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: 801602

1. **Check the Appropriate Box** →

☐ Controlling Person ☐ Agent ☐ Premises Manager (complete all questions except #12)

2. Name: ______ (Last) ______ (First) ______ (Middle) Birth Date: ___/___/___ (NOT a public record)

3. Social Security #: ______ Driver License#: ______ State: ______

4. Place of birth: ______ (City) ______ (State) ______ (COUNTRY (not county)) Height: ______ Weight: ______ Eyes: ______ Hair: ______

5. Name of current/most recent spouse: ______ (Last) ______ (First) ______ (Middle) Birth Date: ___/___/___ (NOT a public record)

6. Are you a bona fide resident of Arizona? ☐ Yes ☐ No If yes, what is your date of residency: ______

7. Daytime telephone number: 9735834889 E-mail address: mmjasinski@gmail.com

8. Business Name: JASINSKI TRADING LLC Business Phone: 973/583/4889

9. Business Location Address: ______ (Street (do not use PO Box)) ______ (City) ______ (State) ______ (County) ______ (Zip)

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
	CURRENT		

(ATTACH ADDITIONAL SHEET IF NECESSARY)

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE

A.R.S.§4-202, 4-210

Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks.

ATTENTION APPLICANT: This is a legally binding document. Please type or print in **black ink**. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A $22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL $13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: ____________

1. **Check the Appropriate Box** →

☒ **Controlling Person** ☒ **Agent** ☐ **Premises Manager** (complete all questions except #12)

2. Name: JASINSKI (Last) MARIUSZ (First) ____ (Middle) Birth Date: [redacted]

3. Social Security #: [redacted] Driver License#: [redacted] State: AZ

4. Place of birth: WARSZAWA (City) ____ (State) Poland (COUNTRY (not county)) Height: 5'3" Weight: 180 Eyes: BRO Hair: GRY

5. Name of current/most recent spouse: JASINSKA (Last) JOLANTA (First) ____ (Middle) Birth Date: [redacted] (Not a public record)

6. Are you a bona fide resident of Arizona? ☒Yes ☐No If yes, what is your date of residency: July 2018

7. Daytime telephone number: (973)583-4884 E-mail address: ____________

8. Business Name: MJE Trading LLC Business Phone: ___/___/___

9. Business Location Address: 20162 N Windsong Dr. (Street (do not use PO Box)) Surprise (City) AZ (State) Maricopa (County) 85374 (Zip)

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
7/2013	CURRENT	MLO	American Mortgage
			154 S. Livingston Ave # 102
			Livingston, NJ 07039

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
08/2015	CURRENT	20162 N Windsong Dr. Surprise AZ 85374
12/2012	06/2015	100 Rock Rd #101 Hawthorn N.J. 0706

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises? If you answered YES, then answer **#13 below. If NO, skip to #14.** ☒Yes ☐No

13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐Yes ☒No

14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐Yes ☒No

15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) *A.R.S.§4-202,4-210* ☐Yes ☒No

16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐Yes ☒No

17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? *A.R.S.§4-202(D)* ☐Yes ☒No

18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? *A.R.S.§4-202(D)* ☐Yes ☒No

If you answered "YES" to any Question 14 through 18 YOU MUST attach a signed statement. Give complete details including dates, agencies involved and dispositions.
CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) Mariusz Jasinski hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature: ____________ State of AZ County of Maricopa

The foregoing instrument was acknowledged before me this 15th Day of April, 2019
Day Month Year

My Commission Expires on: 11/18/2019
Date

MARICOPA COUNTY, ARIZONA COM. EXP 11-18-2019

____
Signature of Notary

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: Mariusz Jasinski SIGNATURE: ____________

1/11/2018

Individuals requiring ADA accommodations please call (602)542-2999

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019

Contact Person: Andrea Davis, DIRECTOR - FINANCE

Submitting Department: Finance

District: Internal

Staff Recommendations: None

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

Agenda Wording:
Presentation and discussion pertaining to the FY2019 Financial Status Report through June 2019.

Motion:
Discussion only, there is no action.

Background:
This update will review the financial activity through the month of June 2019.

Objective Analysis:
The comparison of the actual financial activity to the plan laid out in the budget helps the city to determine the current financial position. This will allow for better short and long term financial planning as the current fiscal year is underway and the planning for the next budget begins.

Policy Compliant:
This item is compliant with City and Council Policy.

Financial Impact:
The attached presentation provides an update of the year to date revenue and expenditures for the General Fund (including Sports and Tourism Fund as they were budgeted together in FY2019).

Budget Impact:
This item does not amend the current fiscal year budget .There will be discussion of the city's financial performance to-date.

FTE Impact:
This item does not change the full=time equivalent position count.

ATTACHMENTS:
1. 20191105 FY2019 Financial Status Update 11.5

SURPRISE
ARIZONA

FY2019 Year End Financial Status Update

City Council Meeting

November 5, 2019

Sources Category Examples

Local Sales Tax: Tax on Retail, Restaurants, Construction

Intergovernmental: State-shared sales tax, income tax, vehicle license

Charges for Services: Fees for programs and services (permits, youth soccer)

Primary Property Tax: Tax levied on property for operations

Franchise Fees: Fees related to sales from franchised utility companies within the city (APS, Cox, Southwest Gas, EPCOR)

Transfers In: Indirect cost assessments

FY2019 General Fund Sources

Category	FY19 Budget Thru June	FY19 Actual Thru June*	Amount Variance	Percent Variance
Local Sales Tax	$46.6	$48.3	$1.7	3.6%
Intergovernmental	36.3	36.0	(0.3)	(0.8%)
Charges for Services/Other	12.2	19.7	7.5	61.5%
Primary Property Tax	7.9	7.9	0.0	0.0%
Franchise Fees	5.3	5.7	0.4	7.5%
Transfers In	6.7	6.7	0.0	0.0%
Total	$115.0	$124.3	$9.3	8.1%

Amounts in millions

*Unaudited

Uses Category Examples

Personnel: Wages, taxes, benefits, retirement

Supplies: Equipment, fuel, operational supplies

Services: Insurance claims, utilities, landscaping, advertising, postage

Capital: One-time purchases under $100K

Transfers Out: Funding to Capital and Asset Replacement

FY2019 General Fund Uses

Category	FY19 Budget Thru June	FY19 Actual Thru June*	Amount Variance	Percent Variance
Personnel	$ 78.9	$ 76.7	($ 2.2)	(2.8%)
Supplies	4.6	4.3	(0.3)	(6.5%)
Services	26.7	24.4	(2.3)	(8.6%)
Capital	0.2	0.1	(0.1)	(50.0%)
Contingency	1.4	0.0	(1.4)	(100.0%)
Transfers Out	2.1	2.1	0.0	0.0%
Total	$ 113.9	$ 107.5	($ 6.4)	(5.6%)
One-Time Capital	18.5	18.5	0.0	0.0%
	$132.4	126.0	($ 6.4)	(4.8%)

Amounts in millions

*Unaudited

SURPRISE
ARIZONA

QUESTIONS OR COMMENTS?

Thank You

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019
Contact Person: Lloyd Abrams
Submitting Department: Community Development
District: Citywide
Staff Recommendations: None

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

Agenda Wording:
Presentation and discussion regarding development roadway.

Motion:
Presentation and discussion pertaining to roadway improvements associated with developments.

Background:
Community Development will give a update on the roadway projects associate with developments within the City.

Objective Analysis:

Policy Compliant:

Financial Impact:

Budget Impact:

FTE Impact:

ATTACHMENTS:

CITY OF SURPRISE
Regular City Council Meeting

Council Meeting Date: November 19, 2019

Submitting Department: Finance

Staff Recommendations: None

Contact Person: Andrea Davis, DIRECTOR - FINANCE

District: Internal

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 2020 budget by reallocating appropriations of $300,000 within the Water Operations Fund to support increased demand for meter installations and an amendment of the Fiscal Year 2020 Capital and Operating list of items over $50,000; Resolution # 2019-140.

Motion:

I move to approve Resolution # 2019-140.

Background:

Annually, the Finance Department in collaboration with Community Development and Water Resource Management Departments project new home and commercial growth in our Surprise water service area based on permits in process and planned future development. These projections are then used as the basis for budgeting the purchase of new water meters.

At the time the FY2020 budget was prepared, it was estimated that 530 new residential meters and 70 commercial and hydrant (construction) meters would be required to support the growth in the City of Surprise water service area. As of the first 120 days of FY2020, the City has already installed 500 residential meters due to new home constructions. At this pace, budgeted funds will be depleted by December 2019. The $300,000 increase to this budgeted line item is required to account for the under-estimated growth.

Objective Analysis:

This action will assure that sufficient resources are available to support the increased demand for water service. No negative impacts are anticipated.

Policy Compliant:

This action is consistent with City and Council policy.

Financial Impact:

This action will allow for an increase of $300,000 in expenditures for water meters, hydrant meters, and related supplies.

Budget Impact:

Th is action will reallocate appropriations within the Water Operations Fund in the amount of $300,000 from unforeseen expenditures in the Water Resource Management Department to supplies in the Finance Department to increase the budget for water meters. These allocations do not represent an actual transfer of funds, but only a transfer of spending authority. Additionally, these allocations do not increase or decrease the total budget.

FTE Impact:

This item does not impact the overall full-time equivalent count.

ATTACHMENTS:

1. 132162489910315654Resolution 2019-140 Water Meters 101519

RESOLUTION # 2019-140

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SURPRISE, ARIZONA, AMENDING THE FISCAL YEAR 2020 BUDGET BY REALLOCATING APPROPRIATIONS OF $300,000 WITHIN THE WATER OPERATIONS FUND TO SUPPORT CUSTOMER GROWTH AND AMENDING THE FY2020 CAPITAL AND OPERATING LIST OF ITEMS OVER $50,000.

WHEREAS, the FY2020 budget was adopted including funding for water meter installations to accommodate forecasted growth of single family residences;

WHEREAS, year-to-date demand for new water meter installations due to higher growth of single family homes has exceeded initial assumptions and it is necessary to reallocate $300,000 within the Water Operations Fund for the purchase of water meters and hydrant meters to support revised growth projections;

WHEREAS, the FY2020 budget was adopted by Council Resolution #2019-75 on June 4, 2019;

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, 2019 through June 30, 2020.

APPROVED AND ADOPTED this _____day of ___________, 2019.

____
Skip Hall, Mayor

Attest:

____
Sherry Aguilar, City Clerk

Approved as to form:

____
Robert Wingo, City Attorney

RESOLUTION # 2019-140
Exhibit A

1. Appropriation - The allocations below represent a reallocation of appropriations within the Water Operations Fund in the amount of $300,000 from unforeseen expenditures in the Water Resource Management Department to supplies in the Finance Department to increase the budget for water meters. These allocations do not represent an actual transfer of funds, but only a transfer of spending authority. Additionally, these allocations do not increase or decrease the total budget.

Fund	Department	Project/ Category	Rev/ Exp	Current Budget	Increase/ (Decrease)	Amended Budget
Water Operations	Finance	Supplies	E	218,700	300,000	518,700
Water Operations	Water Resource Management	Services	E	976,200	(300,000)	676,200
			Expense Total	**1,194,900**	**-**	**1,194,900**
			Revenue Total	**-**	**-**	**-**

2. List of Operating Items Over $50,000 – This Resolution provides authorization to make the below changes on the current FY2020 Operating List of Items Over $50,000

Reference #	Description	Current Amount	Increase/ (Decrease)	Amended Amount
20401	Water Meter Replacement/Parts	$400,000	$300,000	$700,000

Resolution #2019-140
RFLS #7047
Rev 10/19