

Mayor
Cathy Carlat

Mesquite
District
Bridget Binsbacher,
Vice Mayor

Acacia
District
Vicki Hunt

Ironwood
District
Bill Patena

Palo Verde
District
Michael Finn

Pine
District
Carlo Leone

Willow
District
Jon Edwards

City Council Meeting Notice & Agenda

Tuesday, October 4, 2016
City Council Chamber
8401 West Monroe Street
Peoria, AZ 85345



A reception for Peoria Youth Artists will be held beginning at 6:00 P.M. in the lobby of City Hall. The Peoria City Council will be in attendance at the reception; no City business will be conducted.

Regular Meeting

7:00 P.M. Convene

Pledge of Allegiance

Roll Call

Final Call to Submit Speaker Request Forms

Presentation

1. **Mayor and Council's Young Artists Program**

Consent Agenda

CONSENT AGENDA: All items listed on the Consent Agenda are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Consent

- 2 C. **Disposition of Absence**

Discussion and possible action to approve the absence of Council Youth Liaison Sam Owen from the Regular City Council Meeting held on September 20, 2016.

3 C. **Minutes**

Discussion and possible action to approve the following minutes:

- September 6, 2016 Regular Meeting Minutes
- September 13, 2016 Special Meeting Minutes

4 C. **Board and Commission Appointment**

Discussion and possible action to approve the recommendation from the Council Boards and Commissions Subcommittee pertaining to the following appointment and adopt **RES. 2016-108** appointing Will Briggs as regular member to the Employee Benefits Trust Board with a partial term to expire December 2018.

5 C. **Grant, Arizona Department of Homeland Security**

Discussion and possible action to: (a) authorize the Peoria Police Department to accept two grants from the Arizona Department of Homeland Security to provide training to chemical, biological, radiological, nuclear or explosive (CBRNE) operators and to support Terrorism Liaison Officer operations; and (b) approve a budget adjustment in the amount of \$62,075 from the Proposed Grants Contingency account to various Homeland Security Grant Fund accounts thus providing expenditure authority.

6 C. **Intergovernmental Agreement, City of Glendale, Detention and Weekend Court Services**

Discussion and possible action to approve an Intergovernmental Agreement with the City of Glendale for detention and weekend court services and authorize the City Manager to execute the necessary documents.

7 C. **Intergovernmental Agreement Amendment, Maricopa County Sheriff's Office, AZLink Program, Intelligence Data Sharing**

Discussion and possible action to approve an Intergovernmental Agreement amendment with the Maricopa County Sheriff's Office to share intelligence data through the AZLink program.

8 C. **Contract, Combs Construction Company, Inc., Pinnacle Peak Road from 99th Avenue to 102nd Avenue Improvements**

Discussion and possible action to approve the contract in the amount of \$1,207,181 to Combs Construction Company, Inc. for roadway, waterline, and signal improvements on Pinnacle Peak Road from 99th Avenue to 102nd Avenue, and a 10% contingency in the amount of \$120,718.

9 C. **Cable Television License Agreement, Use of City Right-of-Way, Qwest Broadband Services, Inc. dba CenturyLink**

Discussion and possible action to approve the Cable Television License Agreement with Qwest Broadband Services, Inc. dba CenturyLink for use of City Right-of-Way and authorize the Mayor or City Manager to execute the necessary documents.

- 10 C. **Telecommunication Service License Agreement, Accipiter Communications, Inc. d/b/a Zona Communications, a Nevada Corporation**
Discussion and possible action to approve the License Agreement for equipment within the right-of-way with Accipiter Communications, Inc. d/b/a Zona Communications and authorize the City Manager execute the necessary documents.
- 11 C. **Maintenance Improvement District No. 1195, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard**
Discussion and possible action to approve the Petition for Formation and adopt **RES. 2016-100** intention and ordering the formation of proposed Maintenance Improvement District No. 1195, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard; and adopt **RES. 2016-101** ordering the improvements within the proposed Maintenance Improvement District and declaring an emergency.
- 12 C. **Street Light Improvement District No. 1117, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard**
Discussion and possible action to approve the Petition for Formation and adopt **RES. 2016-102** intention and ordering the formation of proposed Street Light Improvement District No. 1117, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard; and adopt **RES. 2016-103** ordering the improvements within the proposed Street Light Improvement District and declaring an emergency.
- 13 C. **Deeds and Easements, Various Locations**
Discussion and possible action to adopt **RES. 2016-109** accepting Deeds and Easements for various Real Property interests acquired by the City.
- 14 C. **Final Plat, CST - Peoria, Vistancia Boulevard and El Mirage Road**
Discussion and possible action to approve the Final Plat of CST - Peoria, located at Vistancia Boulevard and El Mirage Road, subject to stipulations.
- 15 C. **Final Plat, Westwing Mountain – Parcel 24 - Escena, Lake Pleasant Parkway and Westwing Parkway**
Discussion and possible action to approve the Final Plat of Westwing Mountain – Parcel 24 - Escena, located at Lake Pleasant Parkway and Westwing Parkway, subject to stipulations.
- 16 C. **Final Plat, Westwing Mountain – Parcel 27 - Pradera, Lake Pleasant Parkway and Westwing Parkway**
Discussion and possible action to approve the Final Plat of Westwing Mountain – Parcel 27 - Pradera, located at Lake Pleasant Parkway and Westwing Parkway, subject to stipulations.
- 17 C. **Replat, Lot 2 of 83rd and Olive Promenade, 83rd Avenue and Olive Avenue**
Discussion and possible action to approve the Replat of Lot 2 of 83rd and Olive Promenade, located at 83rd Avenue and Olive Avenue, subject to stipulations.

18 C. **Replat, Lot 2505 & 2506 of Trilogy West Phase 1 – Parcel C41, Vistancia Boulevard and Lone Mountain Road**

Discussion and possible action to approve the Replat of Lot 2505 & 2506 of Trilogy West Phase 1 – Parcel C41, located at Vistancia Boulevard South of Lone Mountain Road, subject to stipulations.

19 C. **Replat of Lot 2 of a Replat of Vistancia Marketplace II - Parcel A-24, Vistancia Boulevard and El Mirage Road**

Discussion and possible action to approve the Replat of Lot 2 of a Replat of Vistancia Marketplace II - Parcel A-24, located at Vistancia Boulevard and El Mirage Road, subject to stipulations.

20 C. **Condominium Replat, The Northwest Portion of Building E of Union Hills Office Park, Union Hills Drive and 91st Avenue**

Discussion and possible action to approve the Condominium Replat of the Northwest Portion of Building E of Union Hills Office Park, located at Union Hills Drive and West of 91st Avenue, subject to stipulations.

21 C. **PUBLIC HEARING - Liquor License, Fry's Fuel Center #657, 25371 North Lake Pleasant Parkway**

Discussion and possible action to recommend approval to the State Liquor Board for a New Wine and Beer (Series 10) Liquor License for Fry's Fuel Center #657, located at 25371 North Lake Pleasant Parkway, Lauren K. Merrett, Applicant, LL#20015882.

Regular Agenda

New Business

22 R. **Code Amendment, Chapter 13, Section 13-107, Home Detention Alternative Program**

Discussion and possible action to adopt **ORD. 2016-30**, amending Chapter 13 of the Peoria City Code (1992 Edition), by amending Section 13-107 pertaining to the Home Detention Alternative Program, clarifying how jail time should be imposed and served, and by requiring at least the statutory minimum number of home detention days be imposed while allowing discretionary increases by the prosecutors or judges.

Call To The Public (Non-Agenda Items)

If you wish to address the City Council, please complete a Speaker Request Form and return it to the clerk before the call to order for this meeting. The City Council is not authorized by state law to discuss or take action on any issue raised by public comment until a later meeting.

Reports from City Manager

23. **Council Calendar**

24. Reports

- A. Employee Awards from the Arizona Chapter of Association of Public-Safety Communications Officials and National Emergency Number Association
- B. Upcoming City Events Video
- C. Fire Prevention Week

Reports from City Council

Reports from the Mayor

Adjournment

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 8401 W. Monroe Street, Room 150, Peoria, AZ 85345.

Accommodations for Individuals with Disabilities. Alternative format materials, sign language interpretation and assistive listening devices are available upon 72 hours advance notice through the Office of the City Clerk, 8401 West Monroe Street, Peoria, Arizona 85345 - Phone: (623) 773-7340 or FAX (623) 773-7304. To the extent possible, additional reasonable accommodations will be made available within the time constraints of the request. The City has a TDD line where accommodations may be requested at: (623) 773-7221.

Public Notice

In addition to the City Council members noted above, one or more members of the City of Peoria Boards and Commissions may be present to observe the City Council meeting as noticed on this agenda.

City Council Meetings can be viewed live on Channel 11 (Cox Cable) and are available for viewing on demand at <http://www.peoriaaz.gov/content2.aspx?id=2151>.

City Manager

Carl Swenson

City Clerk

Rhonda Geriminsky

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 1.

Date Prepared: 9/27/2016

Council Meeting Date: 10/4/2016

TO: Council Members
FROM: Mayor Cathy Carlat
SUBJECT: Mayor and Council's Young Artists Program

Purpose:

To recognize and acknowledge the students whose artwork was selected for the Mayor and Council's Young Artists Program and on display in Peoria City Hall from June – December 2016.

Background/Summary:

I strongly believe that a city is not complete without a strong sense of the arts. Public art displays, performances, and our access to them is one of the many attributes that gives us our outstanding quality of life in Peoria and draws people to our great city. In addition, it's a characteristic that we are able to boast to business leaders who are looking for a new community to open or expand their company. The purpose of this program is to engage Peoria students interested in the arts and incorporate this art into Peoria City Hall. The entries were collected by Peoria Unified School District teachers, who then elected their top entries for submittal to the City of Peoria. We will be recognizing these students tonight for their outstanding submissions. The commissioned art pieces will be on display in the City Hall lobby until October 21st and then will be moved back to the hallways of the Mayor and Council offices through December.

This is an ongoing program and we are currently commissioning the next set of artwork by students.

Contact Name and Number:

Cathy Carlat, (623) 773-7306

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 3R.

Date Prepared: 9/14/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Rhonda Geriminsky, City Clerk
SUBJECT: Minutes

Staff Recommendation:

Discussion and possible action to approve the following minutes:

- September 6, 2016 Regular Meeting Minutes
- September 13, 2016 Special Meeting Minutes

ATTACHMENTS:

September 6, 2016 Minutes
September 13, 2016 Minutes

Contact Name and Number:

Rhonda Geriminsky, (623) 773-7340

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
CITY COUNCIL CHAMBER
September 6, 2016

A **Special Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 5:00 p.m.

Members Present: Mayor Cathy Carlat; Vice Mayor Bridget Binsbacher; Councilmembers Jon Edwards, Michael Finn, Vicki Hunt, Carlo Leone and Bill Patena.

Members Absent: None.

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Jeff Tyne, Deputy City Manager; Steve Burg, Acting City Attorney; Rhonda Geriminsky, City Clerk; Katie Gregory, Management and Budget Director; Roy Minter, Police Chief; and Bobby Ruiz, Fire Chief;

Audience: Approximately one member of the public was present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

CONSENT AGENDA

CONSENT AGENDA: All items listed with a “C” are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Motion was made by Councilmember Edwards, seconded by Councilmember Finn, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

1 C. Authorization to Hold an Executive Session

Authorized the holding of an Executive Session for the purpose of discussions or consultations with designated representatives of the public body and/or legal counsel in order to consider its position and instruct its representatives regarding:

- (a) Labor negotiations with the United Phoenix Fire Fighters Association Local 493 regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body pursuant to A.R.S. § 38-431.03.A.5.
- (b) Labor negotiations with the City of Peoria Police Supervisors Association regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body pursuant to A.R.S. § 38-431.03.A.5.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 5:01 p.m.

EXECUTIVE SESSION AGENDA

2. An Executive Session was convened immediately following the 5:00 p.m. Special Meeting for the purpose of discussions and consultations with designated representatives of the public body and/or legal counsel in order to consider its position and instruct its representatives regarding:
 - (a) Labor negotiations with the United Phoenix Fire Fighters Association Local 493 regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body pursuant to A.R.S. § 38-431.03.A.5.
 - (b) Labor negotiations with the City of Peoria Police Supervisors Association regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body pursuant to A.R.S. § 38-431.03.A.5.

Clerk's Note: In accordance with A.R.S. § 38-431.03(B), minutes of executive sessions must be kept confidential except as outlined in statute.

A **Regular Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 7:01 p.m.

Following a moment of silent reflection, Councilmember Patena led the Pledge of Allegiance.

Members Present: Mayor Cathy Carlat; Vice Mayor Bridget Binsbacher; Councilmembers Jon Edwards, Michael Finn, Vicki Hunt, Carlo Leone and Bill Patena.

Members Absent: None.

Other Municipal Officials Present: Carl Swenson, City Manager; Julie Ayers, Deputy City Manager; Susan Daluddung, Deputy City Manager; Jeff Tyne, Deputy City Manager; Steve Burg, Acting City Attorney; Rhonda Geriminsky, City Clerk; Thomas Adkins, Intergovernmental Affairs Director; Andy Granger, Development and Engineering Director; Katie Gregory, Management and Budget Director; John Imig, Information Technology Director; Chris Jacques, Planning and Community Development Director; Stuart Kent, Public Works Director; Laura Krause, Human Resources Director; Brent Mattingly, Finance and Budget Director; Roy Minter, Police Chief; Bobby Ruiz, Fire Chief; John Sefton, Community Services Director; Jennifer Stein, Office of Communications Director; Dawn Prince, Assistant to the City Manager; and Linda Blas, Deputy City Clerk.

Council Youth Liaisons: Kaitlyn Edwards and Sam Owen.

Audience: Approximately 20 members of the public were present.

Note: The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

Presentation:

3. Christmas for the Troops

Rachelle Barrett and former Mayor Bob Barrett addressed Council on behalf of the Peoria Sunset Lions Club regarding the "Christmas for the Troops" program. The Lions Club will be collecting items to ship overseas in support of our troops. Personal necessities are needed as well as cash donations to defray postage. Ms. Barrett requested use of City properties as collection stations. The Council and City employees were thanked for their support.

CONSENT AGENDA: All items listed with a "C" are considered to be routine or have been previously reviewed by the City Council, and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests; in which event the item will be removed from the General Order of Business, and considered in its normal sequence on the Agenda.

Mayor Carlat announced that the Consent Agenda included a Public Hearing on liquor license applications for various locations. There were no requests from those present to address this agenda item.

Mayor Carlat asked if any Councilmember wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Councilmember Hunt, seconded by Vice Mayor Binsbacher, to approve the Consent Agenda. Upon vote, the motion carried unanimously 7 to 0.

4C. **Minutes**

Approved the following minutes:

- July 5, 2016 Regular Meeting Minutes
- August 16, 2016 Regular Meeting Minutes

5C. **Code Amendment, Chapter 2, Credit Card Service Fee - Development Services**

Adopted **ORD. 2016-27**, amending Chapter 2 of the Peoria City Code (1992 Edition), by amending sections 2-209, 2-211, 2-213, and 2-215, authorizing the City to levy a service fee of 2.25 percent on all credit card and debit card transactions for development-related services.

6C. **Memorandum of Understanding, Federal Bureau of Investigation, Joint Terrorism Task Force**

Authorized the Memorandum of Understanding with the Federal Bureau of Investigation in order to share information and resources.

7C. **Contract, Hawksley Consulting, Stormwater Rate Study**

- (a) Awarded a consulting contract to Hawksley Consulting in the amount of \$99,950 to complete a Stormwater Rate Study; and
- (b) Authorized a budget amendment in the amount of \$99,950 from the Stormwater Contingency account to the Stormwater Other Professional Services account to fund the study.

8C. **Affiliate Event Funding Request - Old World Oktoberfest**

Approved the recommended Affiliate Event Funding Request for Old World Oktoberfest to be held at Centennial Plaza on October 8, 2016.

9C. **Investment Report, Quarter Ending June 30, 2016**

Reviewed and accepted the Investment Report as presented.

10C. **Fiscal Year 2016 Year-End Budget Amendments**

Approved the attached Fiscal Year 2016 Year-End Budget Amendments.

11C. **Deeds and Easements, Various Locations**

Adopted **RES. 2016-94** accepting Deeds and Easements for various Real Property interests acquired by the City.

12C. **Final Plat, Agua Fria Senior Living, 107th Avenue and Olive Avenue**

Approved the Final Plat of Agua Fria Senior Living, located at 107th Avenue and Olive Avenue, subject to stipulations.

13C. **PUBLIC HEARING - Liquor Licenses, Various Locations**

Recommended approval to the State Liquor Board for:

- (a) A New Restaurant (Series 12) Liquor License for El Alboroto Mariscos & Chavelas, located at 8427 West Peoria Avenue, Jose L. Fuentes, Applicant, LL#20015228;

- (b) A Person and Location Transfer for an On-Sale All Liquor License (Series 06) for Quintero Golf Club, located at 16752 West State Route 74, Randy D. Nations, Applicant, LL#20004133;
- (c) A Location Transfer for an Off-Sale All (Series 09) Liquor License for Fry's Marketplace #657, located at 25401 North Lake Pleasant Parkway, Lauren K. Merrett, Applicant, LL#20015882; and
- (d) A Person and Location Transfer for an On-Sale Beer and Wine (Series 07) Liquor License for Fry's Marketplace #657, located at 25401 North Lake Pleasant Parkway, Lauren K. Merrett, Applicant, LL#20015882.

Call To The Public (Non-Agenda Items)

James Deibler, an Arizona State University student, addressed Council in support of moving the Call to the Public to the beginning of City Council Meetings. Mr. Deibler informed the Council that he has been provided the opportunity to serve on the Commission on Disability Issues for the City of Phoenix.

Barrie MacArthur, Eva Adler and Ron Adler addressed the Council to express their concerns regarding an automotive repair shop and vehicle storage facility being operated in their neighborhood.

Reports from City Manager:

16. Council Calendar

17. Reports

A. Upcoming City Events Video

A video presentation showcasing upcoming City events was displayed.

B. Wellness Program Awards

Carl Swenson, City Manager, announced that the City of Peoria is the recipient of a Gold Level Healthy Arizona Worksite award from the Arizona Department of Health Services and the Maricopa County Department of Public Health. Mr. Swenson reported that the City has also been recognized as one of the valley's "Healthiest Employers" by the Phoenix Business Journal.

C. 2016 Arizona League of Cities and Towns Annual Conference

Thomas Adkins, Intergovernmental Affairs Director, provided an overview of the City's participation at the League of Arizona Cities and Towns Annual Conference held August 23-26, 2016 in Scottsdale.

Reports from City Council:

Council Youth Liaison Edwards urged the public to participate in a blood drive being hosted by the Peoria Unified School District during the month of September.

Councilmember Patena reported on the various City of Peoria activities he attended. Councilmember Patena thanked his wife and everyone who supported him during his campaign for re-election in the Ironwood District. Councilmember Patena expressed his pride in the citizens of Peoria who voted in the primary election.

Councilmember Edwards thanked the voters in the Willow District for entrusting him to be their representative at City Hall during the next four years. Councilmember Edwards congratulated Councilmember Patena and Vice Mayor Binsbacher on their successful election campaigns. Councilmember Edwards recognized Chief Minter for his presentation on body-worn cameras at the League Conference. Councilmember Edwards reported on his attendance at the Community Services Volunteer Appreciation Night held at Harkins Theatre on August 31, 2016. Councilmember Edwards also reported on his attendance at a police appreciation event hosted by a local Wal-Mart store at the Pinnacle Peak Public Safety Facility.

Vice Mayor Binsbacher expressed her excitement on continuing to work with the Council in moving Peoria forward. Vice Mayor Binsbacher extended congratulations for the recognition the City received for its Wellness Programs. Vice Mayor Binsbacher reported on her attendance at the Peoria Firefighter Charities' Pink Pancake Breakfast in support of breast cancer awareness.

Councilmember Finn congratulated Councilmember Patena, Councilmember Edwards and Vice Mayor Binsbacher on their successful campaigns. Councilmember Finn thanked the residents of the Palo Verde District for attending a community meeting regarding a conditional use permit to voice their opinions. Councilmember Finn assured the citizens expressing their concerns during Call to the Public that the City will work toward resolving the issues. Councilmember Finn reminded Palo Verde District residents to check the bulk trash program schedule for their collection dates.

Councilmember Hunt invited Acacia District residents to attend the Parkfest! event to be held at Sunnyslope Park, located at 9280 North 71st Avenue, on Saturday, October 1, 2016 beginning at 6:00 p.m. Councilmember Hunt reported on her attendance at the League of Arizona Cities and Towns Annual Conference.

Councilmember Leone reported on the various City of Peoria activities he attended. Councilmember Leone congratulated the incumbents on their successful campaigns. Councilmember Leone urged residents to attend the upcoming Food Truck Friday event to be held in Old Town Peoria in front of Lucidi Distilling Co. - Fire Station No. 1.

Council Youth Liaison Owen reported on the Youth Program at the League of Arizona Cities and Towns Annual Conference. Mr. Owen announced that members of the Arizona chapter of the Future Business Leaders of America organization will be visiting local high schools to provide networking opportunities for students enrolled in business classes.

Reports from the Mayor:

Mayor Carlat thanked the citizens of Peoria for voting to retain the current members of the City Council and their positive response to the proposed amendments to the City Charter.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 7:49 p.m.

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the City Council Meetings of the City Council of Peoria, Arizona held on the 6th day of September, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 4th day of October, 2016.

(Seal)

Rhonda Geriminsky, City Clerk

MINUTES OF THE PEORIA CITY COUNCIL
CITY OF PEORIA, ARIZONA
CITY COUNCIL CHAMBER
September 13, 2016

A **Special Meeting** of the City Council of the City of Peoria, Arizona was convened at 8401 West Monroe Street in open and public session at 5:00 p.m.

Following a moment of silent reflection, Vice Mayor Binsbacher led the Pledge of Allegiance.

Members Present: Mayor Cathy Carlat; Vice Mayor Bridget Binsbacher; Councilmembers Jon Edwards, Michael Finn, Vicki Hunt, Carlo Leone and Bill Patena.

Members Absent: None.

Other Municipal Officials Present: Carl Swenson, City Manager; Susan Daluddung, Deputy City Manager; Steve Burg, Acting City Attorney; Rhonda Geriminsky, City Clerk; Benny Pina, Deputy Police Chief; Gary Bernard, Deputy Fire Chief; Linda Blas, Deputy City Clerk; and Natalie Gilstrap, Management Analyst.

Audience: None.

REGULAR AGENDA

New Business:

1R. Canvass of August 30, 2016 Primary Elections

Rhonda Geriminsky, City Clerk, provided a brief overview of the request to approve the official Yavapai County and Maricopa County Canvasses of Election for the August 30, 2016 City of Peoria Primary Elections.

Motion was made by Councilmember Finn, seconded by Councilmember Hunt, to adopt **RES. 2016-97** and **RES. 2016-99** approving the official Canvasses of Election for the August 30, 2016 City of Peoria Primary Elections. Upon vote, the motion carried unanimously 7 to 0.

Ms. Geriminsky presented Certificates of Election to the following candidates:

- Ironwood District Bill Patena
- Mesquite District Bridget Binsbacher
- Willow District Jon Edwards

Call To The Public (Non-Agenda Items)

None.

ADJOURNMENT:

Being no further business to come before the Council, the meeting was duly adjourned at 5:20 p.m.

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct summary of the proceedings of the City Council Meetings of the City Council of Peoria, Arizona held on the 13th day of September, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 4th day of October, 2016.

(Seal)

Rhonda Geriminsky, City Clerk

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 4C.

Date Prepared: 9/21/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Rhonda Geriminsky, City Clerk
SUBJECT: Board and Commission Appointment

Purpose:

This is a request for City Council to appoint Will Briggs to the Employee Benefits Trust Board with a term expiration of December 2018 as recommended by the Council Boards and Commissions Subcommittee.

Background/Summary:

The Council Boards and Commissions Subcommittee makes recommendations for board and commission membership based on term expirations and vacancies from resignations or changes to member eligibility status.

Previous Actions:

On September 13, 2016 the Council Boards and Commissions Subcommittee recommended an appointment to the Employee Benefits Trust Board.

On September 14, 2016, a memorandum was submitted to Mayor and Council, outlining the appointment recommendation from the September 13, 2016 Subcommittee meeting, asking for concerns to be submitted in writing to the Mayor. No comments were received.

Options:

1. Appoint the recommended board member.
2. Continue recruitment efforts to fill the board vacancy.

Staff Recommendation:

Discussion and possible action to approve the recommendation from the Council Boards and Commissions Subcommittee pertaining to the following appointment and adopt **RES. 2016-108** appointing Will Briggs as regular member to the Employee Benefits Trust Board with a partial term to expire December 2018.

Fiscal Analysis:

There is no fiscal impact regarding this item.

Narrative:

If appointed, the newly appointed board member will be invited to attend the October 18, 2016 City Council meeting to accept a Certificate of Appointment.

ATTACHMENTS:

Resolution 2016-108

Contact Name and Number:

Rhonda Geriminsky, (623) 773-7340

RESOLUTION 2016-108

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, APPOINTING WILL BRIGGS TO THE EMPLOYEE BENEFITS TRUST BOARD AND ESTABLISHING THE TERMS OF OFFICE.

WHEREAS, Frank Hinds resigned and there exists one vacant position on the Employee Benefits Trust Board; and

WHEREAS, Will Briggs desires to be a member of and appointed to the Employee Benefits Trust Board; and

WHEREAS, the Mayor and City Council of the City of Peoria desire to confirm said appointment of Will Briggs as a regular member to the City of Peoria Employee Benefits Trust Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Peoria that Will Briggs is appointed as a regular member to the City of Peoria Employee Benefits Trust Board.

BE IT FURTHER RESOLVED that said appointment shall expire as follows:

Will Briggs

December 2018

PASSED AND ADOPTED by the Mayor and City Council of the City of Peoria, Arizona this 4th day of October, 2016.

CITY OF PEORIA, an Arizona municipal corporation

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

Approved as to Form:

Steve Burg, Acting City Attorney

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 5C.

Date Prepared: 9/26/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Jeff Tyne, Deputy District Manager
FROM: Roy W. Minter, Jr., Chief of Police
SUBJECT: Grant, Arizona Department of Homeland Security

Purpose:

This is a request for City Council to authorize the Peoria Police Department to accept two grants from the Arizona Department of Homeland Security totaling \$62,075.

Background/Summary:

In order to further integrate Peoria as part of the statewide disaster response program, the Police Department has received 2016 Homeland Security Grant funds from the Arizona Department of Homeland Security (AZDOHS) in the amount of \$62,075 to 1) strengthen chemical, biological, radiological, nuclear or explosive (CBRNE) weapon detection, response and decontamination capabilities; and 2) sustain and enhance the Terrorism Liaison Officer (TLO) program.

The Police Department received \$50,000 to enhance the functionality of the Peoria Special Weapons and Tactics (SWAT) team CBRNE response. Funds granted will be used to provide training to CBRNE operators. The Police Department received \$12,075 to support TLO operations. The TLO program functions as a Field Intelligence Unit in support of police tactical, hazardous material, explosive special operations and uncommon event types. Funds granted will be used to purchase equipment and training for the TLO response unit.

These grants are reimbursable with funding through September 2017.

Previous Actions:

City Council has previously accepted grants from AZDOHS. This will be the tenth consecutive year that the City of Peoria has received grant funding from this organization.

Options:

A: Accept two grant awards in the amount of \$62,075 from the Arizona Department of Homeland Security and approve a budget adjustment in the amount of \$62,075 from the Proposed Grants Contingency Account to the Homeland Security Fund, thus providing expenditure authority.

B: Choose not to accept the grants from the Arizona Department of Homeland Security.

Staff Recommendation:

Discussion and possible action to: (a) authorize the Peoria Police Department to accept two grants from the Arizona Department of Homeland Security to provide training to chemical, biological, radiological, nuclear or explosive (CBRNE) operators and to support Terrorism Liaison Officer operations; and (b) approve a budget adjustment in the amount of \$62,075 from the Proposed Grants Contingency account to various Homeland Security Grant Fund accounts thus providing expenditure authority.

Fiscal Analysis:

Request a budget adjustment of \$62,075 from the Proposed Grants Contingency account (7990-7990-570000) to the Homeland Security Grant Fund (7545-7795-various accounts) thus providing expenditure authority.

Account #	Description	Amount	Program
7545-7795-510200	Wages - Overtime	\$31,140	CBRNE
7545-7795-520510	Overnight Travel/Training	\$25,160	CBRNE, TLO
7545-7795-523510	Telecommunication Svc	\$1,950	TLO
7545-7795-530003	Computer Hardware	\$3,500	TLO
7545-7795-530021	Computer Software	\$325	TLO

Total: \$62,075

Narrative:

Once approved by City Council, the grant contracts will be executed as needed.

Contact Name and Number:

Jennifer Loper, (623) 773-7072

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 6C.

Date Prepared: 9/6/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Jeff Tyne, Deputy City Manager
FROM: Roy W. Minter, Jr., Chief of Police
SUBJECT: Intergovernmental Agreement, City of Glendale, Detention and Weekend Court Services

Purpose:

This is a request for City Council to authorize the City Manager to execute an Intergovernmental Agreement (IGA) to receive detention and weekend court services from the City of Glendale.

Background/Summary:

The Glendale Police Department has been providing detention and weekend court services to the Peoria Police Department since 1995. On average, 30 inmates are processed each month for the Peoria Police Department at the Glendale facility.

The Glendale Police Department detention facility receives Peoria Police Department arrestees for booking, detention and supplies safekeeping, care and maintenance of these arrestees. The Glendale City Court also receives Peoria Police Department arrestees and supplies court services on the weekends for these arrestees booked into the Glendale detention facility.

If approved, the term of the new IGA shall be for two (2) years, commencing on July 1, 2016 and ending on June 30, 2018. The proposed IGA states that the agreement may be renewed upon its expiration for additional one year terms by the mutual agreement of the City of Glendale Police Chief and the City of Peoria Police Chief. The IGA further states that if the City of Glendale establishes new rates, both cities shall renegotiate the terms of the agreement.

Previous Actions:

The Glendale Police Department has been providing detention and weekend court services to the Peoria Police Department since 1995. The City of Peoria has previously authorized similar IGAs with the City of Glendale to provide detention and weekend court services.

Options:

A: Authorize the City Manager to execute an agreement with the City of Glendale to receive detention and weekend court services.

B: Choose not to participate in this agreement.

Staff Recommendation:

Discussion and possible action to approve an Intergovernmental Agreement with the City of Glendale for detention and weekend court services and authorize the City Manager to execute the necessary documents.

Fiscal Analysis:

The services provided by the Glendale Police Department detention facility will continue to be billed at the rate of \$127.61 per inmate per day. The services provided by the Glendale City Court will continue to be billed at the rate of \$69.78 per inmate per court appearance. The Peoria Police Department will utilize its current jail incarceration fees account (1000-1020-520009) to cover this expense; additional expenditure authority is not being requested at this time.

Narrative:

Once approved by City Council, the agreement will be executed as needed.

ATTACHMENTS:

IGA

Contact Name and Number:

Heather Cammarata, 623-773-7069

WHEN RECORDED, RETURN TO:

**City of Glendale
City Clerk
5850 West Glendale Avenue
Glendale, Arizona 85301**

**AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF GLENDALE AND THE CITY OF PEORIA
TO PROVIDE DETENTION AND WEEKEND COURT SERVICES
FOR THE CITY OF PEORIA POLICE DEPARTMENT**

THIS AGREEMENT is made and entered into the day of , 2016 by and between the City of Glendale, hereinafter referred to as GLENDALE, and the City of Peoria, hereinafter referred to as PEORIA.

WHEREAS, GLENDALE, through the Glendale Police Department, hereinafter referred to as GLENDALE POLICE, provides police protection services for the City of Glendale, Arizona, and owns, maintains and contracts for detention facilities for the incarceration of its prisoners; and

WHEREAS, GLENDALE, through the Glendale City Court, hereinafter referred to as GLENDALE CITY COURT, provides court services for the City of Glendale, Arizona and owns, maintains and contracts for court services for the timely processing of its prisoners; and

WHEREAS, PEORIA does not have the facilities to provide prisoner detention or weekend court services, and wishes to enter into an Intergovernmental Agreement with GLENDALE whereby the GLENDALE POLICE, GLENDALE CITY COURT and members of their staff will furnish to PEORIA certain detention and court services; and

WHEREAS, PEORIA wishes to contract with GLENDALE for the performance of hereinafter described detention and court services by GLENDALE through the GLENDALE POLICE and GLENDALE CITY COURT thereof;

WHEREAS, such contracts are authorized and provided for by the provisions of A.R.S. 11-951, et seq., and

WHEREAS, PEORIA may enter into intergovernmental agreements by Peoria City Charter Article 1, Section 3(15) and Glendale by Glendale City Charter Article VIII, Section 1;

NOW, THEREFORE, in consideration of the usual covenants contained herein, GLENDALE and PEORIA agree as follows:

1. DETENTION SERVICES. GLENDALE through GLENDALE POLICE agrees to receive PEORIA arrestees for booking, detention, and incarceration. GLENDALE will supply safekeeping, care and maintenance of persons arrested by PEORIA and booked into GLENDALE Detention system at a rate of \$127.61 per inmate per day. If a PEORIA arrestee is ordered to serve more than 48 hours in

GLENDALE, GLENDALE POLICE may transport PEORIA arrestees to a Maricopa County facility, and PEORIA agrees to pay all costs imposed by Maricopa County for such arrestee. In furtherance of their duties and responsibilities contained in this Agreement, GLENDALE and GLENDALE POLICE will provide, inter alia, the facilities, personnel, and other necessary items to fulfill duties and responsibilities as set forth herein. In addition, GLENDALE will notify victims of arrestees' release from GLENDALE.

2. COURT SERVICES. GLENDALE, through GLENDALE CITY COURT, agrees to receive PEORIA arrestees, on a case by case basis as PEORIA may request, and will supply court services during weekends and holidays of persons arrested by PEORIA and booked into GLENDALE detention system at a rate of \$69.78 per inmate, per court appearance. This fee does not include interpreter or judicial services, which PEORIA will arrange outside of this agreement. In furtherance of the duties and responsibilities contained in this agreement GLENDALE and GLENDALE CITY COURT will provide, inter alia, the facilities, clerical personnel, and other necessary items to fulfill the duties and responsibilities as set forth herein. GLENDALE CITY COURT reserves the right to modify its hours of operation in its sole discretion.

The rendition of the services described in Sections 1 and 2, the standards of performance, the supervision of officers and court staff, and any other matters incidental to the performance of such services under the control of personnel so employed, will remain in the sole discretion of GLENDALE, GLENDALE CITY COURT and GLENDALE POLICE. In the event of dispute between the parties as to the extent of performance of such service, the determination thereof made by GLENDALE shall be final and conclusive as between the parties.

3. ADDITIONAL SERVICES. During the term of this agreement, if PEORIA desires additional services, PEORIA will notify GLENDALE of the additional services desired by PEORIA, and GLENDALE will consider the request from PEORIA. Should PEORIA, GLENDALE, GLENDALE POLICE or GLENDALE CITY COURT reach an agreement with respect of such additional detention or court services and the cost thereof, then PEORIA and GLENDALE shall adopt respective resolutions approving the additional services to be performed by GLENDALE POLICE and/or GLENDALE CITY COURT and the cost thereof to be paid by PEORIA to GLENDALE. GLENDALE has no obligation to accept any request for additional services from PEORIA.

4. TERMS OF AGREEMENT. Either party may terminate this Agreement by notice in writing to the other party of not less than ninety (90) calendar days prior to the date of such termination.

4.1 PEORIA agrees to pay GLENDALE the rates as set forth in Sections 1 and 2 above for the services provided. Prisoners will not serve time longer than 48 hours consecutively in the Glendale City Detention Facility. The rates will not be subject to change during the period of this Agreement except as provided for in Section 4.3 below or for additional services pursuant to Section 3 above. It is further agreed that the number of prisoner days will be submitted to PEORIA by GLENDALE on a monthly basis.

4.2 The term of the Agreement shall be for two (2) years, commencing on July 1, 2016 and ending on June 30, 2018 (initial term). Unless terminated in accordance with Section 4 of this Agreement, the agreement may be renewed upon its expiration for additional one (1) year terms by the mutual written agreement of the City of Glendale Police Chief and the City of Peoria Police Chief.

- 4.3 If during the term of this Agreement, or an extension thereof, GLENDALE establishes new rates, PEORIA shall continue to pay the previous per diem rate for a period of Ninety (90) days , during which time PEORIA and GLENDALE POLICE shall renegotiate the terms of this Agreement. If, at the end of Ninety (90) days, a new Agreement has not been reached, PEORIA shall be responsible under the terms of this Agreement for payment at the new rates for those PEORIA prisoners then in the care and custody of GLENDALE POLICE.
- 4.4 PEORIA understands and agrees that the calculation of the number of days a PEORIA prisoner is incarcerated will include the first day of a PEORIA prisoner's incarceration, or any part of that day. The final days of incarceration shall not be included in the calculation unless the first and last day of a PEORIA prisoner's incarceration coincides. For the purpose of this Agreement, an incarceration day will begin at 12:00 p.m., and end at 11:59 a.m. The minimum billing for a PEORIA prisoner who is booked into the Glendale Detention Facility is one day.
- 4.5 All charges, costs, fees, expenses, and/or financial responsibilities under this Agreement, will be paid by PEORIA within sixty (60) calendar days of billing from GLENDALE. Failure to pay within sixty (60) days of billing may result in cancellation of this Contract at the sole discretion of GLENDALE without further notice.
- 4.6 PEORIA and GLENDALE may audit each other's records pertaining to PEORIA prisoners maintained by GLENDALE POLICE pursuant to the terms of this Agreement. Each party, prior to conducting an audit, must give (30) days' notice to the other party. If as a result of this audit, the fees, charges or other billable items as discussed in the Agreement are in excess or understated, then appropriate adjustments are to be made, and PEORIA agrees to pay GLENDALE the amount due on the next monthly billing or GLENDALE shall credit the amount due to PEORIA upon the next monthly billing until the adjusted amount is balanced, whichever is appropriate.
- 4.7 PEORIA, GLENDALE POLICE, GLENDALE CITY COURT and GLENDALE agree that each shall use their best efforts to cooperate with each other, and in sharing information in order to reduce delay, duplication of effort and data, and attempt to reduce the cost of booking, detention, incarceration, and court services of prisoners in the GLENDALE POLICE detention system and/or the GLENDALE CITY COURT.

5. STANDARD OF TREATMENT. PEORIA prisoners will be held in the same manner as GLENDALE prisoners. Male and female prisoners will be segregated according to law. PEORIA prisoners will not be permitted to leave the GLENDALE POLICE detention system for any reason except when authorized by law. No person confined in the GLENDALE POLICE detention system shall be subjected to discrimination in any manner or form because of race, color, sex, religion, age, handicap, or national origin. PEORIA prisoners will be subject to the same rules and regulations as GLENDALE prisoners. PEORIA prisoners may consult with attorneys and have the same privileges as GLENDALE prisoners.

6. MEDICAL CARE AND TREATMENT.

- 6.1 Pre-incarceration Medical Care & Treatment of PEORIA Prisoners. PEORIA understands that it is ultimately responsible for transporting arrestees to obtain pre-incarceration medical treatment. GLENDALE will not assume, and PEORIA holds GLENDALE harmless for, any financial responsibility for providing medical care and treatment of PEORIA prisoners prior to their being incarcerated in the GLENDALE POLICE detention facility (or following incarceration as stated in Section 6.2). GLENDALE POLICE reserves the right to refuse any PEORIA arrestees based on medical or psychiatric reasons.
- 6.2 Medical Care & Treatment of PEORIA Prisoners During Incarceration. After a PEORIA prisoner is incarcerated in the GLENDALE POLICE detention facility, GLENDALE POLICE will arrange for medical care and treatment to PEORIA prisoners in the same manner as all GLENDALE prisoners. PEORIA POLICE will be responsible for the escorting of PEORIA arrestees to the proper medical facility. PEORIA is financially responsible for any and all medical care and treatment incurred by PEORIA prisoners incarcerated in GLENDALE facilities. The assumption of financial responsibility under this Section is intended solely to allocate responsibility as between PEORIA and GLENDALE; it is not intended to, nor does it, relieve any prisoner or other third party of liability for such medical care and treatment. However GLENDALE will assume financial responsibility for the medical care and treatment of a PEORIA prisoner made necessary by the negligent or intentional conduct of GLENDALE, its employees, or agents, unless PEORIA's negligent or intentional conduct also caused the need for medical care and treatment of a PEORIA prisoner, in which case financial responsibility is apportioned between GLENDALE and PEORIA according to their respective liability.

GLENDALE will notify PEORIA of any medical care and treatment prior to incurring the same, unless emergency care is required and such prior notice is not feasible. If emergency treatment is necessary, GLENDALE shall secure such necessary special medical care and treatment, including hospital services, without prior notice to PEORIA but shall notify PEORIA at the earliest practical time.

Notice of medical care and treatment under this Section 6.2 may be given verbally, either in person or by telephone and PEORIA'S decision to retain custody, or release the prisoner from custody, may be given verbally in person by a law enforcement officer of PEORIA who exhibits a valid identification card or fax or teletype to the GLENDALE POLICE Department. If fax or teletype is used then PEORIA'S decision must be communicated on an official document of PEORIA. Verbal notice under this paragraph shall be confirmed in writing by the parties delivered personally to the recipient within twenty-four (24) hours of the original verbal communication, or in cases involving PEORIA holidays, within twenty-four (24) hours of the last day of the holiday period.

Written notice of medical care and treatment shall be given to:

PEORIA

Chief of Police
Peoria Police Department
8351 W. Cinnabar Avenue
Peoria, Arizona 85345

GLENDALE

Chief of Police
Glendale Police Department
6835 N. 57th Drive
Glendale, Arizona 85301

Charges to PEORIA by GLENDALE for medical care and treatment shall be treated separately and shall constitute a separate and additional fee or expense, and PEORIA will promptly pay the charges upon receipt of a bill, invoice or other statement containing the charges. More specifically, PEORIA agrees that in the event that a PEORIA prisoner receives medical treatment, PEORIA will be responsible for all costs incurred for such care and treatment of PEORIA prisoner, unless otherwise specified in this Agreement.

7. INSURANCE. The parties hereto agree to secure and maintain insurance coverage for any and all risks which may arise out of the terms, obligations, operations, and actions as set forth in this Agreement, including by not limited to public entity insurance. This insurance may be fulfilled by acquisition of insurance or the maintenance and operation of a self-insurance program. Insurance maintained by the parties to this Agreement must contain provisions whereby the other party to this Agreement is provided a certificate of insurance/self-insurance.

8. APPLICABLE LAW. This Agreement is to be construed according to the Law of the State of Arizona.

9. AMENDMENTS. The parties understand and specifically agree that the terms of this Agreement may be amended from time to time only upon written mutual agreement by each party and that such amendments are to be integrated into this Agreement.

10. INTEGRATION. This Agreement is the sole understanding and agreement by the parties hereto and supersedes any other written and/or oral agreement relative to the subject matter of this Agreement.

11. FACILITIES AND PERSONNEL. All personnel affected by this Agreement will continue to be employed and supervised by their respective agency. All facilities and equipment will continue to be controlled by the agency of original origin.

GLENDALE POLICE agrees to supply PEORIA POLICE with twenty-four (24) hour access to the GLENDALE POLICE detention facility. GLENDALE POLICE agrees to furnish PEORIA POLICE with sufficient number of magnetic security access cards to facilitate access at a cost of \$8.00 per card. Once purchased, these cards become the property of PEORIA. PEORIA agrees to maintain records of cards issuance, and agrees to notify GLENDALE POLICE immediately of any lost or stolen magnetic security access cards.

The personnel of GLENDALE POLICE and PEORIA POLICE will not for any purpose be considered employees or agents of Peoria or Glendale (respectively). The parties assume full responsibility for the

actions of their own personnel while performing services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.

12. INDEMNITY BY PEORIA. PEORIA, to the extent permitted by law, agrees to indemnify and save harmless GLENDALE, or any of its departments, agencies, elected officials, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition, or event arising out of the performance of the provisions of this Agreement. GLENDALE shall in all instances be indemnified against all liability, losses, or damage of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance of this Agreement, except when such injury or damages shall have been by the negligence or intentional conduct of GLENDALE.

13. INDEMNITY BY GLENDALE.

13.1 GLENDALE, to the extent permitted by law, agrees to indemnify and save harmless PEORIA, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage, or claim of any nature whatsoever which is caused by any activity, condition, or event arising out of the performance of the provisions of this Agreement. PEORIA shall in all instances be indemnified against all liability, losses, or damages of any nature for or on account of any injuries to or death of persons or damages to or destruction of property arising out of or in any way connected with the performance of this Agreement, except when such injury or damages shall have been occasioned by the negligence or intentional conduct of PEORIA.

13.2 GLENDALE acknowledges that it will retain complete and exclusive control over the operation of the court facilities, jail, conditions of incarceration, number of inmates incarcerated and maintenance of the jail. GLENDALE agrees specifically to indemnify PEORIA against all liability, losses, damages, costs, attorney's fees or claims of any nature arising out of any claim by inmates of the jail alleging violation of their civil or constitutional rights due to conditions of incarceration or acts by GLENDALE, its departments, agencies, officers and employees in the operation of the jail.

14. ATTORNEY'S FEES. In the event of any litigation or other proceeding concerning this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

15. RECORDING. This Agreement and any amendments will be recorded in the Maricopa County Recorder's Office within ten (10) days after complete execution, and this Agreement and any amendments will not become effective until after it or they have been recorded.

16. CONFLICTS OF INTEREST. This Agreement may be cancelled for conflict of interest by either party in accordance with A.R.S. 38-511.

17. IMMIGRATION LAW COMPLIANCE. The parties agree, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to its employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.

18. NO BOYCOTT OF ISRAEL. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

19. NON-DISCRIMINATION POLICIES. The parties agree that they must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability.

IN WITNESS WHEREOF, GLENDALE has by order of its Mayor and City Council caused these present to be subscribed by the City Manager, the seal of Board to be affixed thereto and witnessed by Clerk of said Board, and PEORIA has caused them to be subscribed by its City Manager and the Seal of said PEORIA to be affixed hereto, and attested by the City Clerk on the day and year hereinabove written.

IN WITNESS WHEREOF, GLENDALE has caused this instrument to be executed by the City Manager and attested to by its City Clerk; and PEORIA has caused this Agreement to be executed by its City Manager on the ____ day of _____, 2016.

APPROVED:

APPROVED:

Kevin R. Phelps, City Manager

Carl Swenson, City Manager

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

The foregoing Intergovernmental Agreement was acknowledged before me this ____ calendar day of _____ 2016, by Kevin R. Phelps, City Manager of the City of Glendale, a municipal corporation duly organized and existing under the laws of the State of Arizona.

MY COMMISSION EXPIRES:

Notary Public

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

The foregoing Intergovernmental Agreement was acknowledged before me this ____ calendar day of _____ 2016, by Carl Swenson, City Manager of the City of Peoria, a municipal corporation duly organized and existing under the laws of the State of Arizona.

MY COMMISSION EXPIRES:

Notary Public

ATTEST:

ATTEST:

Julie Bower, City Clerk

Rhonda Geriminsky, City Clerk

INTERGOVERNMENTAL AGREEMENT DETERMINATION

This agreement has been reviewed by the Office of the City Attorney as legal counsel for the City of Glendale, and determines that the agreement is in the proper form and within the powers and authority granted under the laws of the State of Arizona to the City of Glendale.

DATED: _____

Office of the City Attorney

By:

Michael Bailey, Esq.
5850 W. Glendale Avenue
Glendale, AZ 85301

INTERGOVERNMENTAL AGREEMENT DETERMINATION

This agreement has been reviewed by the Office of the City Attorney as legal counsel for the City of Peoria, and determines that the agreement is in the proper form and within the powers and authority granted under the laws of the State of Arizona to the City of Peoria.

DATED: _____

Office of the City Attorney

By:

Steve Burg, Esq.
8401 W. Monroe Street
Peoria, AZ 85345

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 7C.

Date Prepared: 9/13/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Jeff Tyne, Deputy District Manager
FROM: Roy W. Minter, Jr., Chief of Police
SUBJECT: Intergovernmental Agreement Amendment, Maricopa County Sheriff's Office, AZLink Program, Intelligence Data Sharing

Purpose:

This is a request for the City Council to approve a modified Intergovernmental Agreement (IGA) between the Maricopa County Sheriff's Office (MCSO) and the City of Peoria to share intelligence data through the AZLink program.

Background/Summary:

AZLink is a consortium of regional law enforcement agencies sharing information related to crime and criminal activities. Electronic access to shared information allows agencies to analyze data and respond to criminal threats, enhance public safety, protect critical infrastructure and support law enforcement activities. The MCSO represents the AZLink Arizona Region and is part of the AZLink Governance Committee that oversees the regional law enforcement information sharing program across the state.

This agreement was previously approved by Council in July, but was revised by MCSO to include a revised heading, use of "MOU" rather than "agreement" and a change in the MCSO contact person. Minor content changes include additions regarding dispute timelines and arbitration and access tracking. Language regarding worker's compensation liability and other regional networks was removed from the agreement.

Previous Actions:

City Council approved the previous version of this intergovernmental agreement in July 2016. The preceding IGA was approved in 2010.

Options:

- A: Approve the Intergovernmental Agreement with the Maricopa County Sheriff's Office.
- B: Choose not to participate in this agreement with Maricopa County Sheriff's Office.

Staff Recommendation:

Discussion and possible action to approve an Intergovernmental Agreement amendment with the Maricopa County Sheriff's Office to share intelligence data through the AZLink program.

Fiscal Analysis:

The IGA has no fiscal impact.

Narrative:

Once approved by City Council, the IGA will be executed as needed.

ATTACHMENTS:

AZLink MOU

Contact Name and Number:

Jennifer Loper, (623) 773-7072

AZLink

MEMORANDUM OF UNDERSTANDING

between

MARICOPA COUNTY

on behalf of

Maricopa County Sheriff's Office

and

CITY OF PEORIA

on behalf of

Peoria Police Department

FOR SHARING LAW ENFORCEMENT INFORMATION

C-50-17-023-3-00

This Memorandum of Understanding ("MOU") is made and entered into this 01 day of July, 2016, by and between Maricopa County, on behalf of Chief Law Enforcement Officer, Joseph Arpaio, and the Maricopa County Sheriff's Office ("MCSO"), a law enforcement agency duly organized and existing under the laws of the State of Arizona, and the City of Peoria, on behalf of its Police Department ("PPD"), organized and existing under the laws of the State of Arizona.

NOW, THEREFORE, the parties do hereby agree as follows:

ARTICLE I. PURPOSE

The purpose of this MOU is to enhance the effectiveness of law enforcement by increasing information sharing related to crime and criminal activities. The objective of the collaborative relationship described in this MOU is to facilitate sharing of regional law enforcement information among federal, state, local, and tribal law enforcement partners. Through this relationship, the parties intend to capture the cumulative knowledge of regional law enforcement agencies at all levels in a systematic and ongoing manner to maximize the benefits of information gathering and analysis needed to respond to criminal threats, to support law enforcement activities, and to enhance public safety and enforce protection of the Nation's critical infrastructure in Arizona.

The MCSO has assisted in the design and implementation of a program known as AZLink. AZLink is a consortium of law enforcement agencies that have agreed to a method of sharing law enforcement and probation information that permits electronic access to confidential law enforcement information.

The MCSO represents the AZLink Arizona Region (known as the regional agency) and works with the AZLink Eastern Arizona Region to implement standard information sharing practices, policies, procedures, and security. The MCSO is also working with law enforcement agencies in northern, central and southern Arizona (known as "Client Agencies") to connect these agencies into the AZLink program.

The MCSO is part of the Governance Committee that includes client agencies as members for the purpose of developing regional programs, insuring compliance of standards, policies,

AZLink

procedures and security. The Committee oversees the AZLink regional law enforcement information sharing program across the state.

The AZLink Governance Committee also works with federal agencies and other states on developing information sharing programs and creating standard MOUs. Each AZLink Region, under the authority of the representative regional law enforcement officer and by action of their respective legislative or other governing body, has binding authority to execute MOUs. The AZLink Regions work with their client agencies to ensure compliance with federal and state MOUs.

Regional Law Enforcement Systems (known as RLES) have been developed and are being implemented throughout Arizona. These systems are centrally managed by the AZLink regions. Each region connects local client agencies to the RLES. Through the RLES, client agencies have access to information from other client agencies.

This agreement adds the PPD as a Contributing Agency in the AZLink Arizona Region RLES, to share law enforcement information administered by the MCSO and to have access to information from other client agencies participating in the AZLink program.

ARTICLE II. DEFINITIONS

- A. "Client agencies" are law enforcement agencies participating in AZLink who are read only. Federal and non-Arizona state agencies may also be considered client agencies.
- B. "Contributing agencies" are agencies participating in the AZLink data sharing effort that contribute data and have access to AZLink RLES.
- C. "Regional agency" in this MOU refers to the AZLink Arizona Region. The MCSO is the Administering Agency for the AZLink Arizona Region.
- D. "RLES" means the regional law enforcement systems that will be used for sharing law enforcement information across regions, across states, and with federal agencies.
- E. "Owning Agency" in this MOU will be defined as the agency that controls the information generated by their law enforcement department.
- F. "Background screening" means a background investigation that is fingerprint-based including checks of both the state and national criminal history repositories.

ARTICLE III. EFFECTIVE DATE AND TERM

This MOU will become effective upon the day it is fully executed and shall continue in force until either agency provides sixty (60) days prior written notice to the other agency of its intent to terminate the other agency's access to its records through the methods provided in this MOU. Either party may cancel this MOU at any time for any reason upon sixty (60) days' notice to the other party.

AZLink

ARTICLE IV. CANCELLATION

Pursuant to A.R.S. § 38-511, the state, its political subdivisions, or any department or agency of either, may cancel this contract within three (3) years after its execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions, or any of the departments or agencies of either is, at any time while the contract or any extension of contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. Cancellation of the MOU shall be effective upon written notice as provided in A.R.S. § 38-511.

ARTICLE V. DATA ACCESS AND SECURITY REQUIREMENTS

- A. Access to other client agencies' law enforcement information will be provided utilizing the TCP/IP communications protocol over a network segment maintained by the Arizona Department of Public Safety or any other secure network configuration that is mutually acceptable to the client agencies and that meets state and federal security requirements. The law enforcement information shall be available on a 24 hours per day, 7 days per week basis, with downtime limited to those hours required for any necessary system maintenance activities. Agencies agree to inform each other in advance, whenever possible, of scheduled system downtimes.
- B. Data will be shared with member agencies that have entered into an MOU with a regional agency. No client or regional agency will share information gained through this system with an agency that is not a client agency, except by permission of the agency originating the information. Client and regional agencies shall ensure that only those authorized by law have access to any Criminal History Record information as defined in A.R.S. § 41-1750 and 28 C.F.R. 20.3 including in the law enforcement information from the system.
- C. Client and regional agencies agree to enforce and maintain security requirements and networks as specified in the Technical Requirements Section of the Federal Bureau of Investigation's Criminal Justice Information Systems Security Policy, and regional agency MOUs and Agreements with federal and state agencies. Exceptions to the above policy shall not be implemented by any client agency without the approval of the regional agency and the AZLink Governance Committee.
- D. Client and the regional agencies acknowledge that the law enforcement information hosted by the RLES shall be used for law enforcement purposes only, and that only law enforcement agency employees that have passed a background screening and any required certification, such as Terminal Operator Certification (TOC), will be allowed access to the systems.
- E. If at any time any client agency violates the requirements of this MOU in regards to sharing of information, the regional agency connecting that client agency may disconnect the client agency. Except in the case of a critical emergency, access shall not be terminated by a regional agency until the offending client agency has been provided with sixty (60) days written notice of the violation and the opportunity to correct the violation.

AZLink

- F. If at any time any client agency believes that another agency is allowing unauthorized access to or use of the client agency's data, the client agency may withdraw from the shared data system with a 30-day written notice
- G. All disputes concerning access shall be first communicated to an offending agency and then settled by consensus among the agencies of the region within 30 days' notice to the offending agency of the initial dispute. In the absence of consensus, the data sharing link of the offending agency shall be terminated with a 30-day written notice.

ARTICLE VI. INFORMATION OWNERSHIP, RELEASE, AND ACCURACY

- A. Client and regional agencies retain control of all information they provide through the system at all times. Any request for access to information hosted by the RLES that is not authorized under current MOUs will be referred to the agency originating the information being requested. Except as required by law, information shall not be made available to any unauthorized requestor without the approval of the originating agency.
- B. Agencies acknowledge that the law enforcement data provided by the RLES consists of information that may or may not be accurate. To the extent permitted by law, agencies agree to hold the originating agency blameless for any harm that may arise due to the inaccuracy of any information they have submitted.
- C. All participating agencies have the sole responsibility to ensure that information it makes available to the agencies via the RLES was not obtained and is not being maintained in violation of any federal, state, or local law applicable to the obtaining component. In addition, all participating agencies have the sole responsibility and accountability for ensuring compliance with all laws, regulations, policies, and procedures applicable to the posting of its information for access via the RLES.
- D. Each client agency has the duty, sole responsibility, and accountability to make reasonable efforts to ensure the accuracy upon entry, and continuing accuracy thereafter, of information that it contributes to an AZLink regional agency. Should a client agency receive a challenge to or reasonable question about the accuracy of client agency information, the client agency will notify the AZLink regional agency and the AZLink Governance Committee in writing as soon as is practicable.
- E. AZLink regional information may be accessed and used by agencies for official criminal law enforcement, probation, and national security purposes only. All agencies will protect information from disclosure to the greatest extent possible consistent with the Freedom of Information Act, the Privacy Act of 1974, any other applicable laws and applicable compulsory processes (such as a court order). All agencies will notify the AZLink regional agency immediately upon becoming aware of any lawsuit, proceeding, or information demand brought in state or federal court seeking access to agency information, in either verbatim or derivative form.
- F. Access is trackable and reportable through the information system. The regional agency will ensure that client agencies restrict access to information obtained under the terms of this MOU to only those authorized supervisors, law enforcement officers, probation and surveillance officers, intelligence research specialists, employees, agents, representatives, task force members, contractors/subcontractors, or consultants who require access to the

AZLink

information described in this MOU to perform their official duties. There shall be no access of unauthorized personnel to the information contained in or accessible through the RLES.

- G. To the extent that the RLES contains information covered by the Bank Secrecy Act (31 U.S.C. § 5311 et. seq.), each participating regional and client agency will sign a separate MOU acknowledging that they will not further disseminate such information to any party without prior written authorization from Immigration and Customs Enforcement (ICE). ICE will provide each agency a standard MOU containing this acknowledgment. The failure of any agency to sign the MOU will result in all Bank Secrecy Act information being removed from the RLES.
- H. All participating agencies acknowledge that information, including analytical products derived therefrom, may not be used as a basis for action or disseminated for any other purpose or in any other manner outside the agency that accessed the information, unless that agency first obtains the express permission given in writing from the owning agency. Specifically included within this prohibition is any inclusion of information in an official investigative or case file, or any use of information in the preparation of judicial processes such as affidavits, warrants, or subpoenas. Agency users of information may not print or electronically retain information without obtaining permission from the owning agency. When information is summarized or otherwise documented, the AZLink regional or client agency will document the owning agency.
- I. All participating agencies are responsible for ensuring that their supervisors, law enforcement officers, probation and surveillance officers, intelligence research specialists, employees, agents, representatives, task force members, contractors/subcontractors, or consultants with access to the information are properly advised of the rules governing the handling of data, including specialized handling necessary for data on citizens and lawful permanent residents of the United States and are fully apprised of the terms and conditions of this MOU.
- J. When alerted to any attempts to gain inappropriate access to data, client agencies shall report such events in a timely manner to the AZLink regional agency. Reporting such events should be done as soon as reasonably practicable, and in any case, not later than 24 hours after the client agency becomes aware of any breach of privacy or security.

ARTICLE VII. FINANCIAL CONSIDERATIONS

- A. Each regional and client agency is responsible for the cost of acquiring and maintaining the necessary hardware and licensed software to participate in the AZLink system. Nothing included in this MOU requires any agency to fund the activities of any other agency.
- B. Regional and client agencies may individually or collectively apply for grant funding. Any joint grant funding which may result from such applications will be considered to be outside of this MOU. Such monies shall in no way be controlled by or fall under the jurisdiction of this MOU.

ARTICLE VIII. INSURANCE

No insurance is required for any government agencies. Any contractor performing duties under this MOU must comply with the insurance requirements for contracts with Arizona State

AZLink

agencies. The insurance requirements are available from the Arizona Department of Risk Management.

ARTICLE IX. INDEMNIFICATION

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

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

ARTICLE X. E-VERIFICATION OF EMPLOYEES

The parties mutually warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:

- (1) They and their subcontractors, if any, warrant their compliance with A.R.S. § 41-4401 and all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A, and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer;
- (2) A breach of a warranty under subsection (1) above shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract;
- (3) The parties mutually retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty provided under subsection (1) above and that the contractor agrees to make all papers and employment records of said employees(s) available during normal working hours in order to facilitate such an inspection; and
- (4) That nothing herein shall make any contractor or subcontractor an agent or employee of either of the contracting governmental entities.

AZLink

ARTICLE XI. REQUIRED TERMS FOR ACCESS TO PROBATION RECORDS

Client and regional agencies must agree to the terms listed in the Arizona Code of Judicial Administration section 1-606.

ARTICLE XII. NON-DISCRIMINATION

Both parties shall comply with Executive Order 2009-9, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities, and all other applicable state and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. Both parties shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

ARTICLE XIII. APPLICABLE LAW; LEGAL OBLIGATIONS

This MOU shall be construed in accordance with the laws of the State of Arizona. This MOU does not relieve either party of any obligation or responsibility imposed upon it by law.

ARTICLE XIV. ARBITRATION

Except for processes for handling of disputes that are addressed elsewhere in this MOU, the parties to this MOU agree to resolve other disputes arising out of or relating to this MOU through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes. The resolution may result in termination of the MOU.

ARTICLE XV. WAIVER AND MODIFICATION

None of the provisions of the MOU may be waived, changed or altered except in writing signed by both parties.

ARTICLE XVI. AVAILABILITY OF FUNDS

Every payment obligation of either party under this MOU is conditioned upon the availability of funds allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this MOU, this MOU may be terminated by either party or any other agency of the State of Arizona at the end of the period for which funds are available. No legal liability on the part of either party or any other agency of the State of Arizona for any payment may arise under this MOU until and only as long as funds are made available for performance of this MOU. If the necessary funds are not made available, then that party shall provide written notice to the other party and may cancel this MOU without further obligation. No liability shall accrue to either party or any other agency of the State of Arizona in the event this provision is exercised, and neither party nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including payments or damages for purchases or subcontracts entered into in anticipation of funding.

AZLink

ARTICLE XVII. METHOD OF EXECUTION

This MOU may be executed in one or more identical counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one MOU.

ARTICLE XVIII. NOTICE

Any notice given pursuant to this contract shall be in writing and shall be considered to have been given when actually received by the following addressees or their agents or employees:

for Maricopa County:

Captain Timothy Palmer
Criminal Intel and Counter Terrorism
c/o Criminal Intelligence and
Investigations Bureau
550 W. Jackson Street 5th Floor
Phoenix, AZ 85003

for City of Peoria:

Roy W. Minter Jr.
Chief of Police
City of Peoria Police Department
8351 W Cinnabar Ave
Peoria AZ 85345

IN WITNESS WHEREOF, the chief law enforcement officer and chief executive officer of the parties hereto have given their respective consents authorized by A.R.S. §13-3872 and the parties hereto have executed this MOU by and through their respective officers duly authorized.

City of Peoria

Maricopa County Board of Supervisors

Signature Date

Clint Hickman, Chairman
Chairman of the Board Date

ATTEST:

ATTEST:

Signature Date

Fran McCarroll,
Clerk of the Board Date

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Attorney Date

Deputy County Attorney Date

Chief of Police
Peoria Police Department Date

Sheriff Joseph M. Arpaio
Maricopa County Sheriff's Office Date

Date Prepared: 9/15/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P. E., Development and Engineering Director

SUBJECT: Contract, Combs Construction Company, Inc., Pinnacle Peak Road from 99th Avenue to 102nd Avenue Improvements

Purpose:

This is a request for Council to approve a contract with Combs Construction Company, Inc. in the amount not to exceed \$1,207,181 for roadway, waterline, and signal improvements on Pinnacle Peak Road from 99th Avenue to 102nd Avenue.

Background/Summary:

This project has been identified in the Streets Capital Improvement Program. The need for improvements to Pinnacle Peak Road has escalated with the future expansion of the public safety facility and planned new residential developments east of Lake Pleasant Road. The eastbound approach at the intersection of Pinnacle Peak Road and Lake Pleasant Parkway is skewed, which will be corrected with this project. This project will provide access to Lake Pleasant Parkway from 102nd Avenue, which will help reduce cut through traffic through the residential neighborhood.

A summary of the improvements to be constructed with this contract are provided below:

- Pave Pinnacle Peak Road from Lake Pleasant Parkway to 102nd Avenue
- Widen Pinnacle Peak Road from 99th Avenue to Lake Pleasant Parkway
- Install a 16" waterline from Lake Pleasant Parkway to 102nd Avenue
- Construct streetlights, sidewalk, and decomposed granite path on the south side of Pinnacle Peak Road
- Provide signal modifications and ADA compliant ramps

On August 3, 2016, the solicitation for construction services was posted. Bids were opened on August 30, 2016, and there were 9 bidders. Combs Construction Company, Inc. was the lowest responsive and responsible bidder at \$1,186,134. The project also had a bid alternative to mill and overlay the existing pavement on Pinnacle Peak Road from 99th Avenue to Lake Pleasant Parkway. Combs Construction Company, Inc. bid for the alternative was \$21,047.

The total bid from Combs Construction Company, Inc. including the bid alternative was \$1,207,181.

Previous Actions:

The City Attorney's Office, Materials Management Division, and the Development and Engineering Department administratively approved all previous contractual items.

Options:

A: Approve the construction contract in the amount not to exceed \$1,207,181 with Combs Construction Company, Inc. Approval of the contract will allow staff to construct roadway, waterline, and signal improvements on Pinnacle Peak Road from 99th Avenue to 102nd Avenue, and mill and overlay the existing pavement on Pinnacle Peak Road from 99th Avenue to Lake Pleasant Parkway.

B: Deny the construction contract in the not to exceed amount of \$1,207,181. By not approving this contract Pinnacle Peak Road will remain unimproved. The new Public Safety Facility will not have a looped waterline system or access to Lake Pleasant Parkway via 102nd Avenue/Pinnacle Peak Road.

Staff Recommendation:

Discussion and possible action to approve the contract in the amount of \$1,207,181 to Combs Construction Company, Inc. for roadway, waterline, and signal improvements on Pinnacle Peak Road from 99th Avenue to 102nd Avenue, and a 10% contingency in the amount of \$120,718.

Fiscal Analysis:

Funding for this project is available in the FY 2017 Capital Improvement Program from the following accounts:

- Water Fund - (2050-2140-543001-CIPWR-EN00513) - \$236,000
- GO Bond Series 2015-(4251-4251-543001-CIPST-EN00513) - \$588,200
- Proposed GO Bonds - (4252-4252-540000-CIPST-EN00513) - \$250,000
- Proposed GO Bonds - (4252-4252-543001-CIPST-EN00513) - \$550,000
- County Transportation Tax Capital Project - (4550-4550-543001-CIPST-EN00513) - \$373,006
- Capital Projects - Outside Sources Account - (4810-4810-543001-CIPST-EN00513) - \$286,000

Narrative:

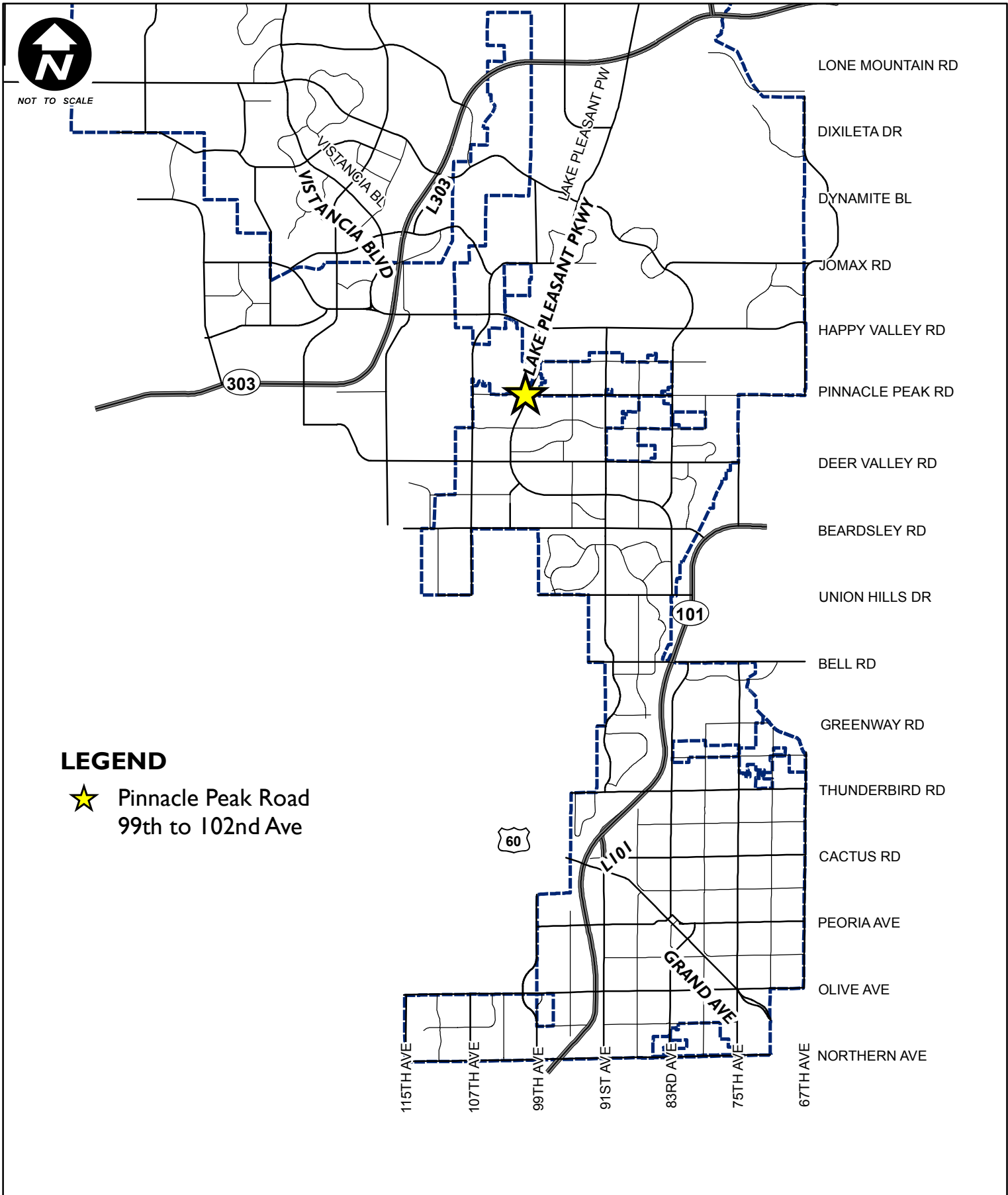
Approval of contract will allow for the construction of these improvements to begin in the Fall of 2016, and be completed by Winter/Spring 2017.

ATTACHMENTS:

Vicinity Map
Location Map

Contact Name and Number:

Chris Lemka, Assistant City Traffic Engineer, X7260





LEGEND

- Project Limits
- Expansion Limits
- Pinnacle Peak Public Safety Building



NOTE
Map based on imprecise source
Information, subject to change and
FOR GENERAL REFERENCE ONLY.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 9C.

Date Prepared: 9/1/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P. E., Development and Engineering Director

SUBJECT: Cable Television License Agreement, Use of City Right-of-Way, Qwest Broadband Services, Inc. dba CenturyLink

Purpose:

This is a request for the Mayor and City Council to consider a request to approve a Cable Television License Agreement with Qwest Broadband Service, Inc. dba CenturyLink and the City for use of City Right-of-Way.

Background/Summary:

The purpose of this agreement is to allow CenturyLink to use the right-of-way to deliver cable television signals programming (i.e., Cable Service) over Qwest Corporation's facilities. On December 14, 1999 the City granted the use of right-of-way certain rights via a Cable Television License to U S West Broadband Service, Inc., now named Qwest Broadband Services, Inc., under LCON Number 12399. The previous license expired on November 30, 2014, but has been automatically extended on a monthly basis while CenturyLink and City staff renegotiate the license agreement.

This cable license agreement (like the City's other) contains a competitive parity clause (Subsection 2.1) which states that the licensee's obligations should be no less burdensome or more favorable than the obligations imposed on its competitors. This provision ensures that CenturyLink, nor its competitors have an unfair competitive advantage over another in their granted authority to utilize the right-of-way. Should CenturyLink, or its competitors, obtain terms that are more favorable, or less favorable, this same provision allows for an automatic amendment to the cable license agreement to ensure no competitor has an unfair competitive advantage.

Agreement Highlights:

- The agreement has a term of nine (9) years, it will expire at the same time the City's other cable license expires.
- The license fee payment will be calculated at five percent (5%) of all revenues and other proceeds (collectively the Gross Revenue).

- Within thirty (30) days after the date of this Agreement, CenturyLink shall deposit with the City, an irrevocable letter of credit from a federally insured commercial lending institution approved by the City in the amount of Ten Thousand Dollars (\$10,000.00).
- CenturyLink provides the City a certificate of insurance.
- CenturyLink shall keep records and maps and provide information to the City.
- All construction and restoration of right-of-way improvements shall meet City standards.
- CenturyLink will adhere to certain customer and community service requirements. The community service includes providing the City, at no charge, basic tier cable service to City facilities.

Previous Actions:

December 14, 1999 - Council approved the original Cable Television License ("Original License") to U S West Broadband Service, Inc., now named Qwest Broadband Services, Inc., LCON Number 12399.

Options:

A: That Mayor and Council approve the Cable Television Agreement with Qwest Broadband Services, Inc. dba CenturyLink and authorize the Mayor or City Manager to execute the necessary documents.

B: That Mayor and Council denies the approval of the Cable Television License Agreement with Qwest Broadband Services, Inc. dba CenturyLink.

Staff Recommendation:

Discussion and possible action to approve the Cable Television License Agreement with Qwest Broadband Services, Inc. dba CenturyLink for use of City Right-of-Way and authorize the Mayor or City Manager to execute the necessary documents.

Fiscal Analysis:

If approved the City will receive the statutory required five percent (5%) of CenturyLink's gross revenues.

Narrative:

Approving the Cable License Agreement with Qwest Broadband Services, Inc. dba CenturyLink.

ATTACHMENTS:

Cable Television License Agreement

Contact Name and Number:

Dan Nissen, (623)773-7214

CITY OF PEORIA, ARIZONA
CABLE TELEVISION LICENSE AGREEMENT

THIS CABLE TELEVISION LICENSE AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 20____, by and between the City of Peoria, an Arizona municipal corporation ("City" or "Licensor"), and Qwest Broadband Services, Inc., a Delaware corporation doing business in Arizona as CenturyLink ("Licensee").

RECITALS

A. Licensor owns public street and alley rights-of-way and public utility easements within the boundaries of the City of Peoria (the "Boundaries") that are dedicated and set apart for use by public utility companies for installation, operation and repair of water, electrical and other public utilities pursuant to franchises, licenses or other agreements between utility companies and Licensor (collectively, the "Right-of-way").

B. Various laws (the "Cable Laws") authorize Licensor to regulate its streets, alleys and public utility easements, and to grant, renew, deny, amend and terminate licenses for the installation, operation and maintenance of cable television systems and otherwise regulate cable television systems within the Boundaries. The Cable Laws include, without limitation, the following:

- (1) Chapter 6 of the Peoria City Code (1992) as amended entitled "Cable Communications Systems" (the Cable Code).
- (2) Other applicable provisions of the Peoria City Code.
- (3) The Peoria City Charter.
- (4) A.R.S. §§9-505 through 9-510 and other state and federal statutes.
- (5) The Constitution of the State of Arizona.
- (6) Other applicable federal, state and local laws, rules and regulations.
- (7) Licensor's police powers, its authority over its public rights-of-way, and its other governmental powers and authority.

In the event of an inconsistency between the Peoria City Code and this Agreement, this Agreement will control.

C. Qwest Corporation d/b/a CenturyLink QC, a Colorado corporation ("Qwest Corporation") owns and operates a telephone network (the "Telecommunications Facilities") in the Right-of-way to provide telephone service. Qwest Corporation does not deliver cable television signals over the Telecommunications Facilities.

D. The purpose of this Agreement is to allow Licensee to use the Right-of-way to deliver cable television signals programming ("Cable Service") over Qwest Corporation's facilities (the "Permitted Uses").

E. This Agreement allows Licensee to use Qwest Corporation's Telecommunications Facilities that Qwest Corporation operates in the Right-of-Way but does not allow Licensee to own, install, operate or maintain any physical cable television distribution equipment or other physical equipment of any kind of its own in the Right-of-way or to maintain or to operate Qwest Corporation's Telecommunications Facilities in the Right-of-way, or to otherwise use the Right-of-way. This Agreement grants to Licensee a limited right to deliver Cable Service over Qwest Corporation's Telecommunications Facilities that Qwest Corporation operates and maintains. The Permitted Uses do not include any use inconsistent with this paragraph.

F. By LCON Number 12399, date December 14, 1999 the City granted certain rights via a Cable Television License ("Original License") to U S West Broadband Service, Inc., now named Qwest Broadband Services Inc.

G. Upon the expiration of the Original License, Licensee and Licensors desire to enter into a new license to allow Licensee to provide Cable Service within the Boundaries.

H. This Agreement is subject to the Cable Laws.

NOW, THEREFORE, for and in consideration of the foregoing, the amounts hereinafter to be paid by Licensee, and the covenants and agreements contained herein to be kept and performed by Licensee and other good and valuable consideration, Licensors and Licensee agree as follows:

I. DEFINITIONS

1. Definitions. For the purpose of this Agreement the definitions in Chapter 6 of the Peoria City Code apply, in addition to the definitions provided in other places in this Agreement, and the following definitions apply:

1.1. "Affiliate" means a person, entity, or company that is related to, is owned by or controlled by, or is under common control (i.e., a subsidiary, parent, or sibling corporation or any associated entity) with or controlling Licensee.

1.2 "Basic Service" means the lowest tier of Cable Service that includes, at a minimum, the retransmission of local television broadcast signals and access programming.

1.3 "Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* ("Cable Act") including any amendments.

1.4 "Code" or "Ordinance" means Chapter 6 of the Peoria City Code.

1.5 "Cable Service" means the one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

1.6 "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple Subscribers within the Boundaries. This term does not include:

- (a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

- (b) A facility that serves subscribers without using any public right-of-way;
- (c) A facility of a common carrier which is subject in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a cable television system, other than for purposes of 47 U.S.C. § 541(c), to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on demand services;
- (d) An open video system; or
- (e) Any facilities of any electric utility used solely for operating its electric utility system.

1.7 "Customer" means subscriber.

1.8 "FCC" means the Federal Communications Commission.

1.9 "QC" means the Qwest Corporation ("QC"), an Affiliate of Licensee.

1.10 "Qualified Living Unit" means a distinct address in the QC network inventory database, including but not limited to single family homes, multi-dwelling units and business locations, that meets the minimum technical qualifications for provision of Cable Service.

1.11 "Subscriber" means any customer lawfully receiving Cable Service from Licensee.

II. RIGHT-OF-WAY

2. Right-of-way. Subject to the provisions of this Agreement, and applicable laws and regulations, Licenser hereby grants to Licensee a nonexclusive revocable license to deliver Cable Service over Qwest Corporation's Telecommunications Facilities in the Right-of-way. Licensee promises and guarantees, as a condition of exercising the privileges granted by this License, that any affiliate of Licensee directly involved in the offering of Cable Services in the Boundaries or directly involved in the management or operation of the Cable System in the Boundaries will also comply with the obligations of this Agreement. The parties acknowledge, however, that Qwest Corporation, an affiliate of Licensee and wholly-owned subsidiary of CenturyLink, Inc. will be responsible for the construction and installation of the Telecommunications Facilities in the Right-of-way that will be utilized by Licensee to provide Cable Service.

However, acknowledging that Qwest Corporation, an affiliate of Licensee and an indirect wholly-owned subsidiary of CenturyLink, Inc. will pull permits and be responsible for the construction, installation, maintenance, repair and ownership of the Telecommunications Facilities in the Right-of-way that will be utilized by Licensee to provide Cable Services, so long as Qwest Corporation does not provide Cable Service to Subscribers in the Boundaries, Qwest Corporation will not be subject to the terms and conditions contained in this Agreement pertaining to Cable Services. Qwest Corporation's installation and maintenance of facilities in the Right-of-way are governed by applicable law. The parties also acknowledge that if and when Qwest Corporation provides Cable Service to Subscribers, then Qwest Corporation will need a separate cable license from the City.

Any privilege claimed under this Agreement by Licensee in any Right-of-way will be subordinate to any prior or subsequent lawful occupancy or use of the Right-of-way by the City or any other governmental entity, will be subordinate to any prior lawful occupancy or use by any other person, and will be subordinate to any easement; however, nothing in this Agreement extinguishes or otherwise interferes with property rights established independently of this Agreement.

2.1 Competitive Parity. Licensee's right to use and occupy the Right-of-way in the Boundaries for the purpose herein provided shall not be exclusive. However, the City agrees not to allow any person to enter into the Right-of-way for the purpose of constructing or operating a Cable System, or for the purpose of providing Cable Service or video programming service to any part of the Boundaries, including by means of an "open video system" (as such term is defined in the Cable Act), without first obtaining a permit, license, authorization, or other agreement from the City or such other governmental entity then entitled to grant such permit, license, authorization, or other agreement.

The material provisions of the agreement under which any competitor is authorized to enter the Right-of-way shall be reasonably comparable to those contained herein, and the obligations imposed on Licensee shall be no less burdensome nor more favorable than the obligations imposed upon such competitor, in order that one operator not be granted an unfair competitive advantage over another. In the event that a competitor is authorized to enter the Right-of-way on terms and conditions that are less burdensome or more favorable than the obligations imposed on Licensee hereunder, this License shall automatically be amended to be consistent with the terms and conditions on which the competitor is authorized to enter the Right-of-way.

III. TERM OF AGREEMENT

3. The Term of this Agreement shall be as follows:

3.1 Original License/Agreement Superseded. When this Agreement becomes effective it terminates and supersedes the Original License (except as to any unknown unperformed liabilities arising before the effective date of this Agreement).

3.2 Term. The Term of this Agreement shall run for a term of nine (9) years, effective as of midnight on _____, 2016 and shall terminate at 11:59 pm. on June 30, 2025, unless sooner terminated as set forth in this Agreement.

3.3 Holding Over. In any circumstance whereby Licensee would continue to use the Right-of-way after the expiration of this Agreement, such holding over shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a use right from month to month that may be terminated at any time by Licensor upon sixty (60) days notice to Licensee, or by Licensee upon sixty (60) days notice to Licensor subject to such other provisions that may apply under state and federal law pertaining to cable television.

3.4 Agreement Accepted. By accepting this Agreement, Licensee acknowledges having carefully read the terms and conditions of the Cable Code and this Agreement and having accepted the obligations imposed thereby. Licensee further acknowledges and certifies that none of the obligations imposed on Licensee by this Agreement or the Cable Code is individually or cumulatively commercially impracticable.

IV. LICENSEE'S PAYMENTS

4. Licensee's Payments. Licensee shall make payments to Licensor as follows:

4.1 Fee Payment Items. Licensee shall pay to the City each of the following separate and cumulative amounts (collectively the “Fee Payments”):

4.1.1 An amount (the “License Fee Payment”) comprising a certain percentage of Licensee gross revenues (the “Gross Revenue”).

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

4.1.3. All other amounts required by this Agreement.

4.2 License Fee Payment. The License Fee Payment shall be calculated as a percentage of all revenues and other proceeds (collectively the “Gross Revenue”) from Licensee’s use of the Right-of-way as follows:

4.2.1. Applicable Percentage. The percentage used to calculate Percentage Use Fee shall be five percent (5%).

4.2.2. Gross Revenue Includes. Gross Revenue means gross revenue as defined in A.R.S. § 9-505(6).

4.2.3. Bundled Service. If Licensee offers its Customer a price discount if they obtain a bundle of Cable Service and other goods and services, then the following shall apply:

4.2.3.1 The discount shall be allocated equally among the Cable Service and other goods and services for the purposes of computing Gross Revenue

4.2.3.2 This Agreement does not authorize Licensee to offer or provide any service other than Cable Service. The bundles that this paragraph refers to are bundles that Licensee and Qwest Corporation might offer to their joint customers under a joint billing or marketing arrangement.

4.2.3.3 Licensee shall not bundle Cable Service with non-cable services in a manner that the amount of Gross Revenue attributed to Cable Service will unreasonably or significantly reduce the Use Fees payable under this Agreement.

4.3 Violation Fee Payment Amount. The amount of the Violation Fee Payment shall be the sum of various amounts (the Violation Amounts”) as hereafter described.

4.4 Other Amounts Required by Agreement. Nothing herein alters the applicable legal obligation of Licensee to bear reasonable costs that are associated with damage caused to the right-of-way by construction, maintenance and operation of its facilities. Those costs may not be offset against the License Fee Payment.

4.4.1 Licensee will pay all fines, fees, charges or damages for breach of the terms and conditions of the License.

4.4.2 If Licensee or QC requests an expedited review of any permits required for construction and inspection and City agrees to expedited review, all costs associated with expediting may not be offset against the License Fee Payment. It is within Licensor’s complete discretion as to whether or not to provide expedited review.

4.4.3 City has the inspection and audit rights described in Peoria City Code Chapter 6, Sections 6-26 (d)

4.4.4 Licensee will pay any applicable application, plan review and expedited plan review, construction permit, inspection, or other fees described in A.R.S. § 9-506(C) that Licensee may not offset against the License Fee Payment.

4.5 Fee Payment Cumulative. All items of Fee Payment shall be cumulative and separate from each other.

4.5.1. Fee Payment Schedule. All Fee Payment shall be payable quarterly in arrears on the date that is forty-five (45) days after the end of each last calendar quarter. For example, the License Fee Payment for the first calendar quarter of a year shall be payable on or before May 15.

4.6 Fee Payment Amount Report. Each installment of Fee Payment shall include a report showing the manner in which each component of Fee Payment was calculated. The report shall summarize the transaction giving rise to the License Fee Payment. When requested by Licensor from time to time, the reconciliation shall be accompanied by documentation substantiating Gross Revenue and other amounts.

4.7 Letter of Credit. Within thirty (30) days after the date of this Agreement, Licensee shall deposit with Licensor, an irrevocable letter of credit from a federally insured commercial lending institution approved by Licensor in the amount of Ten Thousand Dollars (\$10,000.00). The form and substance of said letter of credit will be used to assure (a) the faithful performance by Licensee of all provisions of this License; (b) compliance with all orders, permits, and directions of any agency, commission, board, department, division, or office of the City having jurisdiction over Licensee's acts or defaults under this License; and (c) Licensee's payment of any penalties, liquidated damages, claims, liens, and taxes due to the City that arise by reason of the construction, operation, or maintenance of the Cable System, including cost of removal or abandonment of any of Licensee's property. The form and content of such letter of credit shall comply with all requirements of the City Code, particularly Section 6-83 and the remainder of this Agreement and shall be approved by the City Attorney. This letter of credit shall stand as a security deposit guaranteeing Licensee's faithful performance of this Agreement. Any portion of any security to which Licensee may then be entitled, net of any setoff or other obligation of Licensee, shall be paid to Licensee without interest by Licensor within sixty (60) days after the later of termination of this Agreement or completion of all of Licensee's obligations related to this Agreement.

The letter of credit may be drawn upon by the City by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the City Manager certifying that Licensee has been found, to have failed to comply with this License including failure to cure after noticed noncompliance, stating the nature of noncompliance, and stating the amount being drawn. The rights reserved to the City with respect to the letter of credit are in addition to all other rights of the City, whether reserved by this License or authorized by law, and no action proceeding against a letter of credit will affect any other right the City may have.

4.8 Late Fees. Fee Payment is deemed paid only when Licensor actually receives good payment. Should any Fee Payment not be paid on or before the date due, a late fee shall be added to the amount due in the amount of the greater of ten percent (10%) of the amount due, or One Hundred Dollars (\$100). Furthermore, any Fee Payment that is not timely paid shall accrue simple interest at the rate of one and one-half percent (1½%) per month from the date the amount first came due until paid. Licensee expressly agrees that the foregoing represent fair and reasonable estimates by Licensor and Licensee of Licensor's costs (such as accounting, administrative, legal and processing costs, etc.) in the event of a delay in payment of Fee Payment. Licensor shall have the right to allocate payments received from Licensee among Licensee's obligations.

4.9 Fee Payment Amounts Cumulative. At amounts payable by Licensee hereunder or under any tax, assessment or other existing or future ordinance, law or other contract or obligations to the City of Peoria or the State of Arizona shall be cumulative and payable in addition to each other payment required hereunder, and such amounts shall not be credited toward, substituted for, or setoff against each other in any manner.

V. CUSTOMER AND COMMUNITY SERVICE REQUIREMENTS

5. Customer and Community Service Requirements. Licensee shall provide customer and community service as follows:

5.1 Customer Service Standards. Licensee will offer Cable Service that are equal in quality to those offered by Licensee in surrounding communities in the Phoenix and Scottsdale metropolitan area and provide equal service, mix, level and quality within all areas of the Boundaries. Should there be a failure to maintain the mix, level or quality of services within the broad categories of video programming or other services required by this License, the provisions of Chapter 6 of the Peoria City Code will apply. Licensee will comply with the more stringent of the Customer service and consumer protection provisions of this License, FCC Customer Service Standards, and Peoria City Code. Licensee shall provide customer service as follows:

5.1.1 Most Favored. Licensee shall provide customer service levels and standards of service to the Customers it serves under this Agreement consistent with the highest levels and standards of service that Licensee provides to customers within the State of Arizona.

5.1.2 Rejection of Service. Licensee shall not arbitrarily refuse Cable Service to anyone located within a Qualified Living Unit which this Agreement requires Licensee to serve. However, Licensee is not required to provide Cable Service to any Customer who does not pay applicable Cable Service charges.

5.1.3 Telephone Support. Licensee shall provide sales, billing, repair, installation, technical and other customer support by local telephone number (or toll free number) as follows:

5.1.3.1 Trained Licensee representatives will be available to respond to customer telephone inquiries during normal business hours.

5.1.3.2 After normal business hours, Licensee's customer service telephone line may be answered by a service or an automated response system, including an answering machine. A Licensee representative must respond to inquiries received after normal business hours on the next business day.

5.1.3.3 Under normal operating conditions, Licensee shall meet the following:

5.1.3.1 Ninety percent (90%) of all calls during any ninety (90) day period will be directed to an automated customer service call menu within an average of thirty (30) seconds.

5.1.3.2 Customers will receive a busy signal less than three percent (3%) of the time.

5.1.3.3 Licensee will not be required to acquire equipment or perform surveys to measure compliance with the telephone support standards above unless a historical record of compliance indicates a clear failure to comply.

5.1.4 Local Business Office. The Licensee shall maintain a business office conveniently located near or in the Boundaries for Customers to make payments and/or address billing or service-related issues. The office shall be conveniently located and shall be open during normal business hours Monday through Friday, and shall include evening and weekend hours to meet Customers' needs.

5.1.5 Field Services. Licensee shall provide installations, repairs and other field services as follows:

5.1.5.1 Under normal operating conditions, Licensee shall meet each of the following four (4) standards no less than ninety five percent (95%) of the time, measured during any ninety (90) day period:

5.1.5.1.1 Standard installations will be performed within seven (7) business days after an order has been placed, unless the Customer requests a later installation.

5.1.5.1.2 Excluding conditions beyond Licensee's control, Licensee will begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Licensee must begin actions to correct other service problems the next business day after notification of the service problem.

5.1.5.1.3 The "appointment window" for installations, service calls, and other installation activities will be either a specific time, or at maximum, a four (4) hour time block during normal business hours. (Licensee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the Customer.)

5.1.5.1.4 Licensee may not cancel an appointment with a Customer after the close of business on the business day prior to the scheduled appointment.

5.1.6 Late Appointments. If a Licensee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, Licensee shall contact the customer. If necessary, Licensee shall reschedule the appointment at a time convenient for the Customer.

5.1.7 Outages. Licensee shall respond to confirmed outages immediately. Licensee shall not exceed a four (4) hour average response time to outages during any consecutive three (3) months, under normal operating conditions.

5.1.8 Interruptions. Licensee shall interrupt Cable Service only for good cause and for the shortest time possible. Interruptions, insofar as possible, shall occur during periods of minimum cable system use.

5.2 Billing. Licensee's billing activities shall comply with the following:

5.2.1 Licensee shall provide the following information to all Customers at the time of installation of service, at least annually, and at any other time upon request.

5.2.1.1 Prices and options for programming services and conditions of subscription to programming and other services.

5.2.1.2 Installation, service and maintenance policies.

5.2.1.3 Billing and complaint procedures, including the address and telephone number of Licensee.

5.2.2 Licensee shall notify Customers in advance of any changes in rates, programming services or channel positions. Licensee shall give notice to Customers a minimum of thirty (30) days in advance of such changes if the changes are then known to Licensee or are within Licensee's control. In addition, Licensee shall notify Customers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

5.2.3 Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits. Bills shall list a Licensor phone number and address provided by Licensor for customers to register customer service complaints with Licensor. Until Licensor provides another phone number, the phone number shall be (623) 773-7212, and the address is City of Peoria, Attn: Cable TV License, 9875 N. 85th Avenue, Peoria, AZ 85345.

5.2.4 Licensee shall respond to a written complaint from a Customer within thirty (30) days.

5.2.5 Licensee shall issue refund checks promptly, but no later than the earlier of:

5.2.5.1 The Customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier.

5.2.5.2 The return of the equipment supplied by Licensee if service is terminated.

5.2.6 Credits for service will be issued no later than the Customer's next billing cycle following the determination that a credit is warranted.

5.2.7 Any Customer shall be entitled, upon request, oral or written, to Licensee to a refund equal to one day's service for each Customer's loss of service caused by Licensee: (1) for a continuous twenty-four (24) hour period or (2) for a period of two (2) or more hours on each of any four (4) days within a monthly billing period.

5.2.8 All personnel, agents and representatives of the Licensee, including subcontractors, shall wear Licensee uniform or clearly display a Licensee photo-identification badge when acting on behalf of Licensee.

5.2.9 Licensee shall afford each Customer a right of rescission for ordering Cable Service. Such right of rescission shall end upon the earlier of three (3) days after the order or initiation of installation of Licensor's equipment on the Customer's premises.

5.2.10 Licensee shall bill all Customers in a uniform manner, regardless of the Customer's level of service. In no case shall any Customer be billed for services in excess of thirty (30) days prior to receipt of such service. Payment shall be due no sooner than the fifteenth (15th) day of each billing period, and the due date shall be listed on each bill. Bills shall be mailed no later than the first day of the billing period.

5.2.11 It is not a violation of this Agreement for Licensee and QC to jointly market their services, to issue joint billings or to coordinate or share customer billing and service processes.

5.3 Suspending Service. Licensee shall only disconnect or terminate a Customer's service for good and just cause. In no event shall Licensee disconnect said Cable Service for nonpayment without first notifying the affected Customer at least seven (7) days prior to such disconnection or termination. In no event shall such disconnection or termination for nonpayment occur in less than thirty (30) days after a Customer's failure to pay a bill due. Where Licensee has improperly discontinued Cable Service to any Customer, Licensee shall provide free reconnection.

5.4 Complaints through Licensor. Licensee shall act upon complaints made through Licensor within three (3) days after Licensee is informed of the complaint.

5.5 Community Service/Service to the Licensor. Upon request from Licensor, Licensee shall provide at no charge to Licensor, Licensee's basic tier Cable Service to Licensor facilities ("Community Service") as follows:

5.5.1 Community Service includes at no charge a drop, and one set top box, at any Licensor facility that is a Qualified Living Unit. If making service available to Licensor facility requires no more than a standard drop, Licensee shall make service available without charge to Licensor facilities. If making service available to a Licensor facility requires more than a standard drop, Licensee will not be required to make such service available unless the Licensor entity requesting such service pays to Licensee an amount equal to the actual, reasonable labor and material costs incurred by Licensee for the additional facilities and work, less Licensee's cost for a standard drop. Absent a showing by Licensee to the City Manager of unusual circumstances, which include without limitation street crossings or plant extensions, any standard drop to any Licensor facilities shall be accomplished within ten days of the written request for service.

5.5.2 Licensor may install at its own expense as many additional outlets as it deems appropriate beyond the one outlet provided at Licensee's expense at each location with no monthly service charge for such additional outlets so long as it does not degrade service. Licensee shall provide a reasonable signal level based on Licensor's design for additional outlets at each such location. If Licensee charges its residential customers a rental fee for additional set top converter boxes, then Licensor shall pay such fee for additional set top converter boxes necessary for additional outlets that Licensor requests.

5.5.3 Licensee shall provide Community Service to structures occupied by Licensor (whether owned or leased). However, if Licensor only has a single suite or area in a larger commercial building, such as shopping mall, then Lessee need only provide Community Services to the suite or area.

5.5.4 Licensor shall be responsible for the installation and maintenance of all interior distribution for Community Service.

5.5.5 Licensor's Office of Communication shall function as Licensor's point of contact with Licensor's departments requesting Community Service.

5.6 Licensor (City) Channels. Licensee will provide Licensor the channel capacity for two (2) channels of public, educational or governmental access programming as required by federal and state law in the basic service tier of Cable System and two (2)

channels of noncommercial governmental programming in the digital programming tier of the Cable System.

5.6.1 Basic Service Tier.

5.6.11 Government Channel. Licensee shall make (or continue to make) available in the basic service tier at no charge to Licensor one (1) channel on the Cable System designated as a governmental Channel to be used by Licensor government officials and agencies. The governmental channel is for use by Licensor for non-commercial, informational programming regarding government activities and programs.

5.6.12 Education Channel. Licensee shall make (or continue to make) available in the basic service tier at no cost to Licensor one (1) on the Cable System designated as an educational channel. The educational channel shall be used by Licensor for non-commercial, informational programming regarding educational activities and programs.

5.7 Digital Channels. Within one hundred twenty (120) days of written request by Licensor, Licensee shall make available in the digital programming tier at no cost to Licensor one (1) channel to be designated as a government, public service (fire or police) or educational channel for use by Licensor for non-commercial, informational programming regarding government or education activities and programs. Licensor may request two (2) such channels in addition to the channels specified in Section 5.6.1.

5.8 Point of Origin. Licensor channels shall each originate from a studio designated by Licensor within the Boundaries. Licensee shall establish the connection to the Cable System necessary for each of Licensor channels to originate from this location at no cost to Licensor. If Licensor elects to relocate the point of origination for any of the Licensor channels, Licensor shall bear the entire cost of such relocation.

5.9 Maintenance of Equipment. Licensee shall provide at no charge to Licensor prompt and regular periodic maintenance and replacement of any cables, amplifiers, and other distribution equipment owned by Licensee and used for Licensor channels. Licensor shall provide and operate and maintain at its expense all other equipment and facilities necessary for operation of Licensor channels.

5.10 Location of Channels. Licensee may, in its sole discretion, determine the tier and channel location of Licensor channels and the method for delivering these channels over the Cable System.

5.11 Unused Capacity. Licensee may utilize unused capacity on the Licensor channels for any purpose under rules and procedures established by Licensor. Licensee and Licensor will annually review the use of the Licensor channels and, upon mutual agreement between Licensee and Licensor, Licensor may relinquish one or more of Licensor channels to Licensee for use as Licensee sees fit.

5.12 Change in Cable Technology Licensor and Licensee will meet annually or upon the written request of either party to discuss changes in Broadband and Communications cable television laws, regulations, technology, competing services, the needs of the community, and other factors impacting cable television. As a result of these discussions, this Agreement may be modified by mutual agreement of Licensor and Licensee to respond to a change in law, regulations, technology, competing services, the needs of the community, or other factors affecting cable television.

5.13 Licensee shall permit Licensor to include the basic PEG Channel information in any electronic/interactive program guide. Licensee shall bear the costs to include the basic information in the programming guides for the PEG Channels, free of charge and at no cost to Licensor. Licensor shall have the right to pay for more enhanced program information to be made available on the programming guides including the Channel name and logo/icon, program titles scheduled in thirty (30) minute time blocks, program descriptions, information needed for search and record features, and any other information similarly provided for other broadcast channels and commercial cable/satellite Channels.

5.14 On Demand Content. Licensee shall make available a minimum of ten (10) hours of education, and government content on the Licensee's network in the form of "On Demand" programming.

5.15 Return Broadcast Feed. At a date mutually agreed to by the parties, a return feed of the television signal being transmitted shall be provided to the point of origin.

VI. IMPROVEMENTS BY LICENSOR

6. Improvements by Licensor. Licensor has not promised to and is not obligated in any manner to make any improvements or perform any other construction or other work in the Right-of-way.

6.1 Use of the Right-of-Way. Nothing in this Agreement increases, diminishes or otherwise alters Licensor's authority or manner in which it regulates QC's use of the right-of-way. Construction, installation, operation, and maintenance of facilities in the right-of-way shall be in a manner such that it operates at all times consistent with all laws, Licensor's construction standards and the FCC Rules and Regulations, as amended from time to time. In addition, Licensor may at any time conduct independent measures of the Cable System.

6.2 Construction, installation, and maintenance of a Cable System shall be performed in an orderly and professional manner and adhere to the Licensor's standards relative to underground facilities. All cables and wires shall be installed underground, and where possible, parallel with and in a manner similar to the installation of electric and telephone lines, so long as such lines are underground. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations. Installation shall be in conformance with all applicable codes including property maintenance codes, the subdivision code and design guidelines approved by Licensor. All applicable sections of all current codes, ordinances, and standards in effect at the time of permitting shall be complied with.

6.3 Utility Locating Systems. QC shall participate in the regional one-call utility locating system (Blue Stake).

6.4 Residential Notification of Construction Activity Required. Residential notice of construction activity shall be provided sixty (60) days in advance to all affected residents before any system construction crews enter the ROW adjacent to their property; however, such notice is not required in emergencies.

VII. LICENSEE'S IMPROVEMENTS GENERALLY

7. Licensee's Improvements Generally. Licensee's use of the right-of-way shall only be through QC's facilities or other persons who have a lawful, permitted right to be in the right-of-way. Licensee shall not own, install, repair, maintain, operate or otherwise work on or control any physical improvements or equipment of any kind within the right-of-way.

VII. CABLE SYSTEM EXTENSION REQUIREMENTS

8. Cable System Extension Requirements. Licensee shall offer to provide Cable Service to all residents and business locations within the Boundaries in accordance with the following requirements (the "System Extension Requirements"):

8.1 Service Extension. Licensee shall provide Cable Service upon request from any person in the Boundaries who is located in a Qualified Living Unit within seven (7) business days. A request shall be deemed placed on the date of signing a service agreement, receipt of funds by Licensee, or receipt by Licensee of a verified verbal or written request. Rate and charges may not exceed the Licensee's published rates. Licensee shall not unlawfully deny Cable Service to any group of subscribers or potential subscribers.

8.2 Changes to Boundaries. The following shall apply upon any change in Boundaries:

8.2.1 This Agreement shall no longer apply to an area removed from the Boundaries.

8.2.2 This Agreement shall apply to an area added to the Boundaries. Within sixty (60) days after the change to Boundaries, Licensee shall comply with the System Extension Requirements for the added area.

8.2.3 Licensors and Licensee shall coordinate to develop a process for Licensee to receive notice of changes to the Boundaries within a reasonable time.

IX. MAINTENANCE AND OPERATIONS

9. Maintenance and Operations. All maintenance, operations and other physical work to the facilities in the right-of-way shall be performed by QC and not Licensee. However, QC's failure to adhere to the requirements, regulations, maintenance and obligations for the right-of-way may affect Licensee's ability to provide Cable Service as authorized by this Agreement.

9.1 Maintenance of Emergency Service. In accordance with the provisions of FCC Rules and Regulations Part 11, Subpart D, Section 11.51(h)(1), as they may from time to time be amended, Licensee shall install and maintain an Emergency Alert System and shall transmit all Emergency Act Notifications and Emergency Act Terminations relating to local and state-wide situations as may be designated to be an emergency by the local primary, the state primary and/or the State Emergency Operation Center, as those authorities are identified and defined within FCC Rules and Regulations, Part 11.

X. BREACH BY LICENSEE

10. Breach by Licensee. Licensee shall comply with the terms and provisions of this Agreement. Licensee's failure to do so shall be a breach by Licensee of this Agreement.

10.1 Events of Default. This entire Agreement is made upon the condition that each and every one of the following events shall be deemed an "Event of Default" by Licensee of Licensee's material obligations under this Agreement:

10.1.1 If Licensee shall be in arrears in the payment of Fee Payment due and not paid and shall not cure such arrearage within ten (10) days after Licensors notified Licensee of such arrearage.

10.1.2 If Licensee willfully fails to provide Cable Service as required by this Agreement over a substantial portion of the Boundaries to Subscribers for ninety-six (96) consecutive hours, unless Licensor authorizes a longer interruption of services.

10.1.3 If Licensee shall fail to maintain any insurance required by this Agreement, unless within thirty (30) days Licensee provides the insurance, including coverage that is retroactive to prevent any gap in coverage.

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

10.1.5 If Licensee shall violate the provisions of the documents by which Licensor acquired its interests in the Right-of-way within any cure period that may be provided by such documents.

10.1.6 If the issuer of any letter of credit shall fail for any reason to timely and fully honor any request by Licensor for funds or other performance under the instrument and Licensee fails to cause the issuer to or some other person to honor the request within ten (10) days after Licensor notifies Licensee that such request has not been honored.

10.1.7 If Licensee shall engage in a pattern of repeated failure (or neglect) to timely do or perform or observe any provision contained herein. After Licensor has once given notice of any failure by Licensee to comply with any provision of this Agreement, the following shall constitute a repeated failure by Licensee to comply with such provision:

10.1.7.1 Another failure to comply with any provision of this Agreement during the following thirty (30) day period.

10.1.7.2 Three (3) or more failures to comply with any provision of this Agreement during any ninety (90) day period.

10.1.7.3 Six (6) or more failures to comply with any provision of this Agreement during any twelve (12) month period.

10.1.8 If Licensee shall fail to or neglect to timely and completely do or perform or observe any other provisions contained herein and such failure or neglect shall continue for a period of thirty (30) days after Licensor has notified Licensee in writing of such failure or neglect.

10.2 Licensor's Remedies. Upon the occurrence of any Event of Default or at any time thereafter, Licensor may, at its option and from time to time, exercise at Licensee's expense any or all or any combination of the following cumulative remedies in any order and repetitively at Licensor's option:

10.2.1 Termination of this Agreement. Termination of this Agreement due to Licensee's breach or for any other reason does not terminate Licensee's obligations arising during the time simultaneous with or prior to or the termination, and in no way terminates any of Licensee's liability related to any breach of this Agreement. City shall not use such termination power without first conducting a hearing before its City Manager or designee at which Licensee may appear and present evidence. The City may state in writing the City's determination of the validity of the proposed termination and summarize its findings on the

controversy. Such findings may be appealed by Licensor or Licensee to a court for de novo review.

10.2.2 Cause a receiver to be appointed for the continuing performance of Licensee's obligations at the Right-of-way.

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

10.2.4 Abate at Licensee's expense any violation of this Agreement.

10.2.5 Notwithstanding anything in this Agreement to the contrary, unilaterally and without Licensee's or any other person's consent or approval, draw upon, withdraw or otherwise realize upon or obtain the value of any letter-of-credit, escrowed funds, insurance policies, or other deposits, sureties, bonds or other funds or security pledged for Licensor's benefit pursuant to this Agreement and use the proceeds for any remedy permitted by this Agreement.

10.2.6 Be excused without any liability to Licensee therefore from further performance of any or all obligations under this Agreement.

10.2.7 Insist upon Licensee's full and faithful performance under this Agreement and upon Licensee's full and timely payment of all amounts during the entire remaining term of this Agreement.

10.2.8 Require an additional security deposit adequate to protect Licensor and the right-of-way in light of Licensee's history of performance under this Agreement and pursuant to Licensor's City Code.

10.2.9 Assert, exercise or otherwise pursue at Licensee's expense any and all other rights or remedies, legal or equitable, to which Licensor may be entitled, subject only to the limitation set out below on Licensor's ability to collect money damages in light of the Violation Fee Payment .

10.2.10 Licensee understands and agrees that failure to comply with any time or performance requirement set forth in this Agreement will result in damage to Licensor, and that it is and will be impracticable to determine the actual amount of such damages caused by delay or nonperformance. Therefore, the Licensee will be assessed liquidated damages pursuant to Section 6-85 of the City Code.

10.2.11 In the event that the City believes that Licensee has not complied with the terms of this Agreement; the City will informally discuss the matter with Licensee. If these discussions do not lead to resolution of the issues, the City will notify Licensee in writing of the exact nature of the alleged noncompliance. Licensee will have thirty (30) days from receipt of the notice of violation: (a) to respond to the City, contesting the assertion of noncompliance; (b) to cure such default; or (c) if, by the nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed and the City in its sole discretion can determine if such steps are acceptable.

10.2.12 If Licensee fails to respond to the notice described in Subsection 10.2.10 pursuant to the procedure set forth therein, or if the alleged default is not cured within thirty (30) days after the date projected pursuant to Subsection 10.2.11 above, or if it intends to continue its assertion of, and investigation into, the alleged default, then the City shall schedule a hearing before

the City Manager or its designee at which at which Licensee may appear and present evidence. The City may state in writing the City's determination from the hearing and summarize its findings.

10.3 Violation Fee Payment. Licensee shall pay Violation Fee Payment to Licensor as follows:

10.3.1 Licensee's failure to comply with time and performance requirements in this Agreement specifies a Violation Fee Payment amount will result in money damage to Licensor for which it is and will be impracticable to determine the actual amount. Therefore, the parties have agreed that, in lieu of Licensee paying money damages to Licensor for Licensee's violation of this Agreement for which this Agreement specifies a Violation Fee Payment amount, Licensee shall pay Violation Fee Payment .

10.3.2 Violation Fee Payment is only intended to remedy direct money damage that Licensor suffers because of Licensee's breach. Licensee's payment of Violation Fee Payment does not in any way excuse any breach by Licensee of this Agreement or limit in any way Licensor's obtaining any other legal or equitable remedy provided by this Agreement or otherwise for such breach.

10.3.3 Except as stated in this Section 10, no cure period applies to the accrual of Violation Fee Payment. For example, Violation Fee Payment for Licensee's failure to comply with the customer service standards shall begin to accrue on the first day that Licensee fails to remedy a violation of customer service standards after notice in writing from Licensor of the violation.

10.3.4 Licensee may elect to draw upon the letter of credit to collect the Violation Fee Payment.

10.3.5 The amount of the Violation Fee Payment per day or part thereof is as follows:

10.3.5.1 The amount of \$150.00 per day for each failure to comply with customer service standards as stated in the City Code and required by this Agreement.

10.3.5.2 The amount of \$250.00 per day for each failure to make Licensee's books and records available as required by this Agreement.

10.3.5.3 The amount of \$2,750.00 per day for any unauthorized partial or total assignment of this Agreement.

10.3.5.4 The amount of \$150.00 per day for Licensee's failure to cure any other violation of the License, following such notice and opportunity to cure as may be allowed under this Agreement.

10.3.5.5 The amount of \$500.00 per instance of any other failure to comply with this Agreement.

10.3.6 Violation Fee Payments shall be assessed as follows;

10.3.6.1 Subject to Section 10.2.11, if Licensor determines that Licensee is liable for Violation Fee Payment, then Licensor shall issue to Licensee a notice of Licensor's assessing a Violation Fee Payment. The notice shall set forth the nature of the violation and the amount of the assessment.

10.3.6.2 Licensee shall have thirty (30) days after the notice to pay for the Violation Fee Payment or give Licenser notice contesting the assertion of noncompliance.

10.3.6.3 If Licensee fails to cure the violation or contest the violation or respond to the notice, Licensee shall pay the Violation Fee Payment. Otherwise, Licenser may schedule a public hearing to investigate whether the Violation Fee Payment is properly assessed. Licenser may provide Licensee at least ten (10) days prior written notice of such hearing, which shall specify the time, place and purpose of such hearing. At such hearing, Licensee shall be provided a full and fair opportunity to be heard and present evidence.

10.3.6.4 Licensee may appeal the outcome of the hearing to an appropriate court, which shall have the power to review Licenser's decision "de novo". Such appeal to the appropriate court must be taken within sixty (60) days after the issuance of Licenser's determination. Otherwise, the outcome of the hearing shall be final and conclusive as between Licensee and Licenser.

10.4 Non-waiver. Licensee acknowledges Licensee's unconditional obligation to comply with this Agreement. No failure by Licenser to demand any performance required of Licensee under this Agreement, and no acceptance by Licenser of any imperfect or partial performances under this Agreement, shall excuse such performance or impair in any way Licenser's ability to insist, prospectively and retroactively, upon full compliance with this Agreement. No acceptance by Licenser of Fee Payment payments or other performances hereunder shall be deemed a compromise or settlement of any right Licenser may have for additional, different or further payments or performances. Any waiver by Licenser of any breach of condition or covenant herein contained to be kept and performed by Licensee shall not be deemed or considered as a continuing waiver and shall not operate to bar or otherwise prevent Licenser from declaring a default for any breach or succeeding or continuing breach either of the same condition or covenant or otherwise. No statement, bill or notice by Licenser or Licensee concerning payments or other performances due hereunder, or failure by Licenser to demand any performance hereunder, shall excuse Licensee from compliance with this Agreement nor estop Licenser (or otherwise impair Licenser's ability) to at any time correct such notice and/or insist prospectively and retroactively upon full compliance with this Agreement. No waiver of any description (INCLUDING ANY WAIVER OF THIS SENTENCE OR PARAGRAPH) shall be effective against Licenser unless made in writing by a duly authorized representative of Licenser specifically identifying the particular provision being waived and specifically stating the scope of the waiver. LICENSEE EXPRESSLY DISCLAIMS AND SHALL NOT HAVE THE RIGHT TO RELY ON ANY SUPPOSED WAIVER OR OTHER CHANGE OR MODIFICATION, WHETHER BY WORD OR CONDUCT OR OTHERWISE, NOT CONFORMING TO THIS PARAGRAPH.

10.5 Reimbursement of Licenser's Expenses. Licensee shall pay to Licenser within thirty (30) days after Licenser's demand any and all actual amounts expended or incurred by Licenser in performing Licensee's obligations together with interest thereon at the rate of twelve percent (12%) per annum from the date expended or incurred by Licenser.

10.6 Breach by Licenser. Notwithstanding anything in this Agreement to the contrary, in the event Licenser at any time is required to pay to Licensee any amount or render any performance, such amount or performance is not due until thirty (30) days after notice by Licensee to Licenser that the amount has become payable or that the performance is due. In the event a cure cannot be effected during that period, Licenser shall not be in default so long as Licenser commences cure during the period and diligently prosecutes the cure to completion provided such cure must be completed within sixty (60) days after the notice.

10.7 Right to Setoff and Credit. In addition to its other rights and remedies under this Agreement, Licensor shall have the right to setoff and credit from time to time and at any time, any and all amounts due from Licensee to Licensor, whether pursuant to this Agreement or otherwise, against any sum which may be due from Licensor to Licensee pursuant to this Agreement or otherwise.

10.8 Enforcement. Either party shall have the right to pursue litigation or otherwise enforce its rights under this Agreement or other legal or equitable rights it might have.

XI. TERMINATION

11. Rights at Termination. The following provisions shall apply at the expiration of the term hereof or upon any other termination of this Agreement.

11.1 Surviving Obligations. Expiration of this Agreement (or Licensor's termination of this Agreement due to an Event of Default or any other reason) does not terminate Licensee's obligations existing or arising prior to or simultaneous with, or attributable to, the termination or events leading to or occurring before termination.

11.2 Delivery of possession. Licensee shall cease using the Right-of-way for provision of Cable Service.

11.3 New Approvals and Agreements. Upon expiration or termination of this Agreement for any reason, Licensee shall no longer have the right to use the Right-of-way to provide Cable Service. Licensee shall have a one hundred eighty (180) day period thereafter to obtain from Licensor such licenses, permits or other approvals or agreements as Licensor may then be entitled to lawfully require for Licensee to continue using the Telecommunications Facilities in the Right-of-way for any other communication purpose Licensee may desire to provide. After such period, any right to use the Right-of-way shall be pursuant to such new approvals and agreements and not pursuant to this Agreement.

11.4 Confirmation of Termination. Upon expiration or termination of this Agreement for any reason, Licensee shall provide to Licensor upon demand a confirmation of termination of this Agreement executed and acknowledged by Licensee and by all persons who claim that they have been received from or through Licensee any interest in or right to use the Right-of-way.

XII. INDEMNITY AND INSURANCE

12. Insurance Responsibility. During the entire term of this Agreement, Licensee shall insure its activities at and about the Right-of-way and shall provide insurance and indemnification as follows:

12.1 Insurance Required. Not later than the date of this Agreement, and at all times thereafter when Licensee is occupying or using the Right-of-way in any way, Licensee shall obtain and cause to be in force and effect the following insurance:

12.1.1 Commercial General Liability. Licensee shall maintain in full force and effect, at no cost and expense to the City, during the term of this License, commercial general liability insurance in the amount of three million dollars combined single limit for bodily injury and property damage. The City shall be named as an additional insured. Such insurance will not be cancelable except upon thirty (30) days prior written notice to Licensor by Licensee and only upon procurement of replacement insurance with like coverage and limits. Upon written request, Licensee shall provide a certificate of insurance showing evidence of the

coverage required by this Agreement. Licensee may self-insure the above-described policy coverages if Licensee or its parent is of sufficient financial standing to provide such insurance.

12.1.2 Automobile Liability. Automobile liability insurance with a limit of One Million Dollars (\$1,000,000) for each occurrence covering any and all owned, hired, and non-owned vehicles assigned to or used in any way in connection with Licensee's use of the Right-of-way. Without limitation, such insurance shall cover hazards of motor vehicle use for loading and off-loading.

12.1.4 Workers Compensation. Such workers' compensation and limit similar insurance as is required by law and employer's liability insurance with a minimum limit of One Hundred Thousand Dollars (\$100,000) for each accident, One Hundred Thousand Dollars (\$100,000) disease for each employee, Five Hundred Thousand Dollars (\$500,000) policy limit for disease. All contractors and subcontractors must provide like insurance.

12.1.5 Other Insurance. Any other insurance Licensor may reasonably require for the protection of Licensor and Licensor's employees, officials, representatives, officers and agents (all of whom, including Licensor, are collectively "Additional Insureds"), the Right-of-way, surrounding property, Licensee, or the activities carried on or about the Right-of-way. Such insurance shall be limited to insurance a reasonable person owning, leasing, designing, constructing, occupying, or operating similar facilities could reasonably purchase.

12.2 Policy Limit Escalation. Licensor may elect by notice to Licensee to increase the amount or type of any insurance to account for inflation, changes in risk, or any other factor that Licensor reasonably determines to affect the prudent amount of insurance to be provided.

12.3 Form of All Insurance. All insurance provided by Licensee with respect to the Right-of-way, whether required by this Agreement or not, shall meet the following requirements:

12.3.1 "Occurrence" coverage is required. "Claims made" insurance is not permitted, except for Broadcast Insurance.

12.3.2 If Licensee uses any excess insurance then such excess insurance shall be "follow form" equal to or broader in coverage than the underlying insurance.

12.3.3 Policies must also cover and insure Licensee's activities relating to the business operations and activities conducted away from the Right-of-way.

12.3.4 Licensee must clearly show by providing copies of insurance certificates, formal endorsements or other documentation acceptable to Licensor that all insurance coverage required by this Agreement is provided.

12.3.5 Licensee's insurance shall be primary insurance with respect to claims arising out of Licensee's operations, activities and obligations under this Agreement.

12.3.6 All policies, including workers compensation, shall waive transfer rights of recovery (subrogation) against Licensor, and the other Additional Insured's.

12.3.7 No deductible, retentions, or "self-insured" amounts shall exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate per year, per policy. Licensee shall be solely responsible for any self-insurance amount or deductible. At any time Licensee's

net worth is more than One Hundred Million Dollars (\$100,000,000.00), Licensee may elect to self insure up to the amount of Three Million and No/100 Dollars (\$3,000,000.00).

12.3.8 All policies except workers' compensation must name Licensors as additional Insureds. Licensee shall cause coverage for Additional Insureds to be incorporated into each insurance policy by endorsement with respect to claims arising out of Licensee's operations, activities and obligations under this Agreement.

12.3.9 All policies shall require that notices be given to Licensors in the manner specified for notices to Licensors under this Agreement.

12.4 Insurance Certificates. Licensee shall evidence all insurance by furnishing to Licensors certificates of insurance annually and with each change in insurance coverage. Certificates must evidence that the policy described by the certificate is in full force and effect and that the policy satisfies each requirement of this Agreement applicable to the policy. For example, certificates must evidence that Licensors and the other Additional Insureds are additional Insureds. Certificates must be in a form acceptable to Licensors. Licensee shall provide updated certificates at Licensors's request.

12.5 Acceptable Insurers. All insurance policies shall be issued by insurers acceptable to Licensors. At a minimum, all insurers shall be duly licensed (or qualified unlicensed non-admitted insurer) by the State of Arizona, Department of Insurance. At a minimum, all insurers shall have and maintain an A.M. Best, Inc. rating of B++ 6.

12.6 No Representation of Coverage Adequacy. By requiring herein, Licensors does not represent that coverage and limits will be adequate to protect Licensee. Licensors reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but have no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Licensee from, nor be construed or deemed a waiver of, Licensee's obligation to maintain the required insurance at all times.

12.7 Indemnity. In addition to all other indemnities and other obligations hereunder, to the fullest extent permitted by law, throughout the term of this Agreement and until all obligations and performances under or related to this Agreement are satisfied and all matters described in this paragraph are completely resolved, Licensee agrees and shall jointly and severally indemnify, defend and hold harmless Licensors, its officers, boards, and employees, for, from, and against any and all costs, damages, expenses, claims, suits, actions, liabilities, and judgments for damages including, but not limited to, expenses for legal fees, whether suit be brought or not, and disbursements and liabilities incurred or assumed by Licensors in connection with: (i) any liability for damages that arise out of Licensee's cause for construction, operation, or maintenance of its Cable System (or facilities) and (ii) any liability or claims resulting from property damage or bodily injury (including accidental death) that arise of Licensee's cause for construction, operation, or maintenance of its Cable System, facilities, including, but not limited to, reasonable attorneys' fees and costs. Licensee's foregoing duty to indemnify shall extend to the claims caused by the actions of its employees, agents and contractors. Notwithstanding the foregoing, the Indemnity does not apply to:

12.7.1 Claims arising only from the sole negligence or intentionally wrongful acts of Licensors.

12.7.2 Claims that the law prohibits from being imposed upon the indemnitor.

12.8 Risk of Loss. Subject to Section 12.7.1 above, Licensee shall be responsible for any and all damage to its property and equipment related to this Agreement and shall hold harmless and indemnify Licensors and all other Additional Insureds, regardless of the cause of such damages

12.9 Insurance to be Provided by Others. Licensee shall cause its contractors or other persons occupying, working on or about, or using the Right-of-way pursuant to this Agreement to be covered by their own or Licensee's insurance as required by this Agreement.

XIII. CONDEMNATION

13. Condemnation. Licensors has not relinquished any right of condemnation or eminent domain.

XIV. DAMAGE TO CABLE SYSTEM

14. Damage to Cable System. Licensors has no responsibility under this Agreement to repair any damage to Licensee's Cable System.

XV. LICENSEE'S RECORDS

15. Licensee's Records. During the entire term of this Agreement, Licensee shall keep records and provide information to Licensors as follows:

15.1 Scope of Information. Unless otherwise specified, otherwise specified, all of Licensee's recordkeeping and disclosure obligations under this article include and are limited to information about this Agreement and Licensors' and Licensee's rights and obligations hereunder (collectively, the "Covered Information"). Without limitation, Covered Information includes records required to be kept by Licensee pursuant to the rules and regulations of the FCC, full and complete plans and maps showing the exact location of all Cable System, and financial information underlying written reports. Covered Information does not include personally identifiable customer information without the customer's consent in violation of Section 631 of the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. Section 55.1.

15.2 Supplemental Reports. Licensee shall deliver to Licensors written reports (and, if requested by Licensors, a presentation to Licensors' governing council or designee) covering such Covered Information as Licensors may request from time to time. Without limitation, such reports shall include the following:

15.2.1 Licensee shall provide Licensors quality reports on the number of residential and business units passed to which it is capable of providing Cable Service and the number of subscribers, and may provide this so confidential information is protected as long as such does not compromise the integrity of information.

15.2.2 Licensee shall participate in any annual performance review of Licensee's performance of the terms of this Agreement. Licensors may notice such reviews as public review hearings with the opportunity for public participation. Licensors shall give not less than thirty (30) days notice of such reviews.

15.2.3 Licensee shall provide Licensors with the reports, financial information, documents and information required by the Cable Code.

15.3 Records Inspection. At Licensee's expense, Licensee shall:

15.3.1 Permit and assist Licensor and its representative's at all reasonable times to inspect, audit, and copy Licensee's records of Covered information.

15.3.2 Make the records of Covered Information (and reasonable accommodations for Licensor's audit and inspection) available to Licensor at Licensee's offices in Maricopa County, Arizona (or at another location requested by Licensor within the corporate limits of the City of Peoria).

15.3.3 Cause Licensee's employees and agents to give their full cooperation and assistance in connection with Licensor access to the Covered Information.

15.4 Standards for Records. Licensee shall maintain a standard, modern system of recordkeeping for the Covered Information and shall keep and maintain proper and accurate books and other repositories of information relating to the Covered Information in accordance with generally accepted accounting principles applied on a consistent basis. In the event Licensor does not receive Covered Information, Licensor shall have the right to estimate the information that is not provided, which estimate shall be binding upon Licensee.

15.5 Record Retention. Licensee shall preserve records of the Covered Information in a secure place at Licensee's corporate headquarters in the continental United States and available to Licensor on request for review within the City of Peoria, Maricopa County, Arizona, or other mutually agreed upon location for a period ending seven (7) years after the time period reported by the records. If any books or records of Licensee are not kept in a regional office in Maricopa County then upon Licensor's request as set forth above, and if Licensor determines that an examination of such records are necessary for the enforcement of this Agreement, then all reasonable travel expenses incurred in making such examination shall be paid by Licensee.

15.6 Record Media Included. Licensor's and Licensee's rights and obligations regarding the Covered Information apply regardless of the type of media, materials, or data repositories that may contain the Covered Information. Licensor's rights to the Covered Information apply regardless of whether the Covered Information is stored on recordings, notes, ledgers, correspondence, reports, drawings, memoranda, or other repository of Covered Information.

15.7 Costs of Audit. If an audit, inspection or examination discloses underpayments (or other matters adjusted in favor of Licensor) of any nature that exceed five percent (5%) of any payments or single payment, Licensee shall pay to Licensor Licensor's actual cost (based on the amount paid by Licensor, or based on reasonable charges charged by private auditors and other service providers for comparable work if the examination is performed by Licensor's employees) of the examination, together with late fees, interest, and other amounts payable in connection with such adjustments or payments. Any adjustments and/or payments due as a result of any such examination shall be made within a reasonable amount of time (not to exceed 30 days) after Licensor gives to Licensee notice of Licensor's findings. Any such audit shall take place within one thousand ninety-five (1,095) days following the close of each of Licensee's fiscal years.

XVI. COMPLIANCE WITH LAW

16. Compliance with Law. Licensee shall perform its obligations under this Agreement in accordance with all federal, state, county and local laws, ordinances, regulations or other rules or policies as are now in effect or as may hereafter be adopted or amended. Without limiting in any way the generality of the foregoing, Licensee shall comply with all and each of the following:

16.1 Applicability of Municipal Law. Without limitations, Licensee shall comply with applicable provisions of municipal law as follows:

16.1.1 Licensee acknowledges that this Agreement does not constitute, and Licensor has not promised or offered, any type of waiver of, or agreement to waive (or show any type of forbearance, priority or favoritism to Licensee with regard to) any law, ordinance, power, regulation, tax, assessment or other legal requirement now or hereafter imposed by the City of Peoria or any other governmental body upon or affecting Licensee, the Right-of-way or Licensee's use of the Right-of-way.

16.1.2 All of Licensee's obligations hereunder are in addition to, and cumulative upon (and not to any extent in substitution or satisfaction of), all existing or future laws and regulations applicable to Licensee.

16.1.3 Licensor by this Agreement cannot and has not relinquished or limited any right of condemnation or eminent domain over the Right-of-way or any other property related to this Agreement or within the Right-of-way.

16.1.4 Licensor's rights and remedies hereunder for Licensee's failure to comply with all applicable laws supplement and are in addition to and do not replace otherwise existing powers of the City of Peoria or any other governmental body.

16.2 Taxes, Liens and Assessments. In addition to all other amounts herein provided and to the extent consistent with applicable law, Licensee shall pay, when the same become due and payable, all taxes and general and special fees, charges and assessments of every description that during the term of this Agreement may be levied upon or assessed upon or with respect to Licensee's use of the Right-of-way, the operations conducted therein, any amounts paid or other performances under this Agreement by either party, whether belonging to Licensor or Licensee. Licensee shall have the right to contest such amounts or impositions through all applicable proceedings and appeals. Licensee shall pay, indemnify, defend and hold harmless Licensor and the Right-of-way and all interests therein and improvements thereon from any and all such obligations, including any interest, penalties and other expenses which may be imposed, and from any lien or sale or other proceedings to enforce payment thereof.

16.3 Preemption. The parties acknowledge that the terms of this Agreement are affected by various existing Federal and state laws, which may vary during the term of this Agreement, and those principles of preemption and other normal legal principles shall apply in determining the manner in which such future laws and regulations affect this Agreement.

16.4 Impairment of Contract Rights. This Agreement does not waive Licensor's or Licensee's right to assert any claim that future laws or regulations impair this Agreement.

XVII. ASSIGNABILITY

17. Assignability. This Agreement is not assignable by Licensee (and any assignment shall be void and vest no rights in the purported assignee) unless the assignment is made in strict compliance with the following:

17.1 Assignments Affected. Every assignment of any of Licensee's interest in this Agreement or any of Licensee's rights or interests hereunder is prohibited unless Licensee first receives from Licensor notice of Licensor's consent to the assignment. All references in this Agreement to assignments by Licensee or to assignees shall be deemed also to apply to all of

the following transactions, circumstances and conditions and to all persons claiming pursuant to such transactions, circumstances and conditions:

17.1.1 Any voluntary or involuntary assignment, conveyance or transfer of the Right-of-way or any interest therein or any rights under this Agreement, in whole or in part.

17.1.2 Any voluntary or involuntary pledge, lien, mortgage, security interest, judgment, claim or demand, whether arising from any contract, any agreement, any work of construction, repair, restoration, maintenance or removal, or otherwise affecting Licensee's rights to use the Right-of-way (collectively "Liens").

17.1.3 Any assignment by Licensee of any interest in this Agreement for the benefit of creditors, voluntary or involuntary.

17.1.4 A Licensee Insolvency.

17.1.5 The occurrence of any of the foregoing by operation of law or otherwise.

17.1.6 The occurrence of any of the foregoing with respect to any assignee or other successor to Licensee.

17.2 Pre-approved Assignments. Subject to certain conditions hereafter stated Licenser hereby consents to certain assignments (the "Pre-approved Assignments"). Only the following assignments are Pre-approved Assignments:

17.2.1 Assignments. Licensee's complete assignment to QC or an affiliate of Licensee.

17.2.2 Complete Assignment of Agreement. Licensee's complete assignment of all of Licensee's rights and Interests in this Agreement to a single assignee who assumes all of Licensee's obligations relating thereto. Such assignee must meet all of the following requirements, as determined by Licenser in Licenser's reasonable discretion (a "Qualified Operator") and pursuant to the City Code:

17.2.2.1 The assignee has experience, management, credit standing and financial capacity and other resources equal to or greater than Licensee's and adequate to successfully perform under this Agreement.

17.2.2.2 The assignee must be experienced in the management and operation of similar projects.

17.2.2.3 The assignee must assume all of Licensee's obligations relating to this Agreement.

17.2.2.4 The assignee has a net worth of not less than One Billion Dollars (\$1,000,000,000.00).

17.2.3 Stock Transfers. The transfer of stock, regardless of quality.

17.2.4 Merger. The merger or consolidation of Licensee with another entity that is a Qualified Operator.

17.3 Limitations on Assignments. Licensor consent to any assignment, including without limitation, Pre-approved Assignments is not effective until the following conditions are satisfied:

17.3.1 Except for the sale of stock, Licensee shall provide to Licensor the following:

17.3.1.1 Complete copies of documents accomplishing the assignment.

17.3.1.2 Each assignee must execute an assumption of this Agreement in a form acceptable to Licensor.

17.3.2 Each Pre-approved Assignment must satisfy all other requirements of this Agreement pertaining to assignments.

17.4 Assignment Remedies. Any assignment without Licensor's consent shall be void and shall not result in the assignee obtaining any rights or interests in, under or related to this Agreement. Licensor may, in its sole discretion and in addition to all other remedies available to Licensor under this Agreement or otherwise, and in any combination, terminate this Agreement, collect Fee Payment from the assignee and/or declare the assignment to be void, all without prejudicing any other right or remedy of Licensor under this Agreement. No cure or grace periods shall apply to assignments prohibited by this Agreement or to enforcement of any provision of this Agreement against an assignee who did not receive Licensor's consent.

17.5 Effect of Assignment. Consent by Licensor to an assignment shall not relieve Licensee from obtaining Licensor's consent to any further assignment. In recognition of the specific Permitted Uses, no assignment shall release Licensee from any liability hereunder up to the point of the assignment.

17.6 Unity of Assignment. Any assignment must cover Licensee's entire interest in this Agreement. All of Licensee's rights under this Agreement must at all times remain with the Licensee's interest under this Agreement so that Licensor is only dealing with a single Licensee as to this Agreement.

17.7 Enforceability after Assignment. No consent by Licensor shall be deemed to be a novation. Licensor's consent to any assignment does not in any way expand or modify this Agreement or waive, diminish or modify any of Licensor's rights or remedies under this Agreement. This Agreement shall be enforceable personally and in total against Licensee and each successor, partial or total, and regardless of the method of succession, to Licensee's interest hereunder. Each successor having actual or constructive notice of this Agreement shall be deemed to have agreed to the preceding sentence.

17.8 Grounds for Refusal. Except for the Preapproved Assignments, no assignment of this Agreement by Licensee is contemplated or bargained for. Without limitation, Licensor has the right to impose upon any consent to assignment such conditions and requirements as Licensor may deem appropriate.

17.9 Delayed Approval. Whether Licensor has timely responded to a request by Licensee for Licensor's consent to an assignment shall be determined based on 47 U.S.C. 537 and 47 C.F.R. 76.502(a); and the consequences of an untimely response by Licensor shall be as provided therein. Not more than forty-five (45) days nor less than thirty (30) days before any deadlines in such statute or regulation, Licensee shall give Licensor notice identifying the deadline and requesting that Licensor act.

17.10 Form of Assignment. Any assignment shall be by agreement in form and content acceptable to Licensor. Without limitation, any assignment shall specify and require that each assignee acquiring any interest under this Agreement shall assume and be bound by, and be obligated to perform the terms and conditions of this Agreement.

17.11 Consent to Assignment. Licensee shall attach to each Pre-approved Assignment a copy of Licensee's notice to Licensor of the Pre-approved Assignment and other required documents, Licensee shall attach to each other assignment, a copy of Licensor's notice to Licensee of Licensor's consent to the assignment. This Agreement shall continue to be enforceable according to its terms in spite of any provisions of any documents relating to an assignment.

17.12 Assignment Fee. Licensee shall pay to Licensor in advance a nonrefundable fee to cover Licensor's cost in consideration of a Transfer or Assignment, as established in Licensor's City Code.

XVIII. MISCELLANEOUS

18. Miscellaneous. The following additional provisions apply to this Agreement:

18.1 Amendments. This Agreement may not be amended except by a formal writing executed by all of the parties with the exception of compliance with Section 2.1 above.

18.2 Time of the Essence. Time is of the essence of each and every provision of this Agreement.

18.3 Survival of Liability. All obligations of Licensee and Licensor hereunder and all warranties and indemnities of Licensee hereunder shall survive termination of this Agreement for any reason.

18.4 Severability. If any provision of this Agreement shall be ruled by a court or agency of competent jurisdiction to be invalid or unenforceable for any reason, then:

18.4.1 The invalidity or unenforceability of such provision shall not affect the validity of any remaining provisions of this Agreement.

18.4.2 This Agreement shall be automatically reformed to secure to the parties the benefits of the unenforceable provision, to the maximum extent consistent with law.

18.5 Conflict of Interest. No officer, representative or employee of Licensor shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement that is prohibited by law.

18.6 No Partnership. This Agreement and the transactions and performances contemplated hereby shall not create any sort of partnership, joint venture or similar relationship between the parties.

18.7 Non-liability of Officials and Employees. No official, representative or employee of Licensor shall be personally liable to any party, or to any successor in interest to any party, in the event of any default or breach by Licensor or for any amount which may

become due to any party or successor, or with respect to any obligation of Licensors or otherwise under the terms of this Agreement or related to this Agreement.

18.8 Notices. Notices hereunder shall be given in writing delivered to the other party or mailed by registered or certified mail, return receipt requested, postage prepaid addressed to:

If to Licensors: City Manager
City of Peoria
8401 W. Monroe Street
Peoria, AZ 85345

Copy to: City Attorney
City of Peoria
8401 W. Monroe Street
Peoria, AZ 85345

If to Licensee: Public Policy Department
Qwest Broadband Services, Inc.,
dba Centurylink
1801 California Street, 10th Floor
Denver, CO 80202

Copy to: Qwest Broadband Services, Inc.
dba CenturyLink
Attn: Public Policy Department
200 East Thomas
Phoenix, AZ 85012

By notice from time to time, a person may designate any other street address as its address for giving notice hereunder. Service of any notice by mail shall be deemed to be complete three (3) days (excluding Saturday, Sunday and legal holidays) after the notice is deposited in the United States mail.

18.9 Integration. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, negotiation, draft agreements, discussion outlines, correspondence, memoranda and representation regarding Licensee providing Cable Service via the Right-of-way.

18.10 Construction. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. This Agreement was negotiated on the basis that it shall be construed according to its plain meaning and neither for nor against any party, regardless of their respective roles in preparing this Agreement. The terms of this Agreement were established in light of the plain meaning of this Agreement and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, which might otherwise favor Licensee.

18.11 Paragraph Headings. The paragraph headings contained herein are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.

18.12 No Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement or shall have any right or cause of action hereunder. Licensors shall have no liability to third parties for any approval of plans, Licensee's construction of

improvements, Licensee's negligence, Licensee's failure to comply with the provisions of this Agreement (including any absence or inadequacy of insurance required to be carried by Licensee), or otherwise as a result of the existence of this Agreement.

18.13 Exhibits. All Exhibits specifically stated to be attached hereto as specified herein are hereby incorporated into and made an integral part of this Agreement for all purposes.

18.14 Attorneys' Fees. In the event any action, suit or proceeding is brought by either party hereunder to enforce this Agreement or for failure to observe any of the covenants of this Agreement or to vindicate or exercise any rights or remedies hereunder, the prevailing party in such proceeding shall be entitled to recover from the other party such prevailing party's reasonable attorneys' fees and other reasonable litigation costs (as determined by the court (and not a jury) in such proceeding).

18.15 Choice of Law. This Agreement shall be governed by the internal laws of the State of Arizona without regard to choice of law rules. Licensor has not waived its claims procedures as respects this Agreement. Exclusive proper venue for any action regarding this Agreement shall be Maricopa County Superior Court or a Federal district court sitting in Maricopa County. City and Licensee consent to personal jurisdiction in such court.

18.16 Approvals and Inspections. All approvals, reviews and inspections by Licensor under this Agreement or otherwise are for Licensor's sole benefit and not for the benefit of Licensee, its contractors, engineers or other consultants or agents, or any other person.

18.17 Statutory Cancellation Right. In addition to its other rights hereunder, Licensor shall have the rights specified in A.R.S. § 38-511.

18.18 Licensee's Representations and Warranties.

18.18.1 Authority. Licensee represents and warrants that it has the power and authority to enter into this License by and through the representative who has signed this License on its behalf, and that it has the power and ability to do all the acts required of it by this License.

18.18.2 Misrepresentation. Licensee has not misrepresented or omitted material facts, has not accepted this License with intent to act contrary to the provisions herein, and represents and warrants that, as long as it operates the Cable System, it will be bound by the terms and conditions of this License or a subsequently issued license.

18.18.3 Attorneys. Licensee further acknowledges that it was represented throughout the negotiations of this License by its own attorneys and had opportunity to consult with its own attorneys about its rights and obligations regarding this License.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Cathy Carlat, Mayor

APPROVED AS TO FORM:

Stephen J. Burg, Acting City Attorney

Its:

29

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 10C.

Date Prepared: 9/20/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P. E., Development and Engineering Director

SUBJECT: Telecommunication Service License Agreement, Accipiter Communications, Inc. d/b/a Zona Communications, a Nevada Corporation

Purpose:

This is a request for the Mayor and Council to consider a request to approve (renew) a Telecommunications License Agreement for equipment within the right-of-way with Accipiter Communications, Inc. d/b/a Zona Communications and the City.

Background/Summary:

The purpose of this agreement is to allow Accipiter to use the right-of-way to provide public telephone utility service in a portion of Peoria (i.e., telecommunications services), specifically the area bounded by Happy Valley Road on the south, in to Yavapai County on the north, 67th Avenue alignment on the east and the 171st Avenue alignment on the west. On December 6, 2003, the City granted the use of the right-of-way via a Telecommunications Service License to Accipiter under LCON Number 10603 and on December 3, 2009, LCON Number 10709 the City approved the renewal of the Telecommunications Service Agreement. The License Agreement expired on December 4, 2014, but has been automatically extended on a monthly basis while Accipiter and City staff has renegotiated the proposed license agreement.

The Telecommunication License Agreement will allow Accipiter to construct, operate and maintain its facilities in the right-of-way. The Arizona Corporation Commission determined in an Opinion and Order, Decision No. 59346, dated October 11, 1995, that Accipiter is a fit and proper entity to receive a Certificate of Convenience and Necessity authorizing it to construct, operate and maintain facilities to furnish telephone service to the public in an area which encompasses part of the City of Peoria. In addition, the Arizona Corporation Commission subsequently approved Accipiter's applications to extend its Telecommunications Certificate of Convenience and Necessity. (See Arizona Corporation Commission Opinion and Order Decision No 67574 (Docket No. T-02847A-02-0641) Dated February 15, 2005; Arizona Corporation Commission Opinion and Order Decision No. 67675 (Docket No. T-02847A-03-0655) Dated March 9, 2005; and Arizona Corporation Commission Opinion and Order Decision 70641 (Docket No. T-02847A-08-0164 ET AL.) dated December 17, 2008.

The facilities to be placed in the City's public right-of-way under this license include; conduit, ducts, vaults, and other appurtenances. No above ground electrical boxes are to be installed at this time and all other facilities to be placed are required to be underground. All facilities installed shall comply with City construction standards.

Agreement Highlights:

- The agreement has a term of (5) years.
- Within thirty (30) days after the date of this Agreement, Accipiter shall deposit with the City, a Performance Bond in favor of the City in the sum of \$380,000 to guarantee Accipiter will perform each and every term of the agreement.
- Prior to applying for a permit, Accipiter shall deposit a Security Fund into a suitable interest bearing account, established by the City, and maintained on deposit in the amount of \$100,000 through the term of the agreement as a faithful performance of the provisions of this agreement.
- Accipiter shall provide the City a certificate of insurance
- Accipiter shall keep current and accurate records, drawings and maps of all of the facilities installed within the City's boundaries and provide such information to the City.
- All construction and restoration of right-of-way improvements shall meet City standards.
- If Accipiter abandons use of its cable, ducts or other facilities (used to provide telecommunications services under or pursuant to the License) or upon cancellation, revocation or termination of the privilege herein granted, Accipiter shall notify the City and may - subject to the City's approval - permanently abandon the improvements in place.
- In lieu of permanent abandonment, the City may require Accipiter to promptly remove its facilities and to restore the public highways, public streets, public right-of-way, and public utility easements to a reasonable condition under the supervision of the City to the reasonable satisfaction of the City and without cost or expense to the City.
- Accipiter will adhere to certain customer and community service requirements.

Previous Actions:

- November 6, 2003 - Council approved the original Telecommunications Service License Agreement ("Original License") to Accipiter Communications, Inc., LCON Number 10603.
- December 3, 2009 - Council approved the Telecommunications Services Renewal License Agreement with Accipiter Communications, Inc. d/b/a Zona Communications, LCON Number 10709.

Options:

A: That Mayor and Council approve the Telecommunications Services Agreement with Accipiter Communications, Inc. d/b/a Zona Communications and authorize the Mayor or City Manager execute the necessary documents.

B: That Mayor and Council denies the approval of the Telecommunications Services License Agreement with Accipiter Communications, Inc. d/b/a Zona Communications

Staff Recommendation:

Discussion and possible action to approve the License Agreement for equipment within the right-of-way with Accipiter Communications, Inc. d/b/a Zona Communications and authorize the City Manager execute the necessary documents.

Fiscal Analysis:

If approved the City will collect plan review and permit fees.

Narrative:

Telecommunications Services License Agreement with Accipiter Communications, Inc. d/b/a Zona Communications.

ATTACHMENTS:

Accipiter Agreement

Accipiter Zona Served Areas within City of Peoria Exhibit A

Accipiter Zona Boundary Exhibit B

Contact Name and Number:

Dan Nissen, (623)773-7214

**TELECOMMUNICATIONS LICENSE AGREEMENT ISSUED TO
ACCIPITER COMMUNICATIONS INC. d/b/a ZONA COMMUNICATIONS
BY THE CITY OF PEORIA, ARIZONA**

THIS TELECOMMUNICATIONS LICENSE AGREEMENT ("Agreement" or "License") is issued by the CITY OF PEORIA, ARIZONA an Arizona municipal corporation (hereinafter called "City") to Accipiter Communications Inc., d/b/a Zona Communications (hereinafter called "Licensee"), a Nevada corporation.

WHEREAS, the City owns certain public streets and rights-of-ways and public utility easements within the boundaries of the City; and

WHEREAS, Licensee has applied to the City for permission to construct, install, operate, maintain and use the public highways, public streets, public rights-of-way, and public utility easements in the City in order to provide telecommunications services (i.e., to construct, operate and maintain its facilities in the right-of-way to provide telephone service.); and

WHEREAS, Licensee has represented to and provided documents to the City which establish that the Arizona Corporation Commission determined in an Opinion and Order, Decision No. 59346, dated October 11, 1995, that Accipiter is a fit and proper entity to receive a Certificate of Convenience and Necessity authorizing it to construct, operate and maintain facilities to furnish telephone service to the public in an area which encompasses part of the City of Peoria; and

WHEREAS, in addition, the Arizona Corporation Commission subsequently approved Accipiter's applications to extend its telecommunications services Certificate of Convenience and Necessity under Arizona Corporation Commission Opinion and Order Decision No 67574 (Docket No. T-02847A-02-0641) Dated February 15, 2005; Arizona Corporation Commission Opinion and Order Decision No 67675 (Docket No. T-02847A-03-0655) Dated March 9, 2005; and Arizona Corporation Commission Opinion and Order Decision 70641 (Docket No. T-02847A-08-0164 ET AL.) dated December 17 2008 within the geographic area covered by Licensee's Certificate of Convenience and Necessity, which geographic area is located partially within the municipal boundaries of the City; and

WHEREAS, by such authority as may be conferred by the Arizona Revised Statutes, as amended, the Peoria City Charter, City Code, state and federal law (as amended), the City is issuing this License; and

WHEREAS, Licensee has previously received permission from the City for the use of the City's rights-of-way for certain routes ("Use Areas"), identified on the map, attached and incorporated as Exhibit A, via the nonexclusive revocable Telecommunication Licenses pursuant to LCON 10603 dated December 6, 2003 and LCON 10709 dated December 4, 2009 (the "Original Agreement"); and

WHEREAS, Licensee desires the ability to be able to install maintain operate and repair, future telecommunication lines and equipment ("Facilities"), for the purpose of providing telephone service, as authorized by Arizona Corporation Commission Decision No. 59346, within the right-of-way and in subsequent Decisions authorizing different areas ("New Use Areas"), identified on the map, attached and incorporated as Exhibit B, subject to the requirements of this License Agreement; and

WHEREAS, the City desires to grant Licensee another License to continue to install maintain operate and repair, Facilities in New Use Areas for the purpose of providing telephone service as authorized by Arizona Corporation Commission; and

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

WHEREAS, pursuant to the Peoria Municipal Code, after City Council approval the City Council has authorized the City Manager or his designee to execute a license with Licensee to construct, install, operate, maintain and use Facilities in, along, under, over and across public highways, public streets, public rights-of-way, and public utility easements within the City to provide telecommunications services (i.e., to construct, operate and maintain its facilities in the right-of-way to provide telephone service.); and

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

<u>1. Exhibits</u>	<u>Description</u>
Exhibit A	Use Areas
Exhibit B	New Use Areas
Attachment A	Utility Permits - Guidelines for Working in the City of Peoria

2. Permission Granted.

2.1 Subject to the provisions contained herein, and to the City Code, City Charter, Arizona State Statutes and the Constitution of the State of Arizona, and federal law the City hereby grants to Licensee the nonexclusive revocable license, permission, right and privilege to construct, install, operate, maintain and use facilities in, under,

along, over and across public highways, public streets, public rights-of-way, and public utility easements to provide Telecommunications Services identified as telephone services, as authorized by Arizona Corporation Commission within the current and future corporate limits of the City. The terms, phrases, words and their derivatives shall have the meaning defined in Chapter 23 of the Peoria City Code as amended from time to time. The permission granted herein to Licensee shall hereinafter be referred to as "License." By accepting this License, Licensee agrees that this License and the Licensee are subject to all provisions of this License, the City Charter and City Code, including, but not limited to, Chapter 23, and the City Design Infrastructure Guide.

2.2 If it is necessary for the Licensee to comply with any rule or regulation of the Federal Communications Commission ("FCC") or the ACC to engage in business activities associated with use of the public highways, public streets, public rights-of-way, and public utility easements to provide Telecommunications Services recognized as telephone service, as authorized by Arizona Corporation Commission, the Licensee shall comply with such laws or regulations as a condition precedent to exercising any rights granted by this License. Provided, however, no such rule or regulation of the FCC or ACC shall enlarge or modify any of the rights or duties granted by this License without a written modification to this License except to the extent required to be permitted by applicable law.

2.3 Licensee shall apply and be responsible for any permits to construct, install, maintain or perform any work in the public highways, public streets, public rights-of-way and public utility easements which require a construction permit and plan review approval from the City pursuant to applicable City Codes. Before constructing, operating, installing or using facilities in the public highways, public streets, public rights-of-way and public utility easements, Licensee shall notify the City in writing and shall be the party to apply and be responsible for any permits to construct, install, maintain or perform any work in the public highways, public streets, public rights-of-way and public utility easements which require a construction permit from the City pursuant to applicable City Codes or this License.

2.3.1 Revocable right-of-way permits require submittal of an application together with the required number of complete construction plans (i.e., drawing, details, maps, notes, etc.). Upon City receipt of the application and plans, the City will perform a technical plan review. Upon completion of the technical review, either a permit will be issued to the applicant or the application will be returned for addition modifications. If additional modifications or corrections are required, the applicant will be notified and must resubmit the application and plans after the required changes have been made.

2.3.2 Plan review fees are due and will be collected at the time of the submittal of the application and submittal of the required number of plans or the Licensee may be billed as determined by the City.

2.3.3 Revocable right-of-way permits fees are due and will be collected at the time of the issuance of the permit. Revocable right-of-way permits shall not be charged where there is a valid franchise and the franchise fees are in lieu of the payment of permit fees.

2.3.4 Licensee shall strictly adhere to and perform in accordance with the City's "Utility Permits - Guidelines for Working in the City of Peoria," identified on the map, attached and incorporated as Attachment A in the specific Use Area and New Use Areas, as amended from time to time by the City Engineer; failure to do so will result in a breach of this License and liquidated damages will accrue in the amount of One Thousand Dollars (\$1,000) per day beginning on the seventh (7th) day after written notice of the violation and continuing until the breach has been cured. Licensee agrees that this is a reasonable approximation of the damages to the City, and that actual damages would be difficult or impossible to determine.

2.4 Reserved Right and Competing Users Activity. Notwithstanding anything in this License to the contrary, the City specifically reserves to itself and excludes from this License an exclusive delegable right (the "Reserved Right") over any Use Areas for all manner of real and personal improvements and for streets, sidewalks, trails, landscaping, utilities, and every other land use of every description. Without limitation:

2.4.1 Competing Users. Licensee accepts the risk that the City and others ("Competing Users") may now or in the future use the Use Areas in a manner inconsistent with Licensee's use. The Competing Users include without limitation the City, the State of Arizona, and its political subdivisions, the public, and all manner of public utility companies and other existing or future users of the Use Areas.

2.4.2 Competing Activities. Licensee accepts the risk that there may now or in the future exist upon the Use Areas all manner of work and improvements upon the Use Areas ("Competing Activities"). The Competing Activities include without limitation any and all laying construction, erection, installation, use, operation, repair, replacement, removal, relocation, raising, lowering, widening, realigning, or other dealing with any or all of the following, whether above, upon, or below the surface of the Use Areas and whether occasioned by the existing or proposed uses of the right-of-way or existing or proposed uses of adjoining or nearby land:

2.4.2.1 All manner of streets, sidewalks, alleys, trails, ways, and traffic control devices of every description and all manner of other transportation facilities and their appurtenances.

2.4.2.2 All manners of pipes, wires, cables, conduits, sewers, storm drains, pumps, valves, switches, conductors, connectors, poles, supports, access points and guys of every description, and all manner of other utility facilities and their appurtenances.

2.4.2.3 All manner of canals, drains, bridges, underpasses, culverts and other encroachments of every description and all manner of other facilities and their appurtenances.

2.4.2.4 All other uses of the right-of-way that the City may permit from time to time.

2.5 Reserved Right. The Reserved Right includes the nonexclusive right to use and allow other Competing Users to conduct Competing Activities upon any area of the Use Areas.

2.6 The authority granted by this License does not in any way provide for any express or implied consent to use or otherwise operate within City owned and or operated conduit. Any such use or operation must be approved through an amendment to this License or as otherwise prescribed by the City at the time of the request.

2.7 This License shall not be construed in any way to grant Licensee the right or ability to construct over-head and above-ground facilities of any kind in conjunction with the work permitted by this License.

3. General Conditions.

3.1 The Licensee and City agree if a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that the City did not have the authority to issue a License to Licensee under A.R.S. § 9-581 to § 9-583, as amended or succeeded, then this License shall be considered a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days written notice to the other. The requirements and conditions of such revocable permit shall be the same requirements and conditions as set forth in this License except for conditions relating to the term of the License and the right of termination. If this License shall be considered a revocable permit as provided herein, the Licensee acknowledges the authority of the City Council to issue a revocable permit and the power to revoke as provided therein.

3.2 There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any ordinance and the City Charter, and Licensee, by its acceptance of this License, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established, except those actions or requirements which are unlawful under state or federal law. Neither the granting of any License nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

3.3 In addition to the indemnity requirements set forth in the City Code at § 23-97, the Licensee shall indemnify, defend and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses of any nature, including reasonable attorney's fees sustained by the City on account of any suit, judgment, execution, claim or demand whatsoever arising out of the act or omission by the Licensee and its agents, employees and contractors pursuant to this License or the construction, installation, operation, maintenance or use of the facilities authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this License.

3.4 In addition to the insurance requirements set forth in the City Code in § 23-97, Licensee shall comply with the Insurance Requirements attached to this License. Provided that the insurance also complies with all the requirements of this License, the Licensee may maintain as the insurance under this § 3.4 endorsements or amendments, in forms acceptable to the City Attorney, and to the extent that Licensee shall construct, operate, install or use its Facilities in the public highways, public streets, public rights-of- way, and public utility easements.

4. Public Highway Preservation.

4.1 Performance Bond. The Licensee shall file and maintain a faithful performance bond in favor of the City in the sum of Three-Hundred Eighty Thousand Dollars (\$380,000) to guarantee that the Licensee shall well and truly observe, fulfill and perform each and every term of this License. In case of any breach of any condition of this License, any amount of the sum in the bond, up to the whole thereof, may be forfeited to compensate the City for any damages it may suffer by reason of such breach; provided, however, that Licensee shall have sixty (60) days following written notice by the City of such a breach to cure the breach. Said bond shall be acknowledged by Licensee, as principal, and by a corporation licensed by the Arizona Insurance Commissioner to transact the business of a fidelity and surety insurance company, as surety, and said bond shall be approved by the City.

4.2 Security Fund. Prior to applying for any permit to construct, install, maintain or perform any work in the public highways, public streets, public rights-of-way and public utility easements which requires a construction permit from the City pursuant to applicable City Codes, the Licensee shall deposit into a suitable interest-bearing account, established by the City, and the Licensee shall maintain on deposit through the term of this License, the sum of not less than One-Hundred Thousand Dollars (\$100,000.00) in addition to which Licensee requests to place its telecommunication Facilities, as security for the faithful performance by it of all the provisions of this License, and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under the License issued pursuant thereto, and the payment by the Licensee of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the Facilities. City shall have the full power of withdrawal of funds from the account except that all interest accrued shall be payable to the Licensee on demand. No withdrawals shall be made from the security fund account without the prior written approval of the City Manager and ten (10) days' prior written notice of intent to withdraw to Licensee.

4.2.1 Within thirty (30) days after notice to Licensee that any amount has been withdrawn by the City from the security fund pursuant to this § 4.2, the Licensee shall deposit a sum of money sufficient to restore such security fund to the original amount.

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

4.2.3 The Licensee shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the License or

upon termination of the License at an earlier date, provided that there is then no outstanding default on the part of the Licensee. Any funds that the City erroneously or wrongfully withdraws shall be returned to Licensee, within thirty (30) business days of such a determination.

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

4.2.5 The Licensee shall provide the City, in a form acceptable to the City Attorney, an endorsement or amendment to such security providing that such security can be withdrawn by City pursuant to the provisions of this License and that, if withdrawn, such security shall be restored to the original amount as provided in this License.

4.3 Competitively Neutral Annual Fee. In the event that the City negotiates an annual fee (pursuant to A.R.S. § 9-583(C)(2), (as amended from time to time, which addresses payment of an annual fee based on the number of linear feet of trench that carry interstate traffic or any similar statute) with any other existing telecommunications licensees of the City during the term of this License, the City will notify the Licensee in writing and will then levy an annual fee similar to the annual fee charged to the other licensee. The annual fee will be no higher than is legally permissible under A.R.S. § 9-583(C)(2), as amended from time to time. Once an annual fee is levied on the Licensee, it may not be increased during the term of this License except as may be provided in the renewed license of the Existing Licensee.

4.4 Coordination. The City may issue reasonable policy guidelines to all telecommunications services licensees and permittees to establish procedures for determining how to control issuance of engineering permits to multiple licensees for the same one-mile segments of their facilities. The Licensee agrees to cooperate with the City in establishing such policy and comply with the procedures established by the City Manager or his designee to coordinate the issuance of multiple engineering permits in the same one-mile segments.

5. Records and Locator Service of Facilities; Mapping.

5.1 The Licensee shall comply with A.R.S. § 40-360.21 *et seq.* by participating as required by law as a member of the Arizona Blue Stake Center with the necessary records and persons to provide location service of Licensee's facilities upon receipt of a locate call or as promptly as possible, but in no event later than two working days. A copy of the agreement or proof of membership shall be filed with the City.

5.2 The Licensee shall keep accurate installation records of the design, maps and location of all of its underground telecommunications Facilities in the public highways, public streets, public rights-of-way, and public utility easements in an electronic mapping format compatible with the current City electronic mapping format. Upon completion of any new construction or relocation of telecommunications Facilities in the public highways, public streets, public rights-of-way, and public utility easements for which a new construction permit is required, the Licensee shall provide to the City

Manager or his/her designee, within sixty (60) days of such completion, accurate updated electronic maps of the Licensee's telecommunications Facilities which includes, but may not be limited to "as-built" route maps and installation records for such construction in the City's electronic mapping format showing the location of underground and above ground facilities using symbols as determined by the City.

6. Installation and Operation of the Facilities.

6.1 All installations shall meet the applicable standard specifications and requirements of the City.

6.2 Pavement Cuts. The City has found that pavement cuts cause early deterioration of the streets and as such have imposed a surcharge fee to cover damages and early deterioration. Therefore, pursuant to § 23-54 of the Peoria City Code Licensee shall be responsible for the cost of all pavement cuts during the installation and maintenance of their Facilities and throughout the term of this License.

6.3 Trees. Any trimming of trees by the Licensee in the public highways, public streets, public rights-of-way, and public utility easements shall be subject to such regulation as the City Manager or other authorized official may establish to protect the public health, safety and convenience.

6.4 Empty Conduit. In an effort minimize the inconvenience to the citizens of the City and others who use the major arterial streets, if Licensee is working and portions of the project will take place on major arterial streets Licensee shall work with the City in the coordination and installation of empty City owned and operated conduit for the City's sole use. Any new conduit or other Facilities placed in the right-of-way will be constructed using industry standard boring, horizontal directional drilling, and trenching construction methods. Any conduit and/or Facilities to be constructed, installed, operated, removed and maintained under this License shall be located or relocated so as to interfere as little as possible with traffic or other authorized uses over, under or through said public streets and public ways.

6.5 Coordination. The City may issue reasonable policy guidelines to all telecommunications services licensees and permittees to establish procedures for determining how to control issuance of engineering permits to multiple licensees for the same one-mile segments of their facilities. The Licensee agrees to cooperate with the City in establishing such policy and comply with the procedures established by the City Manager or his designee to coordinate the issuance of multiple engineering permits in the same one-mile segments.

6.6 The authority granted by this License to use the public highways, public streets, public rights-of-way, and public utility easements does not authorize Licensee's use of the facilities for operating a cable television system, a cable system or authorize the Licensee to operate as a cable operator as those terms are defined in the Communications Act of 1934 as amended, state law, or the City Code. The authority granted by this License does not authorize the use of the public highways, public streets, public rights-of-way, and public utility easements for an open video system as defined in the Communications Act of 1996 or as defined or authorized by the FCC. The authority granted by this License is not in lieu of any other license or franchise the City

may require to occupy the highways to provide service other than telecommunications service.

6.7 The Licensee shall comply with rules and regulations of the FCC and ACC that apply to the telecommunications services Licensee provides over the facilities in the public highways, public streets, public rights-of-way, and public utility easements that Licensee is authorized to use by this License. The Licensee shall, within a reasonable time after request by the City, provide the City copies of all correspondence from the FCC or ACC to the Licensee or from the Licensee to the FCC or ACC that is directly relevant to use of the public highways, public streets, public right-of-way and public utility easements to provide telephone service, as authorized by Arizona Corporation Commission as authorized by this License. In addition Licensee shall disclose to the City all persons with whom it contracts to use its Facilities in the public highways, public streets, public right-of-way and public utility easements within the City to provide telecommunications services.

6.8 Proprietary Information. In order for the City to determine the Licensee's compliance with the terms of this License, within ten (10) days of written notice by City of a request for disclosure, the Licensee shall provide relevant documentation as requested by City. Upon reasonable notice by City, Licensee shall make its facilities available for joint inspection as requested by the City. If the Licensee determines that in order to respond to City's request for documentation and inspection that it must reasonably provide proprietary information, the Licensee shall so designate such claim to proprietary treatment on documents provided to City.

6.8.1 Proprietary information disclosed by Licensee for the purposes hereunder shall mean any document or material clearly identified as confidential (hereinafter "Proprietary Information"). Such Proprietary Information shall include, but not be limited to, any customer lists, financial information, technical information or other information clearly identified as confidential pertaining to services provided to its customers.

6.8.2 Proprietary Information disclosed by Licensee hereunder to the City or its constituent departments shall be regarded as proprietary as to third parties. If the City receives a request to disclose such information, the City shall notify Licensee of such request and allow the Licensee a reasonable opportunity to defend its information from disclosure. The foregoing shall not apply to any information that is already in the public domain; however, if public domain information is included with Proprietary Information on the same document, the City shall only disclose those portions within the public domain.

6.8.3 Notwithstanding any provision in this License, the Licensee acknowledges and understands that City is a political subdivision of the State of Arizona and is subject to the disclosure requirements of Arizona's Public Records Law (A.R.S. § 39-121 *et seq.*) and Licensee agrees that the City has no liability to Licensee for negligent disclosure thereunder.

7. Licensee Relocation of Facilities. Upon the City's request, Licensee shall temporarily or permanently relocate or otherwise modify existing and future Facilities ("Relocation Work") as follows:

7.1 Licensee shall perform the Relocation Work at no expense to the City when required by the City's Manager or designee.

7.2 The Relocation Work includes all of the work determined by the City to be necessary to accommodate competing activities, including without limitation to temporarily or permanently, removing, protecting, supporting, disconnecting or relocating any portion of the existing or future Facilities.

7.3 The City shall perform any part of the Relocation Work that has not been performed within Sixty (60) days after notice from the City. Licensee shall reimburse the City for its actual costs associated with any Relocation Work.

7.4 City has no obligation to move Licensee's, City's or other's facilities.

7.5 The City not Licensee shall be entitled to use any of Licensee's Facilities that are not timely relocated.

7.6 All Relocation Work shall be subject to the provisions of this License and the Peoria City Code and other City requirements including, but not limited to the City's Infrastructure Guidelines.

8. Licensee Abandonment of the Facilities. If the Licensee abandons use of its cable, ducts or other facilities (used to provide telecommunications services for telephone service, as authorized by the Arizona Corporation Commission and pursuant to the License) or upon cancellation, revocation or termination of the privilege herein granted, Licensee shall notify the City and may – subject to the City's approval – permanently abandon the improvements in place.

8.1 In the event of cancellation, revocation, termination, or permanent abandonment, the City shall require Licensee to comply with all necessary requirements identified in the City of Peoria Infrastructure Design Guidelines as well as any other applicable regulations to remove its Facilities.

9. Term of License.

9.1 The right, privilege and license granted herein shall continue and exist for a period of five (5) years from the effective date hereof unless sooner revoked as provided in this Agreement. No provision of this License may be construed to grant any automatic extension, renewal, or replacement thereof.

9.2 At any time prior to the expiration of this License, the Licensee may apply to the City for a renewal or extension of the License in accordance with the then existing state and City laws.

10. Transferability of License.

10.1 No Assignment. The rights, privileges and license granted hereunder shall not be sublet, assigned or otherwise transferred nor shall any of the rights or privileges therein granted or authorized be leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the Licensee, either by act of the Licensee or operation of law, without the express written consent of the City by an ordinance or resolution passed by the City Council, which consent shall not be

unreasonably withheld. Before any proposed assignment or other transfer becomes final, the Licensee shall request the consent of the City to such proposed assignment. Any such assignment or transfer shall be in conformance with the applicable sections of the City Code. Any transfer or assignment that is to occur shall adhere to the provisions outlined in the City Code. The new Licensee (if consented to by the City) shall be equally subject to all the obligations and privileges of the original License – including any amendments – which will remain in full effect as if the new Licensee was the original Licensee.

10.2 Contact. The Licensee shall notify the City within thirty (30) days of any change in mailing address or emergency phone numbers.

Licensee Address:

Accipiter Communications Inc
2238 W lone Cactus Dr Ste 100
Phoenix, AZ 85027
Licensee Emergency Phone Number:
480-206-5374

10.3 Instruments. After the approved transfer, the Licensee shall provide City a copy of the deed, agreement, mortgage, lease, or other written instrument evidencing such transfer, certified and sworn to as correct by the Licensee. A request for consent to transfer shall include an assignment agreement executed by Licensee and transferee, and for execution by the City after its consent, that:

10.3.1 The transferee has read, accepts and agrees to be bound by the License;

10.3.2 The transferee assumes all obligations, liabilities and responsibility under the License for the acts and omissions of Licensee, known and unknown, for all purposes, and agrees that the transfer shall not permit it to take any position or exercise any right which Licensee could not have exercised;

10.3.3 The assignment of the License (including all amendments) shall be binding on the transferee as upon the transferor of the License as if the transferee had originally executed the License for the full term of the License; and

10.3.4 The transfer will not substantially diminish the financial resources available to the Licensee.

10.4 Lenders. Nothing in this Section shall be deemed to prohibit a pledge or, hypothecation or mortgage or similar instrument transferring conditional ownership of all or part of the Licensee's assets to a lender or creditor in the ordinary course of business. In the event a lender assumes control of the assets and operation of the Licensee through a default of the Licensee in loan obligations, the lender may assume the rights and obligations of the Licensee. The lender may not transfer or change control of the License without submitting the change to the City for consent under this Section. If the lender does continue operation on any basis at any time, it shall be subject to all provisions of the License. No later than three years after assumption of control by the lender, the lender shall apply to the City for the right to continue

assumption of control or to transfer the License. Application by the lender for approval of such assumption of control or transfer shall be subject to all provisions set forth herein on consent by the City Council and approval shall not be unreasonably denied or delayed. A "lender" as discussed herein does not include a company, person or corporation or other entity that operates cable television systems or telecommunications systems as a principal or important business. This section is intended to prohibit the intentional use of lending and/or foreclosure as a method for effecting change of control or transfer of the License without City Council review and approval.

10.5 Permitted Transfer.

10.5.1 Notwithstanding the foregoing, prior consent shall not be required for a transfer to a company that meets the following conditions:

10.5.2 After the transfer, the company will be owned or controlled or under common control with the same direct parent, and are intended after such transfer to remain under the ownership or control of that parent or an entity under common control or with the same direct parent.

10.5.3 Within thirty (30) days after completing a transfer described in this § 10.5, Licensee and the proposed transferee shall submit to the City a notice of transfer, including documents meeting the conditions, and a description of the nature of the transfer, including complete information regarding the effect of the transfer on the direct and indirect ownership and control of the License.

10.5.4 After the transfer, the Licensee shall provide City a copy of the deed, agreement, mortgage, or lease or of another written instrument evidencing such transfer, certified and sworn to as correct by the Licensee.

10.5.5 After the transfer, the new licensee must comply with the provisions of this §10 with respect to further transfers as if the new licensee were the original Licensee.

11. Nonexclusive License. This grant is not exclusive, and nothing herein contained shall be construed to prevent the City from granting other like or similar grants or privileges to any other person, firm or corporation, or to deny to or lessen the powers and privileges granted the City under the Constitution and laws of the State of Arizona.

12. Revocation of License.

12.1 The City may revoke the License granted hereunder prior to its date of expiration if the Licensee fails to comply with the material terms and conditions of the License or applicable law.

12.2 Before revoking the License, the City Manager or a designee shall give written notice to Licensee of the defect in performance and give Licensee sixty (60) days within which to cure the defect in performance.

12.3 The City need not provide a sixty (60) day cure period prior to revocation if the City finds that the defect in performance is due to an intentional misconduct, is a violation of criminal law, is an immediate danger to public health and welfare, or is a part

of a pattern of violations where the Licensee has already had notice and opportunity to cure.

12.4 If the Licensee requests a hearing before revocation, the City shall provide a procedure for such a hearing prior to final action on the notice of defect in performance.

13. Acceptance of License Terms and Conditions.

13.1 This License shall not become effective until written acceptance thereof shall have been filed by Licensee with the City Clerk. By accepting this License, the Licensee covenants and agrees to perform and be bound by each and all of the terms and conditions imposed by the License and by the Charter, Code, laws, rules and requirements of the City.

13.2 The Licensee acknowledges and accepts the right of the City to issue a License under currently applicable law and Licensee agrees it shall not now or at any time hereafter challenge this right to issue the License in any way or in any forum.

13.3 The Licensee has reviewed the City's ability to grant a License and accepts such a License as the City may now be legally able to grant.

13.4 In the event of conflict between the terms and conditions of the License and the terms and conditions on which the City can grant a license or permission to use the public highways, public streets, public rights-of-way and public utility easements as set forth in applicable law, the applicable law shall, without exception, control.

13.5 Nothing in this License shall be deemed to waive the requirement of the various codes, ordinances and regulations of the City regarding permits, fees to be paid or manner of construction.

13.6 The Licensee agrees that it shall have no recourse whatsoever against the City or its officials, boards, commissions, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the City because of the enforcement of the License or because of defects in ordinance or License issuance, or because of any required dedication or failure to require the dedication of any right or interest in real or personal property in conjunction with any site plan approval, zoning, rezoning, or any other application of City authority to an interest in land.

14. Exhibits. All Exhibits referred to in this License and any addenda, attachments, and schedules which may, from time to time, be referred to in any duly executed amendments to this License are by such reference incorporated in this License and shall be deemed a part of this License.

15. Survival of Liability. All obligation of Licensee hereunder and all warranties and indemnities of Licensee hereunder shall survive termination of this License.

16. No Warranty. Licensee acknowledges and agrees that the City does not warrant the condition or safety of its public highways, public streets, public right-of-way and public utility easements or the premises surrounding the same, and Licensee hereby assumes all risk of any damages, injury or loss of any nature whatsoever caused by or in connection with the use of any City public highways, public streets, public right-of-way and public utility easements.

[Signatures Appear on Following Pages]

This License executed this ____ day of _____, 2016.

CITY OF PEORIA, ARIZONA, a municipal
corporation

By: _____
Carl Swenson, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ACCEPTED by:
Accipiter Communications, Inc.

By: _____
[Signature]

[Printed Name]

Its: _____

State of Arizona)
)
County of _____)

On this _____ day of _____, 20____, before me personally
appeared _____, whose identity was proven to me
on the basis of satisfactory evidence to be the person who he or she claims to be, and
acknowledged that he or she signed the above/attached document.

Notary Public

ACCEPTED: _____

Accipiter Communications Inc

[Redacted Signature]

By

Its: Vice Pres / CFO

State of Arizona)
County of Maricopa)

On this 8th day of July, 2016, before me personally
appeared
Jenifer Vellucci, whose identity was proven to me on the
basis of satisfactory evidence to be the person who he or she claims to be, and
acknowledged that he or she signed the above/attached document

[Redacted Signature]

Notary Public



EXHIBIT A

Maricopa Water
District Property

Vistancia
Development

Lake Pleasant
Regional Park

Quintero
Development



Accipiter Communications Inc. d/b/a Zona Communications
Current Served Areas within City of Peoria
-Confidential-



City of Peoria inside Zona Service Area



Zona Service Area Boundary



Zona-served areas within City of Peoria

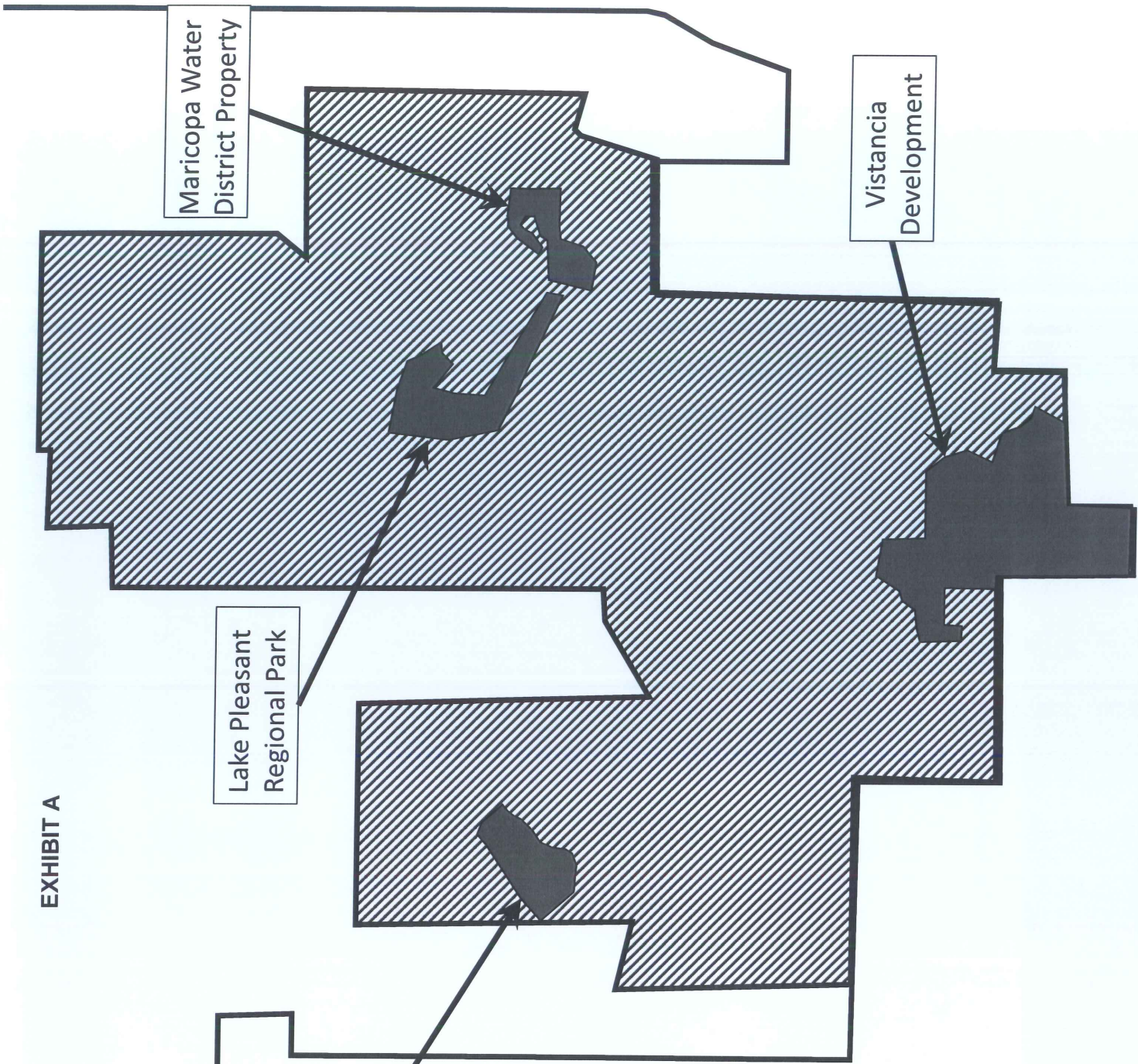
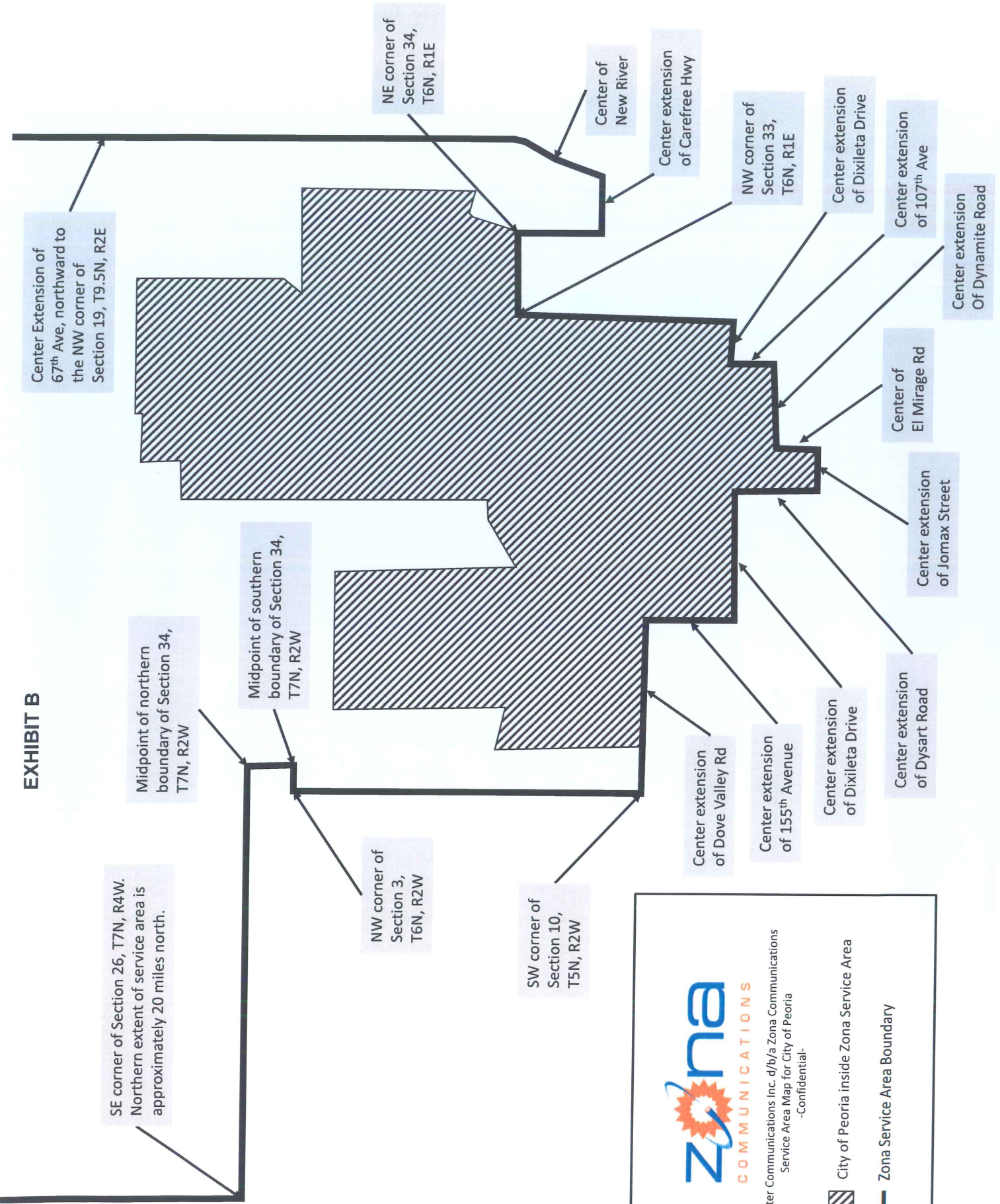


EXHIBIT B



Accipiter Communications Inc. d/b/a Zona Communications
Service Area Map for City of Peoria
-Confidential-



City of Peoria inside Zona Service Area

Zona Service Area Boundary



**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 11C.

Date Prepared: 9/15/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P.E., Development and Engineering Director

SUBJECT: Maintenance Improvement District No. 1195, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard

Purpose:

This is a request for City Council to approve a Petition for Formation, adopt the Resolution of Intention, and Resolution Ordering the Improvements for a proposed Maintenance Improvement District No. 1195, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard, as well as authorize the City Clerk to record the Maintenance Improvement District with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil and landscape/irrigation plans must be approved by the City of Peoria (City) prior to recordation of the Maintenance Improvement District;
2. The final plat for the subdivision must be approved by City Council and recorded with the Maricopa County Recorder's Office prior to recordation of the Maintenance Improvement District; and
3. The developer must provide a fully executed Petition, Waiver and Consent to Formation of a Municipal Improvement District.

Background/Summary:

The purpose of the Maintenance Improvement District is for the operations, maintenance, repair and improvements to landscaping adjacent to designated public roadways and parkways within the proposed district, as well as drainage and retention within each proposed district. Until such time as the Homeowner's Association fails, and the Council directs City staff to assume maintenance responsibility, a line item of \$0.00 will display on the homeowners' property tax bills.

Pursuant to the provision of A.R.S. 48-574, et. seq., the Mayor and Council are empowered to adopt a Resolution ordering the formation of a Maintenance Improvement District. A Petition and Resolution of Intention are attached for formation of City of Peoria Maintenance Improvement District No. 1195, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard. In the case in which all of the property owners have presented a petition for formation, the

ordinary publication and protest period are not required by law; the Council may then adopt a Resolution ordering the improvements when necessary once the Resolution of Intention is first adopted. The Resolution Ordering the improvements finalizes the formation of the Maintenance Improvement District process.

Under Arizona State law, commencing in October 2017, the residents will have a line item of \$0.00 on their property tax bill for maintenance of the landscape, irrigation and drainage improvements, located adjacent to and within the public rights-of-way and tracts until such time the Homeowner's Association fails. In accordance with state statute, an assessment diagram and map, listing each parcel of property within the district has been prepared.

Previous Actions:

The final plat for Vistancia Village A Parcel A5 was approved by the City on August 16, 2016 and recorded with the County.

Options:

A: The Maintenance Improvement District has been approved through the Development and Engineering Department. An option would be to not accept the proposed Maintenance Improvement District. It should be noted that not approving the Maintenance Improvement District will prevent any charges from being assessed on the property tax bills for those properties located within the District, and any and all fees incurred by the City of Peoria as a result of assuming the maintenance responsibility would be paid using City of Peoria funds.

B: The other option would be to formally approve the Maintenance Improvement District to allow for the taxing district to be recorded and in place in the event the Homeowner's Association fails.

Staff Recommendation:

Discussion and possible action to approve the Petition for Formation and adopt **RES. 2016-100** intention and ordering the formation of proposed Maintenance Improvement District No. 1195, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard; and adopt **RES. 2016-101** ordering the improvements within the proposed Maintenance Improvement District and declaring an emergency.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Maintenance Improvement District. However, the City would incur the additional charges associated with the maintenance responsibilities should the taxing district not be approved and recorded, and the Homeowner's Association fails.

Narrative:

The acceptance of this Maintenance Improvement District will allow any additional charges associated with the maintenance responsibilities should the Homeowner's Association fail, to be assessed on the property tax bill for the properties located within the District.

ATTACHMENTS:

Exhibit 1: Petition for Formation

Exhibit 2: Proposed Resolution of Intention to Create

Exhibit 3: Proposed Resolution Declaring Intention to Order
Posting Notices

Contact Name and Number:

John Nepa, Civil Engineering, 623-773-7532

**PETITION, WAIVER AND CONSENT TO FORMATION
OF A MUNICIPAL IMPROVEMENT DISTRICT
BY THE CITY OF PEORIA**

[1195]
MID#

[VISTANCIA VILLAGE A PARCEL A5]
Subdivision Name

To: Honorable Mayor and Council
City of Peoria, Arizona

Pursuant to Arizona Revised Statutes, Sections 48-574 and 48-575, the undersigned property owner respectfully petitions the City Council of the City of Peoria, Arizona (City Council) to order the formation of a Municipal Improvement District under Arizona Revised Statutes, Title 48, Chapter 4, Article 2. In support of this petition, the undersigned agrees to waive certain rights under the Arizona Improvement District Law and to consent to the formation and completion of the District.

1. Area of District. The proposed district is described by a map and by a legal description on Exhibit "A" that is attached hereto and incorporated herein by reference. The proposed district consists of 17.530 acres and is entirely within the corporate boundaries of the City of Peoria.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed district.
3. Purpose. The district is proposed to be formed for the purpose of the operation, maintenance, repair and improvements for landscape maintenance adjacent to designated public roadways and parkways within the proposed district and drainage and retention within each proposed district.
4. Public Convenience and Necessity. The necessity for the proposed district is for the operation, maintenance, repair and improvements for landscape maintenance adjacent to designated streets and parkways within the proposed district by the levying of special assessments in the proposed district.
5. Waiver and Consent. The petitioners with full knowledge of their rights being waived hereunder, hereby expressly waive:
 - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work;
 - (b) Any necessity for publication and posting of the Resolution of Intention and the Notice of Proposed Improvements pursuant to A.R.S. §48-578;
 - (c) All protest rights whatsoever under A.R.S. §48-579(A) and (B), which provide for protests against the work; and
 - (d) All objections to the filing of and adoption by the City of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.

Further, the improvements described above are of more than local or ordinary public benefit.

In Witness whereof the parties have executed this Petition and Waiver Agreement as of the
_____ day of _____ 20____.

<u>Vistancia 60 Residential, LLC</u> Print Property Owner Name <u>See Signature Addendum attached</u> Print Name <u>5949 Sherry Lane, Suite 1750</u> Address <u>Dallas TX 75225</u> Signature	Date: <u>6/8/16</u>	Property (Tax Parcel Numbers) <u>510-01-890A</u>
<u>Vistancia Maintenance Corporation</u> Print Property Owner Name _____ Print Name _____ Address _____ Signature _____	Date: _____	Property (Tax Parcel Numbers) <u>503-89-977</u> <u>503-89-978</u> <u>510-02-965</u>

Accepted and approved by:

CITY OF PEORIA, ARIZONA, an
ARIZONA MUNICIPAL CORPORATION

ATTEST:

By _____
Mayor

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

VISTANCIA 60 RESIDENTIAL, LLC,
a Delaware limited liability company

By: SLF III – VPMM, LLC,
a Texas limited liability company,
its Managing Member

By: SLF III – Vistancia, LLC,
a Texas limited liability company,
its Sole and Managing Member

By: Stratford Land Fund III, L.P.,
a Delaware limited partnership,
its Sole and Managing Member

By: Stratford Fund III GP, LLC,
a Texas limited liability company,
its General Partner

By: 

Name: Mark Westerburg

Title: Vice President

Further, the improvements described above are of more than local or ordinary public benefit.

In Witness whereof the parties have executed this Petition and Waiver Agreement as of the _____ day of _____, 20____.

Vistancia 60 Residential, LLC Print Property Owner Name Print Name Address Signature	Date:	Property (Tax Parcel Numbers) 510-01-890A
Vistancia Maintenance Corporation Print Property Owner Name Print Name 29701 N Sunrise Point Peoria, AZ 85383	Date:	Property (Tax Parcel Numbers) 503-89-977 503-89-978 510-02-965

Accepted and approved by:

CITY OF PEORIA, ARIZONA, an
ARIZONA MUNICIPAL CORPORATION

ATTEST:

By _____
Mayor

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

RESOLUTION NO. 2016-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO MAINTAIN LANDSCAPING INCLUDED WITHIN, NEAR AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE CITY OF PEORIA AS DESCRIBED HEREIN; ADOPTING PLANS FOR CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1195, VISTANCIA VILLAGE A PARCEL A5, AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, declare that the Maintenance of the landscaping included within, near and adjacent to a parkway and related facilities in the District to be of more than local or ordinary public benefit, and further that the cost of said maintenance shall be assessed on a certain District; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, declare that the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities in the District is incidental to the maintenance and preservation of the parkway and related facilities, has aesthetic value, and maintains and increases the value of property within the District; and

WHEREAS, the City Council declares that the maintenance of landscaping included within and adjacent to a parkway and related facilities preserves and promotes the health, safety, and welfare of those citizens of the City of Peoria living within the District as well as preservation of the streets and parkways which may be adversely impacted by drainage and other water formations; and

WHEREAS, the City of Peoria declares that the maintenance of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens of the City living within the District; and

WHEREAS, the City Council declares that maintenance of landscaped drainage and other water control facilities and features within, near or adjacent to a parkway and related facilities tends to preserve the structural integrity of the parkway and mitigates flooding of adjacent areas and the structural integrity of the parkway and mitigates flooding of adjacent areas and the parkway by draining water to and from the parkway in furtherance of the health, safety and welfare of those citizens of the City of Peoria living within the District:

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA AS FOLLOWS:

Section 1. Definitions.

In this Resolution, the following terms shall have the following meanings:

"Assessment Diagrams" shall mean those duplicate diagrams of the property contained in the Assessment District is to be filed with the Clerk and approved by the Mayor and Council.

"Assessment District" shall mean the lots, pieces or parcels of land lying within the boundaries described on Exhibit B attached hereto and as shown on the map on file with the City Engineer.

"City" shall mean the City of Peoria, Arizona.

"City Council" or "Council" shall mean the Mayor and Council of the City.

"Clerk" shall mean the City Clerk.

"Engineer" shall mean City Engineer.

"Lots" shall mean all lots, pieces or parcels of land lying within the Assessment District.

"Parkways" shall mean those streets and rights-of-way which are designated in Exhibit B as "Parkways," and specifically those portions of Pedestrian Facilities, Parks, Retention, Detention and Storm Water Management Facilities included within or adjacent to the Assessment District.

"Plans and Specifications" shall mean the engineer's estimate for the Maintenance Improvement District No. 1195 filed with the Clerk prior to the adoption of this Resolution.

"Superintendent of Streets" shall mean the City Engineer.

Section 2. Declaration of Intention to Order an Improvement.

The public interest or convenience requires, and it is the intention of the Mayor and Council of the City of Peoria, Arizona, to order the following work, hereinafter "Work," to be performed, to wit:

The maintenance of all landscaping, including replacement of landscape materials, in the area generally described as follows:

SEE EXHIBIT "A", LEGAL DESCRIPTION OF CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1195

The Mayor and Council of the City of Peoria, Arizona designate as parkways, those areas set forth on Exhibit "B" Assessment Diagram in accordance with Title 48, Chapter 4, Article 2, Arizona Revised Statutes. The public interest and convenience require, and it is the intention of the City Council to order the Work adjacent to the designated parkways to be performed as stated herein. All items of the Work shall be performed as prescribed by the Plans and Specifications hereby approved and adopted by the Council and on file in the Office of the City Engineer and no assessment for any lot shall exceed its proportion of the Estimate. The estimate of the cost and expenses of the work or improvements on file in the offices of the Superintendent of Streets and the Clerk of the City are hereby approved and adopted by the Mayor and Council of the City. In addition to the requirements of law, the procedures set forth in the City Code will be followed regarding acceptance of bids and setting tax levies. For purposes of this Resolution and of all resolutions, ordinances and notices pertaining to this Resolution, the improvement as herein described is hereby designated City of Peoria Maintenance Improvement District No. 1195.

Section 3. Determination of Need.

In the opinion of the City Council, the Work is of more than local or ordinary public benefit. The City Council hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

Section 4. Preparation of Assessment Diagrams.

The City Engineer is hereby authorized and directed to prepare duplicate diagrams (Assessment Diagrams) of the property contained within the Assessment District. The diagrams shall show each separate lot, numbered consecutively, the approximate area in square feet of each lot, and the location of the lot in relation to the work proposed to be done.

Section 5. Exclusion of Certain Property.

Any public street or alley within the boundaries of the Assessment District is hereby omitted from the assessment hereafter to be made. Any lot belonging to the United States, the State, a county, city, school district or any political subdivision or institution of the State or county, which is included within the Assessment District shall be omitted from the assessment hereafter made.

Section 6. Officers Not Liable.

In no event will the City of Peoria or any officer thereof be liable for any portion of the cost of said Improvement District nor for any delinquency of persons or property assessed.

Section 7. Annual Statement.

The City Council shall make annual statements and estimates of the expenses of the District which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all real and personal property in the District as provided in A.R.S. § 48-574 and amendments thereto.

Section 8. Statutory Authority.

The Work and all proceedings pertaining thereto shall be performed under the provisions of Title 48, Article 2, specifically Section 48-574, and all amendments thereto and pursuant to Article I, Section 3, (8) of the Peoria City

Charter.

Section 9. Delegation of Authority.

The City Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications and the Contract Documents.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 4th day of October, 2016.

CITY OF PEORIA, an Arizona
municipal corporation

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen Burg, Acting City Attorney

Effective Date: _____

CERTIFICATION OF CITY ENGINEER

I hereby certify that I have read the description set out under the definition "Assessment District" and approve the same. I further certify that I have read the description set out under the definition "Work" and approve the same.

Andrew Granger, Engineering Director

CERTIFICATION OF CITY CLERK

I hereby certify that the above and foregoing Resolution No. 2016-100 duly passed by the Mayor and Council of the City of Peoria, Arizona at a regular meeting held on October 4, 2016 and that a quorum was present there and that the vote thereon was _____ ayes and _____ nays. _____ were no vote or absent.

City Clerk, City of Peoria

EXHIBIT
LEGAL DESCRIPTION FOR
VISTANCIA VILLAGE A PARCEL A5
MAINTENANCE IMPROVEMENT DISTRICT #1195

All that certain lot, tract, or parcel of land, situated in a portion of the Northwest Quarter of Section 23, Township 5 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found GLO monument for the North Quarter corner of said Section 23, from which a found GLO monument for the Northwest corner of said Section 23 bears North 89 deg. 42 min. 02 sec. West (Basis of Bearings) - 2643.56 feet;

THENCE South 35 deg. 38 min. 49 sec. West, a distance of 1256.13 feet to a point in the centerline of Lone Mountain Road as shown in the Map of Dedication of same recorded in Book 744 of maps, Page 25, MCR, said point being the TRUE POINT OF BEGINNING;

THENCE South 03 deg. 09 min. 16 sec. East departing said centerline, a distance of 75.00 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of Vistancia Village A Parcel A7 recorded in Book 719 of maps, Page 33, MCR, the Southeast corner of Tract B, and the Southwest corner of Tract C as shown in said Map of Dedication of Lone Mountain Road;

THENCE South 00 deg. 23 min. 50 sec. West along the West line of said Parcel A7, a distance of 692.60 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 73 deg. 46 min. 49 sec. West along said West line, a distance of 172.84 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 03 deg. 15 min. 27 sec. West along said West line, at 150.83 feet pass the Southwest corner of said Parcel A7, the Northwest corner of the Re-Plat of Vistancia Village A Parcel A38 recorded in Book 828 of maps, Page 22, MCR, and continue a total distance of 489.20 feet to a found 1/2" rebar with cap stamped "RLS #36914" at the intersection of the West line of said Parcel A38 and the North line of Vistancia Village A Parcel A37 recorded in Book 662 of maps, Page 26, MCR;

THENCE North 73 deg. 00 min. 00 sec. West departing said West line and continue along the North line of said Parcel A37, a distance of 15.52 feet to a 1/2" rebar with cap stamped "RLS #36914" for a Point of Curvature of a circular curve to the left, having a radius of 848.00 feet, a central angle of 18 deg. 35 min. 53 sec., and being subtended by a chord which bears North 82 deg. 17 min. 57 sec. West - 274.05 feet;

THENCE in a westerly direction along said curve to the left and North line, a distance of 275.26 feet;

THENCE South 88 deg. 24 min. 07 sec. West tangent to said curve and continue along said North line, a distance of 24.37 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 43 deg. 45 min. 53 sec. West along said North line, a distance of 28.09 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of said Parcel A37 and being in the East line of Tract C as shown on the Map of Dedication of Vistancia Boulevard and Sunrise Point recorded in Book 718 of maps, Page 47, MCR;

THENCE South 89 deg. 39 min. 02 sec. West departing said East line, a distance of 75.00 feet to the centerline of Vistancia Boulevard as shown in said Map of Dedication of Vistancia Boulevard and Sunrise Point, said point being a Point of Curvature radial to said line and being a circular curve to the left, having a radius of 2500.00 feet, a central angle of 16 deg. 39 min. 02 sec., and being subtended by a chord which bears North 08 deg. 40 min. 29 sec. West - 723.96 feet;

THENCE in a northerly direction along said curve to the left and the centerline of said Vistancia Boulevard, a distance of 726.51 feet to a found City of Peoria brass cap;

THENCE North 17 deg. 00 min. 00 sec. West tangent to said curve and continue along said centerline, a distance of 429.54 feet to the intersection of the centerline of said Vistancia Boulevard and Lone Mountain Road, from which a found City of Peoria brass cap bears 0.27 feet North and 0.86 feet West;

THENCE North 73 deg. 00 min. 00 sec. East along the centerline of said Lone Mountain Road, a distance of 78.30 feet to a found City of Peoria brass cap, said point being a Point of Curvature of a circular curve to the right, having a radius of 3200.00 feet, a central angle of 13 deg. 50 min. 46 sec., and being subtended by a chord which bears North 79 deg. 55 min. 23 sec. East - 771.44 feet;

THENCE in an easterly direction along said curve to the right and said centerline, a distance of 773.32 feet to the POINT OF BEGINNING, containing 763,616 square feet or 17.530 acres of land, more or less.

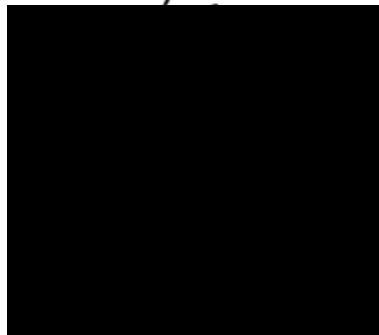


EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA
CITY CLERK'S OFFICE
8401 W. MONROE STREET
PEORIA, AZ 85345

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING THE IMPROVEMENT CONSISTING OF AUTHORIZING THE MAINTENANCE OF LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITHIN APPURTENANT STRUCTURES AS SHOWN ON THE PLANS FOR THE IMPROVEMENT DISTRICT KNOWN AS CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1195, VISTANCIA VILLAGE A PARCEL A5.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 4th day of October, 2016 the Mayor and Council of the City of Peoria adopted Resolution No. 2016-101; ordering the improvements of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together within appurtenant structures shown on the plans, within the corporate limits of the City and creating an Improvement District known as the City of Peoria Maintenance Improvement District No. 1195, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together within appurtenant structures, which includes a charge for the maintenance of landscaping and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Maintenance Improvement District No. 1195 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, Arizona, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this ____ day of _____, 2016.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

RESOLUTION NO. 2016-101

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE IMPROVEMENTS OF A CERTAIN AREA WITHIN THE CORPORATE LIMITS OF THE CITY AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA MAINTENANCE IMPROVEMENT DISTRICT NO. 1195, VISTANCIA VILLAGE A PARCEL A5; PROVIDING THAT THE COST OF THE MAINTENANCE OF THE LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, SHALL BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, THAT:

SECTION 1. The public interest or convenience require and it is the intention of the Mayor and Council of the City of Peoria, Arizona to order the maintenance of landscaping within the proposed district and that the cost of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures be assessed upon a certain improvement district to be known as Peoria Maintenance Improvement District No. 1195.

The estimate of the cost and expenses for the maintenance of the landscaping on file with the Superintendent of Streets and the City Clerk is approved and adopted by the Mayor and Council of the City.

SECTION 2. The maintenance of the landscaping, therefore, in the opinion of the Mayor and Council of the City, are of more than local or ordinary public benefit, and are of special benefit to the respective lots, pieces and parcels

of land within the real property described herein. The Mayor and Council of the City make and order that the cost and expense for the maintenance of the landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures be chargeable upon a district to be known and designated as the City of Peoria Maintenance Improvement District No. 1195 and as described and bounded as set forth on Exhibits A and B attached, and declare that the district in the City benefited by the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures to be assessed, to pay the costs and expenses thereof in proportion to the benefits derived therefrom.

The City shall not assess the costs and expenses for the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures, which are for the general public benefit against the respective lots, pieces and parcels of land located within the boundaries of the City of Peoria Maintenance Improvement District No. 1195 and if a portion of the costs and expenses for the maintenance of landscaping is for the general public benefit, the City shall assess the boundaries of the City of Peoria Maintenance Improvement District No. 1195 only that portion of such costs and expenses which benefits the lots, pieces and parcels of land located within the boundaries of the City of Peoria Maintenance Improvement District No. 1195.

SECTION 3. The costs and expense for the maintenance of landscaping shall be made and all proceedings therein taken; that the Superintendent of Streets of the City shall post or cause to be posted notices thereof; that the City Clerk shall certify to the passage of this Resolution of Intention; that the Engineer shall prepare duplicate diagrams of the City of Peoria Maintenance Improvement District No. 1195 described in Section 2 of this Resolution to be assessed to pay the costs and expenses thereof, under and in accordance with the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended.

SECTION 4. The majority of owners of all of the real property within the proposed district have executed a Petition for formation of a Maintenance Improvement District and the City Council has verified the ownership of the property. Publication and posting of the notice of the passage of the Resolution of Intention will be completed as prescribed by the State Statues.

SECTION 5. Any Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 6. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is declared to exist, and this Resolution will be in full force and effect from and after its passage and approval by the Mayor and Council of the

Resolution No. 2016-101
MID 1195, Vistancia Village A Parcel A6
October 4, 2016
Page 3 of 7 Pages

City of Peoria, Arizona as required by law and is exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 4th day of October, 2016.

CITY OF PEORIA, an Arizona
municipal corporation

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen Burg, Acting City Attorney

Effective Date: _____

EXHIBIT
LEGAL DESCRIPTION FOR
VISTANCIA VILLAGE A PARCEL A5
MAINTENANCE IMPROVEMENT DISTRICT #1195

All that certain lot, tract, or parcel of land, situated in a portion of the Northwest Quarter of Section 23, Township 5 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found GLO monument for the North Quarter corner of said Section 23, from which a found GLO monument for the Northwest corner of said Section 23 bears North 89 deg. 42 min. 02 sec. West (Basis of Bearings) - 2643.56 feet;

THENCE South 35 deg. 38 min. 49 sec. West, a distance of 1256.13 feet to a point in the centerline of Lone Mountain Road as shown in the Map of Dedication of same recorded in Book 744 of maps, Page 25, MCR, said point being the TRUE POINT OF BEGINNING;

THENCE South 03 deg. 09 min. 16 sec. East departing said centerline, a distance of 75.00 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of Vistancia Village A Parcel A7 recorded in Book 719 of maps, Page 33, MCR, the Southeast corner of Tract B, and the Southwest corner of Tract C as shown in said Map of Dedication of Lone Mountain Road;

THENCE South 00 deg. 23 min. 50 sec. West along the West line of said Parcel A7, a distance of 692.60 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 73 deg. 46 min. 49 sec. West along said West line, a distance of 172.84 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 03 deg. 15 min. 27 sec. West along said West line, at 150.83 feet pass the Southwest corner of said Parcel A7, the Northwest corner of the Re-Plat of Vistancia Village A Parcel A38 recorded in Book 828 of maps, Page 22, MCR, and continue a total distance of 489.20 feet to a found 1/2" rebar with cap stamped "RLS #36914" at the intersection of the West line of said Parcel A38 and the North line of Vistancia Village A Parcel A37 recorded in Book 662 of maps, Page 26, MCR;

THENCE North 73 deg. 00 min. 00 sec. West departing said West line and continue along the North line of said Parcel A37, a distance of 15.52 feet to a 1/2" rebar with cap stamped "RLS #36914" for a Point of Curvature of a circular curve to the left, having a radius of 848.00 feet, a central angle of 18 deg. 35 min. 53 sec., and being subtended by a chord which bears North 82 deg. 17 min. 57 sec. West - 274.05 feet;

THENCE in a westerly direction along said curve to the left and North line, a distance of 275.26 feet;

THENCE South 88 deg. 24 min. 07 sec. West tangent to said curve and continue along said North line, a distance of 24.37 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 43 deg. 45 min. 53 sec. West along said North line, a distance of 28.09 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of said Parcel A37 and being in the East line of Tract C as shown on the Map of Dedication of Vistancia Boulevard and Sunrise Point recorded in Book 718 of maps, Page 47, MCR;

THENCE South 89 deg. 39 min. 02 sec. West departing said East line, a distance of 75.00 feet to the centerline of Vistancia Boulevard as shown in said Map of Dedication of Vistancia Boulevard and Sunrise Point, said point being a Point of Curvature radial to said line and being a circular curve to the left, having a radius of 2500.00 feet, a central angle of 16 deg. 39 min. 02 sec., and being subtended by a chord which bears North 08 deg. 40 min. 29 sec. West - 723.96 feet;

THENCE in a northerly direction along said curve to the left and the centerline of said Vistancia Boulevard, a distance of 726.51 feet to a found City of Peoria brass cap;

THENCE North 17 deg. 00 min. 00 sec. West tangent to said curve and continue along said centerline, a distance of 429.54 feet to the intersection of the centerline of said Vistancia Boulevard and Lone Mountain Road, from which a found City of Peoria brass cap bears 0.27 feet North and 0.86 feet West;

THENCE North 73 deg. 00 min. 00 sec. East along the centerline of said Lone Mountain Road, a distance of 78.30 feet to a found City of Peoria brass cap, said point being a Point of Curvature of a circular curve to the right, having a radius of 3200.00 feet, a central angle of 13 deg. 50 min. 46 sec., and being subtended by a chord which bears North 79 deg. 55 min. 23 sec. East - 771.44 feet;

THENCE in an easterly direction along said curve to the right and said centerline, a distance of 773.32 feet to the POINT OF BEGINNING, containing 763,616 square feet or 17.530 acres of land, more or less.

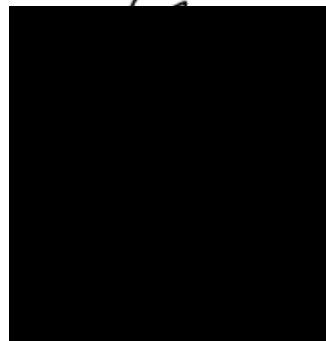


EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA
CITY CLERK'S OFFICE
8401 W. MONROE STREET
PEORIA, AZ 85345

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING THE
IMPROVEMENT CONSISTING OF AUTHORIZING THE
MAINTENANCE OF LANDSCAPING INCLUDED WITHIN,
NEAR, AND ADJACENT TO A PARKWAY FOR THE
IMPROVEMENT DISTRICT KNOWN AS CITY OF PEORIA
MAINTENANCE IMPROVEMENT DISTRICT NO. 1195,
VISTANCIA VILLAGE A PARCEL A5.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 4th day of October, 2016, the Mayor and Council of the City of Peoria adopted Resolution No. 2016-101; ordering the improvements of a certain area within the corporate limits of the city and creating an Improvement District known as the City of Peoria Maintenance Improvement District No. 1195, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of maintenance of landscaping within the district and including a charge for the work necessary to maintain the landscaping and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Maintenance Improvement District No. 1195 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this _____ day of _____ 2016.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

Published in the Peoria Times
Publication Dates: October 14, 2016 and October 21, 2016

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING THE
IMPROVEMENT CONSISTING OF AUTHORIZING THE
MAINTENANCE OF LANDSCAPING INCLUDED WITHIN,
NEAR, AND ADJACENT TO A PARKWAY FOR THE
IMPROVEMENT DISTRICT KNOWN AS CITY OF PEORIA
MAINTENANCE IMPROVEMENT DISTRICT NO. 1195,
VISTANCIA VILLAGE A PARCEL A5.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 4th day of October, 2016, the Mayor and Council of the City of Peoria adopted Resolution No. 2016-101; ordering the improvements of a certain area within the corporate limits of the city and creating an Improvement District known as the City of Peoria Maintenance Improvement District No. 1195, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of maintenance of landscaping within the district and including a charge for the work necessary to maintain the landscaping and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Maintenance Improvement District No. 1195 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this _____ day of _____ 2016.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

Posted at City Council Chambers Entrance
Dates: October 5th – 10th, 2016

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 12C.

Date Prepared: 9/15/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P.E., Development and Engineering Director

SUBJECT: Street Light Improvement District No. 1117, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard

Purpose:

This is a request for City Council to approve the Petition for Formation and adopt the Resolution of Intention and Resolution Ordering the Improvements for the proposed Street Light Improvement District No. Street Light Improvement District No. 1117, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard, and authorize the City Clerk to record the Street Light Improvement District with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil and street light plans must be approved by the City of Peoria (City) prior to recordation of the Street Light Improvement District.
2. The final plat for the subdivision must be approved by City Council and recorded with the Maricopa County Recorder's Office prior to recordation of the Street Light Improvement District.
3. The developer must provide a fully executed Petition, Waiver and Consent to Formation of a Municipal Improvement District.

Background/Summary:

The purpose of the Streetlight Improvement District is for the purchase of electricity for lighting the streets and public parks within the proposed district.

Pursuant to the provisions of A.R.S. §48-616, et seq., Mayor and Council are empowered to adopt a resolution ordering the formation of a Street Light Improvement District. A Petition, Resolution of Intention and Resolution Ordering the Improvements are attached for formation of City of Peoria Street Light Improvement District No. Street Light Improvement District No. 1117, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard. In the case in which all of the property owners have presented a petition for formation, the ordinary publication and protest period are not required by law; the Council may then immediately adopt a Resolution Ordering the improvements once the Resolution of Intention is first adopted. The Resolution

ordering the improvements finalizes the formation of the Street Light Improvement District process.

Under Arizona State law, commencing in October 2017, the residents will receive, on their property tax bill, an additional charge for operation of the street light system. In accordance with state statute, an assessment diagram and map listing each parcel of property within the district has been prepared.

Previous Actions:

The final plat for Vistancia Village A Parcel A5 was approved by the Council on August 16, 2016.

Options:

A: The Street Light Improvement District has been approved through the Development and Engineering Department. An option would be to not accept the proposed Street Light Improvement District. It should be noted that not approving the Street Light Improvement District will prevent the purchase of electricity for lighting the streets and public parks within the proposed district from being assessed on the property tax bill.

B: The other option would be to formally approve the Street Light Improvement District to allow for the taxing district to be recorded and fees assessed to the property tax bills.

Staff Recommendation:

Discussion and possible action to approve the Petition for Formation and adopt **RES. 2016-102** intention and ordering the formation of proposed Street Light Improvement District No. 1117, Vistancia Village A Parcel A5, Lone Mountain Road and Vistancia Boulevard; and adopt **RES. 2016-103** ordering the improvements within the proposed Street Light Improvement District and declaring an emergency.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Street Light Improvement District. However, the City would incur the cost associated with the purchase of electricity for lighting the streets and public parks within the proposed district should the taxing district not be approved and recorded.

Narrative:

The acceptance of this Street Light Improvement District will allow the purchase of electricity for lighting the streets and public parks within the proposed district to be assessed on the property tax bill for the properties located within the District.

ATTACHMENTS:

Exhibit 1: Petition for Formation

Exhibit 2: Proposed Resolution of Intention to Create

Exhibit 3: Proposed Resolution Ordering the Improvements

Posting Notices

Contact Name and Number:

John Nepa, Civil Engineer, 623-773-7532

**PETITION, WAIVER AND CONSENT TO FORMATION
OF A MUNICIPAL IMPROVEMENT DISTRICT
BY THE CITY OF PEORIA**

1117

SLID#

VISTANCIA VILLAGE A PARCEL A5

Subdivision Name

To: Honorable Mayor and Council
City of Peoria, Arizona

Pursuant to Arizona Revised Statutes, Section 48-617, the undersigned property owner respectfully petitions the City Council of the City of Peoria, Arizona (City Council) to order the formation of a Municipal Street Light Improvement District under Arizona Revised Statutes, Title 48, Chapter 4, Article 2. In support of this petition, the undersigned agree to waive certain rights under the Arizona Improvement District Law and to consent to the formation and completion of the District.

1. Area of District. The proposed district is described by a map and by a legal description on Exhibit "A", which is attached hereto and incorporated herein by reference. The proposed district consists of 17.530 acres and is entirely within the corporate boundaries of the City of Peoria.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed district.
3. Purpose. The district is proposed to be formed for the purpose of the purchase of electricity for lighting the streets and public parks within the proposed district.
4. Public Convenience and Necessity. The necessity for the proposed district is the purchase of electricity for lighting the streets and public parks within the proposed district by the levying of special assessments in the proposed district.
5. Waiver and Consent. The petitioners with full knowledge of their rights being waived hereunder, hereby expressly waive:
 - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work;
 - (b) Any necessity for publication and posting of the Resolution of Intention and the Notice of Proposed Improvements pursuant to A.R.S. §48-578;
 - (c) All protest rights whatsoever under A.R.S. §48-579(A) and (B), which provide for protests against the work;
 - (d) All objections to the filing of and adoption by the City of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.

Further, the improvements described above are of more than local or ordinary public benefit.

In Witness whereof the parties have executed this Petition and Waiver Agreement as of the _____
day of _____ 20____.

Vistancia 60 Residential, LLC Print Property Owner Name <i>See Signature Addendum attached</i> Print Name <i>5949 Sherry Lane, Suite 1750</i> Address <i>Dallas TX 75225</i> Signature	Date: <i>6/8/16</i>	Property (Tax Parcel Numbers) <i>510-01-890A</i>
Vistancia Maintenance Corporation Print Property Owner Name Print Name Address Signature	Date: _____	Property (Tax Parcel Numbers) <i>503-89-977</i> <i>503-89-978</i> <i>510-02-965</i>

Accepted and approved by:

CITY OF PEORIA, ARIZONA, an
ARIZONA MUNICIPAL CORPORATION

ATTEST:

By _____
Mayor

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

VISTANCIA 60 RESIDENTIAL, LLC,
a Delaware limited liability company

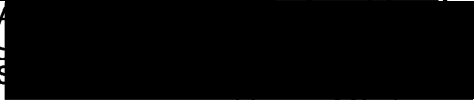
By: SLF III – VPMM, LLC,
a Texas limited liability company,
its Managing Member

By: SLF III – Vistancia, LLC,
a Texas limited liability company,
its Sole and Managing Member

By: Stratford Land Fund III, L.P.,
a Delaware limited partnership,
its Sole and Managing Member

By: Stratford Fund III GP, LLC,
a Texas limited liability company,
its General Partner

By: 
Name: Mark Westerburg
Title: Vice President

<u>Vistancia 60 Residential, LLC</u> Print Property Owner Name Print Name Address Signature 	Date: 	Property (Tax Parcel Numbers) <u>510-01-890A</u>
<u>Vistancia Maintenance Corporation</u> Print Property Owner Name <u>Hamberley Clifford</u> Print Name <u>29101 N Sunrise Point, Peoria, AZ</u>  <u>85383</u>	Date: 	Property (Tax Parcel Numbers) <u>503-89-977</u> 503-89-978 <u>510-02-965</u>

Accepted and approved by:

CITY OF PEORIA, ARIZONA, an
ARIZONA MUNICIPAL CORPORATION

ATTEST:

By _____
Mayor

City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

RESOLUTION NO. 2016-102

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE PURCHASE OF ELECTRICITY FOR LIGHTING THE STREETS AND PUBLIC PARKS WITHIN THE PROPOSED DISTRICT AND THAT THE COST OF THE PURCHASE OF ELECTRICITY FOR LIGHTING THE STREETS AND PUBLIC PARKS, BE ASSESSED UPON A CERTAIN IMPROVEMENT DISTRICT TO BE KNOWN AS CITY OF PEORIA STREETLIGHT IMPROVEMENT DISTRICT NO. 1117, VISTANCIA VILLAGE A PARCEL A5 PROVIDING THAT THE COST OF THE ELECTRICITY REQUIRED TO OPERATE THE SYSTEM BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, THAT:

SECTION 1. The public interest or convenience require and it is the intention of the Mayor and Council of the City of Peoria, Arizona to order the purchase of electricity for lighting the streets and public parks within the proposed district.

The estimate of the cost and expenses for the purchase of electricity for the operation of the streetlights on file with the Superintendent of Streets and the City Clerk is approved and adopted by the Mayor and Council of the City.

SECTION 2. The streetlights and the electricity, therefore, in the opinion of the Mayor and Council of the City, are of more than local or ordinary public benefit, and are of special benefit to the respective lots, pieces and parcels of land within the real property described herein. The Mayor and Council of the City make and order that the cost and expense for the purchase of electricity be

chargeable upon a district to be known and designated as the City of Peoria Streetlight Improvement District No. 1117 and as described and bounded as set forth on Exhibits A and B attached, and declare that the district in the City benefited by the purchase of electricity for streetlights to be assessed, to pay the costs and expenses thereof in proportion to the benefits derived therefrom.

The City shall not assess the costs and expenses for the purchase of electricity for streetlights which are for the general public benefit against the respective lots, pieces and parcels of land located within the boundaries of the City of Peoria Streetlight Improvement District No. 1117 and if a portion of the costs and expenses for the purchase of electricity for streetlights is for the general public benefit, the City shall assess the boundaries of the City of Peoria Streetlight Improvement District No. 1117 only that portion of such costs and expenses which benefits the lots, pieces and parcels of land located within the boundaries of the City of Peoria Streetlight Improvement District No. 1117.

SECTION 3. The costs and expense for the purchase of electricity for streetlights shall be made and all proceedings therein taken; that the Superintendent of Streets of the City shall post or cause to be posted notices thereof; that the City Clerk shall certify to the passage of this Resolution of Intention; that the Engineer shall prepare duplicate diagrams of the City of Peoria Streetlight Improvement District No. 1117 described in Section 2 of this Resolution to be assessed to pay the costs and expenses thereof, under and in accordance with the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended.

SECTION 4. The majority of owners of all of the real property within the proposed district have executed a Petition for formation of a Streetlight Improvement District and the City Council has verified the ownership of the property. Publication and posting of the notice of the passage of the Resolution of Intention will be completed as prescribed by the State Statutes.

SECTION 5. Any Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 6. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is declared to exist, and this Resolution will be in full force and effect from and after its passage and approval by the Mayor and Council of the City of Peoria, Arizona as required by law and is exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

Resolution No. 2016-102
SLID 1117, Vistancia Village A Parcel A5
October 4, 2016
Page 3 of 7 Pages

PASSED AND ADOPTED by the Mayor and Council of the City of
Peoria, Arizona, this 4th day of October, 2016.

CITY OF PEORIA, an Arizona
municipal corporation

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen Burg, Acting City Attorney

Effective Date: _____

EXHIBIT
LEGAL DESCRIPTION FOR
VISTANCIA VILLAGE A PARCEL A5
STREET LIGHT IMPROVEMENT DISTRICT #1117

All that certain lot, tract, or parcel of land, situated in a portion of the Northwest Quarter of Section 23, Township 5 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found GLO monument for the North Quarter corner of said Section 23, from which a found GLO monument for the Northwest corner of said Section 23 bears North 89 deg. 42 min. 02 sec. West (Basis of Bearings) - 2643.56 feet;

THENCE South 35 deg. 38 min. 49 sec. West, a distance of 1256.13 feet to a point in the centerline of Lone Mountain Road as shown in the Map of Dedication of same recorded in Book 744 of maps, Page 25, MCR, said point being the TRUE POINT OF BEGINNING;

THENCE South 03 deg. 09 min. 16 sec. East departing said centerline, a distance of 75.00 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of Vistancia Village A Parcel A7 recorded in Book 719 of maps, Page 33, MCR, the Southeast corner of Tract B, and the Southwest corner of Tract C as shown in said Map of Dedication of Lone Mountain Road;

THENCE South 00 deg. 23 min. 50 sec. West along the West line of said Parcel A7, a distance of 692.60 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 73 deg. 46 min. 49 sec. West along said West line, a distance of 172.84 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 03 deg. 15 min. 27 sec. West along said West line, at 150.83 feet pass the Southwest corner of said Parcel A7, the Northwest corner of the Re-Plat of Vistancia Village A Parcel A38 recorded in Book 828 of maps, Page 22, MCR, and continue a total distance of 489.20 feet to a found 1/2" rebar with cap stamped "RLS #36914" at the intersection of the West line of said Parcel A38 and the North line of Vistancia Village A Parcel A37 recorded in Book 662 of maps, Page 26, MCR;

THENCE North 73 deg. 00 min. 00 sec. West departing said West line and continue along the North line of said Parcel A37, a distance of 15.52 feet to a 1/2" rebar with cap stamped "RLS #36914" for a Point of Curvature of a circular curve to the left, having a radius of 848.00 feet, a central angle of 18 deg. 35 min. 53 sec., and being subtended by a chord which bears North 82 deg. 17 min. 57 sec. West - 274.05 feet;

THENCE in a westerly direction along said curve to the left and North line, a distance of 275.26 feet;

THENCE South 88 deg. 24 min. 07 sec. West tangent to said curve and continue along said North line, a distance of 24.37 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 43 deg. 45 min. 53 sec. West along said North line, a distance of 28.09 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of said Parcel A37 and being in the East line of Tract C as shown on the Map of Dedication of Vistancia Boulevard and Sunrise Point recorded in Book 718 of maps, Page 47, MCR;

THENCE South 89 deg. 39 min. 02 sec. West departing said East line, a distance of 75.00 feet to the centerline of Vistancia Boulevard as shown in said Map of Dedication of Vistancia Boulevard and Sunrise Point, said point being a Point of Curvature radial to said line and being a circular curve to the left, having a radius of 2500.00 feet, a central angle of 16 deg. 39 min. 02 sec., and being subtended by a chord which bears North 08 deg. 40 min. 29 sec. West - 723.96 feet;

THENCE in a northerly direction along said curve to the left and the centerline of said Vistancia Boulevard, a distance of 726.51 feet to a found City of Peoria brass cap;

THENCE North 17 deg. 00 min. 00 sec. West tangent to said curve and continue a long said centerline, a distance of 429.54 feet to the intersection of the centerline of said Vistancia Boulevard and Lone Mountain Road, from which a found City of Peoria brass cap bears 0.27 feet North and 0.86 feet West;

THENCE North 73 deg. 00 min. 00 sec. East along the centerline of said Lone Mountain Road, a distance of 78.30 feet to a found City of Peoria brass cap, said point being a Point of Curvature of a circular curve to the right, having a radius of 3200.00 feet, a central angle of 13 deg. 50 min. 46 sec., and being subtended by a chord which bears North 79 deg. 55 min. 23 sec. East - 771.44 feet;

THENCE in an easterly direction along said curve to the right and said centerline, a distance of 773.32 feet to the POINT OF BEGINNING, containing 763,616 square feet or 17.530 acres of land, more or less.

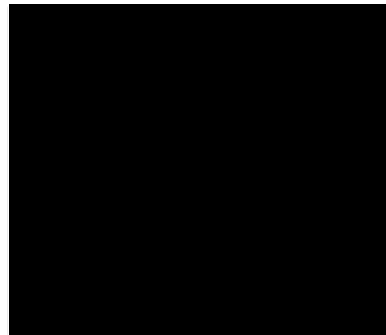
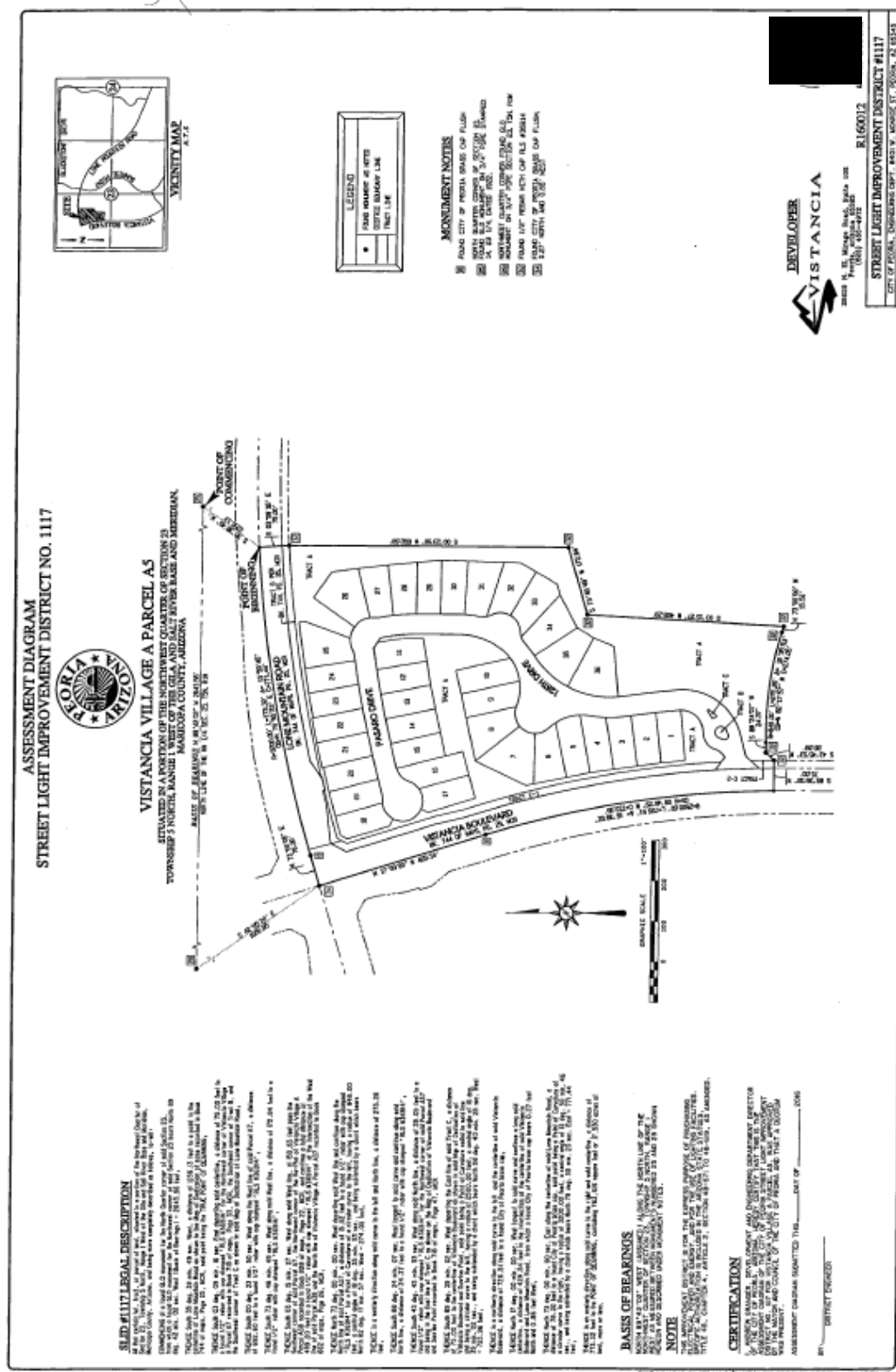


EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA
CITY CLERK'S OFFICE
8401 W. MONROE STREET
PEORIA, AZ 85345



RESOLUTION NO. 2016-103

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA ORDERING THE IMPROVEMENTS OF CERTAIN STREETS AND RIGHTS-OF-WAY WITHIN THE CORPORATE LIMITS OF THE TOWN AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA STREETLIGHT IMPROVEMENT DISTRICT NO. 1117, VISTANCIA VILLAGE A PARCEL A5 PURSUANT TO TITLE 48, CHAPTER 4, ARIZONA REVISED STATUTES AND AMENDMENTS THERETO FOR THE PURPOSE OF PURCHASING ELECTRICITY, WHICH INCLUDES A CHARGE FOR THE USE OF LIGHTING FACILITIES AND OTHER RELATED ITEMS TOGETHER WITH ALL APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, AND DECLARING AN EMERGENCY.

WHEREAS on the 4th day of October, 2016, the Mayor and Council of the City of Peoria, Arizona, passed and adopted Resolution No. 2016-102, declaring its intention to order the purchase of electricity for lighting the streets and public parks within the proposed district and that the cost of the purchase of electricity for lighting the streets and public parks be assessed upon a certain improvement district, to be known as City of Peoria Streetlight Improvement District No. 1117; providing that the cost of the electricity required to operate the system be assessed under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended; and declaring an emergency; and

WHEREAS, a copy of Resolution No. 2016-102 has been published in the Peoria Times, a newspaper published and generally circulated in the City, as required by law or alternatively a petition has been filed with the City Clerk having been signed by all the owners of the real property; and

WHEREAS, the Superintendent of Streets of the City caused to be posted along the streets of the District, no more than three hundred (300) feet apart, notices of the passage of Resolution No. 2016-102, said notices being headed "Notice of Proposed Improvement", each heading in letters at least one (1)

inch in height. Said notices stated the fact of the passage of said Resolution of Intention No. 2016-102 or alternatively a petition has been filed with the City Clerk having been signed by all the owners of the real property; and

WHEREAS, more than fifteen (15) days have elapsed since the date of the last publication of said Resolution of Intention No. 2016-102 and since the completion of the posting of said notices or alternatively a petition has been filed with the City Clerk having been signed by all the owners of the real property; and

WHEREAS, no protests against the proposed improvement and no objections to the extent of the District were filed with the Clerk of the City during the time prescribed by law; and

WHEREAS, the Mayor and Council of the City having acquired jurisdiction to order the improvements as described in Resolution No. 2016-102; and

WHEREAS, the City Engineer acting as District Engineer has prepared and presented to the Mayor and Council of the City duplicate diagrams of the property contained within the District ("the Diagram") and legal description copies of which are attached and incorporated as Exhibits A and B.

NOW THEREFORE IT IS RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, as follows:

Section 1. By virtue of the authority vested in the Mayor and Council of the City by Title 48, Chapter 4, Article 2, Arizona Revised Statutes and all amendments thereto, the Mayor and Council of the City orders the work or improvement done as described in Resolution No. 2016-102 and in accordance with the Plans and Specifications approved and adopted by the Mayor and Council of the City of Peoria, Arizona.

Section 2. The Superintendent of Streets of the City is authorized and directed to prepare and execute the notice of the passage of this Resolution, which is attached as Exhibit B. Such notice shall be posted and published as provided by law.

Section 3. That the Diagram, as prepared and presented to the Mayor and Council of the City is approved by the Mayor and Council of the City.

Section 4. That the Clerk of the City is authorized and directed to certify that the Diagram was approved by the Mayor and Council of the City on the 4th day of October, 2016, and after such certification, the Clerk of the City is authorized and directed to deliver the Diagram to the Superintendent of Streets of the City.

Resolution No. 2016-103
SLID 1117, Vistancia Village A Parcel A5
October 4, 2016
Page 3 of 8 Pages

PASSED AND ADOPTED by the Mayor and Council of the City of
Peoria, Arizona, this 4th day of October, 2016.

CITY OF PEORIA, an Arizona
municipal corporation

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen Burg, Acting City Attorney

Effective Date: _____

EXHIBIT
LEGAL DESCRIPTION FOR
VISTANCIA VILLAGE A PARCEL A5
STREET LIGHT IMPROVEMENT DISTRICT #1117

All that certain lot, tract, or parcel of land, situated in a portion of the Northwest Quarter of Section 23, Township 5 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and being more completely described as follows, to-wit:

COMMENCING at a found GLO monument for the North Quarter corner of said Section 23, from which a found GLO monument for the Northwest corner of said Section 23 bears North 89 deg. 42 min. 02 sec. West (Basis of Bearings) - 2643.56 feet;

THENCE South 35 deg. 38 min. 49 sec. West, a distance of 1256.13 feet to a point in the centerline of Lone Mountain Road as shown in the Map of Dedication of same recorded in Book 744 of maps, Page 25, MCR, said point being the TRUE POINT OF BEGINNING;

THENCE South 03 deg. 09 min. 16 sec. East departing said centerline, a distance of 75.00 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of Vistancia Village A Parcel A7 recorded in Book 719 of maps, Page 33, MCR, the Southeast corner of Tract B, and the Southwest corner of Tract C as shown in said Map of Dedication of Lone Mountain Road;

THENCE South 00 deg. 23 min. 50 sec. West along the West line of said Parcel A7, a distance of 692.60 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 73 deg. 46 min. 49 sec. West along said West line, a distance of 172.84 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 03 deg. 15 min. 27 sec. West along said West line, at 150.83 feet pass the Southwest corner of said Parcel A7, the Northwest corner of the Re-Plat of Vistancia Village A Parcel A38 recorded in Book 828 of maps, Page 22, MCR, and continue a total distance of 489.20 feet to a found 1/2" rebar with cap stamped "RLS #36914" at the intersection of the West line of said Parcel A38 and the North line of Vistancia Village A Parcel A37 recorded in Book 662 of maps, Page 26, MCR;

THENCE North 73 deg. 00 min. 00 sec. West departing said West line and continue along the North line of said Parcel A37, a distance of 15.52 feet to a 1/2" rebar with cap stamped "RLS #36914" for a Point of Curvature of a circular curve to the left, having a radius of 848.00 feet, a central angle of 18 deg. 35 min. 53 sec., and being subtended by a chord which bears North 82 deg. 17 min. 57 sec. West - 274.05 feet;

THENCE in a westerly direction along said curve to the left and North line, a distance of 275.26 feet;

THENCE South 88 deg. 24 min. 07 sec. West tangent to said curve and continue along said North line, a distance of 24.37 feet to a found 1/2" rebar with cap stamped "RLS #36914";

THENCE South 43 deg. 45 min. 53 sec. West along said North line, a distance of 28.09 feet to a found 1/2" rebar with cap stamped "RLS #36914" for the Northwest corner of said Parcel A37 and being in the East line of Tract C as shown on the Map of Dedication of Vistancia Boulevard and Sunrise Point recorded in Book 718 of maps, Page 47, MCR;

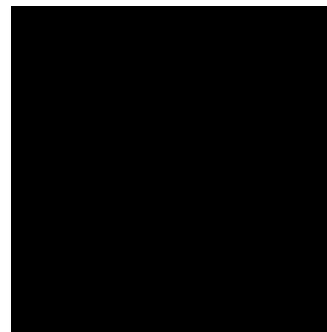
THENCE South 89 deg. 39 min. 02 sec. West departing said East line, a distance of 75.00 feet to the centerline of Vistancia Boulevard as shown in said Map of Dedication of Vistancia Boulevard and Sunrise Point, said point being a Point of Curvature radial to said line and being a circular curve to the left, having a radius of 2500.00 feet, a central angle of 16 deg. 39 min. 02 sec., and being subtended by a chord which bears North 08 deg. 40 min. 29 sec. West - 723.96 feet;

THENCE in a northerly direction along said curve to the left and the centerline of said Vistancia Boulevard, a distance of 726.51 feet to a found City of Peoria brass cap;

THENCE North 17 deg. 00 min. 00 sec. West tangent to said curve and continue a long said centerline, a distance of 429.54 feet to the intersection of the centerline of said Vistancia Boulevard and Lone Mountain Road, from which a found City of Peoria brass cap bears 0.27 feet North and 0.86 feet West;

THENCE North 73 deg. 00 min. 00 sec. East along the centerline of said Lone Mountain Road, a distance of 78.30 feet to a found City of Peoria brass cap, said point being a Point of Curvature of a circular curve to the right, having a radius of 3200.00 feet, a central angle of 13 deg. 50 min. 46 sec., and being subtended by a chord which bears North 79 deg. 55 min. 23 sec. East - 771.44 feet;

THENCE in an easterly direction along said curve to the right and said centerline, a distance of 773.32 feet to the POINT OF BEGINNING, containing 763,616 square feet or 17.530 acres of land, more or less.



EXPIRES 3/31/2019

EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA
CITY CLERK'S OFFICE
8401 W. MONROE STREET
PEORIA, AZ 85345

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING
THE IMPROVEMENT CONSISTING OF
AUTHORIZING THE PURCHASE OF ELECTRICITY
FOR LIGHTING THE STREETS AND PUBLIC PARKS
FOR THE IMPROVEMENT DISTRICT KNOWN AS
CITY OF PEORIA STREETLIGHT IMPROVEMENT
DISTRICT NO. 1117, VISTANCIA VILLAGE A
PARCEL A5.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 4th day of October, 2016 the Mayor and Council of the City of Peoria adopted Resolution No. 2016-103; ordering the improvements of certain streets and rights-of-way within the corporate limits of the town and creating an Improvement District known as the City of Peoria Streetlight Improvement District No. 1117, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of purchasing electricity, which includes a charge for the use of lighting facilities and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Streetlight Improvement District No. 1117 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, Arizona, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this _____ day of _____, 2016.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING THE
IMPROVEMENT CONSISTING OF AUTHORIZING THE
PURCHASE OF ELECTRICITY FOR LIGHTING THE
STREETS AND PUBLIC PARKS FOR THE IMPROVEMENT
DISTRICT KNOWN AS CITY OF PEORIA STREETLIGHT
IMPROVEMENT DISTRICT NO. 1117, VISTANCIA
VILLAGE A PARCEL A5.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 4th day of October, 2016, the Mayor and Council of the City of Peoria adopted Resolution No. 2016-103; ordering the improvements of certain streets and rights-of-way within the corporate limits of the town and creating an Improvement District known as the City of Peoria Streetlight Improvement District No. 1117, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of purchasing electricity, which includes a charge for the use of lighting facilities and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Streetlight Improvement District No. 1117 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, Arizona, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this _____ day of _____, 2016.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

Published in the Peoria Times
Publication Dates: October 14, 2016 and October 21, 2016

**CITY OF PEORIA, ARIZONA
NOTICE**

OF THE PASSAGE OF A RESOLUTION ORDERING THE
IMPROVEMENT CONSISTING OF AUTHORIZING THE
PURCHASE OF ELECTRICITY FOR LIGHTING THE
STREETS AND PUBLIC PARKS FOR THE IMPROVEMENT
DISTRICT KNOWN AS CITY OF PEORIA STREETLIGHT
IMPROVEMENT DISTRICT NO. 1117, VISTANCIA
VILLAGE A PARCEL A5.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the 4th day of October, 2016, the Mayor and Council of the City of Peoria adopted Resolution No. 2016-103; ordering the improvements of certain streets and rights-of-way within the corporate limits of the town and creating an Improvement District known as the City of Peoria Streetlight Improvement District No. 1117, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of purchasing electricity, which includes a charge for the use of lighting facilities and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Streetlight Improvement District No. 1117 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, Arizona, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7215.

DATED AND SIGNED this _____ day of _____, 2016.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona

Posted at City Council Chambers Entrance
Dates: October 5, 2016 – October 10, 2016

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 13C.

Date Prepared: 9/20/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
SUBJECT: Deeds and Easements, Various Locations

Purpose:

This is a request for City Council to adopt a Resolution accepting Deeds and Easements for various Real Property interests acquired by the City. The deeds and easements have been recorded by the Maricopa County Recorder's Office and this process will formally accept them into the system.

Background/Summary:

The City of Peoria periodically acquires a number of property interests including deeds, roadway dedications and various types of easements. All documents are reviewed for accuracy and recorded. A Resolution to accept these documents has been prepared, which lists each document by recording number and provides information related to each so the property interest to be accepted can be identified.

Previous Actions:

This is an ongoing process which occurs when we have acquired a number of real property interests.

Options:

A: Approve the adoption of the Resolution accepting Deeds and Easements into our system.

B: Deny adoption of the Resolution that formally accepts the Deeds and Easements into our system, resulting in the City not having an official record of what has been transferred to the City through recordation in the Maricopa County Recorder's office.

Staff Recommendation:

Discussion and possible action to adopt **RES. 2016-109** accepting Deeds and Easements for various Real Property interests acquired by the City.

Fiscal Analysis:

There is no fiscal impact to the City.

Narrative:

This Resolution includes Real Property interests acquired since the adoption of the previous acceptance resolution. The acceptance of the Resolution by City Council would bring the deeds and easements into our system and is the final step in the process.

ATTACHMENTS:

Exhibit 1: Resolution

Contact Name and Number:

John Nepa, Civil Engineer, (623) 773-7532

RESOLUTION NO. 2016-109

A RESOLUTION OF THE MAYOR AND COUNCIL
OF THE CITY OF PEORIA, MARICOPA COUNTY,
ARIZONA ADOPTING A RESOLUTION FORMALLY
ACCEPTING DEEDS AND EASEMENTS FOR
PROPERTY RIGHTS CONVEYED TO THE CITY OF
PEORIA.

WHEREAS, the real estate interests hereinafter referenced have been conveyed to the City of Peoria;

WHEREAS, it is to the advantage of the City of Peoria to accept said real property interests; and

WHEREAS, the City has determined that acquisition of these property interests is in the interest of the public health, safety and welfare.

NOW THEREFORE, be it resolved by the Mayor and Council of the City of Peoria, Maricopa County, Arizona as follows:

SECTION 1. That the following real property interests are hereby accepted by the City of Peoria and referenced by the recording number issued by the Maricopa County Recorder's Office.

Ironwood Estates
Community of Grace Lutheran Church
EASEMENT FOR PUBLIC WATER LINE
Maricopa County Recording No. 20160636595
(Project No. R160016/ Deed16-020)

104th Ave. & Monte Lindo St.

SECTION 2. Public Easement and Land Rights

That the Mayor and Council accept the deeds and public easements transferred to the City of Peoria as described herein.

Resolution No. 2016-109
Acceptance of Deeds and Easements
October 4, 2016
Page: 2 of 2

SECTION 3. Recording Authorized

That the City Clerk shall record the original of this Resolution with the Maricopa County Recorder's Office.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 4th day of October, 2016.

Cathy Carlat, Mayor

Date Signed

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen Burg, Acting City Attorney

Effective Date: _____

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 14C.

Date Prepared: 9/6/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
SUBJECT: Final Plat, CST - Peoria, Vistancia Boulevard and El Mirage Road

Purpose:

This is a request for City Council to approve a Final Plat of CST - Peoria, located on Vistancia Boulevard and El Mirage Road, and authorize the Mayor and City Clerk to sign and record the Final Plat with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil plans must be approved by the City of Peoria (City) prior to recordation of the Final Plat.
2. An approval of design from the City Engineering Department for the necessary improvements in accordance with the City Subdivision Regulations, as determined by the City Engineer, must be obtained prior to recording the Final Plat.
3. The developer must provide a financial assurance in the amount agreed upon by the City Engineer and an Agreement to Install for construction of the infrastructure improvements in accordance with the City Subdivision Regulations, prior to recordation of the Final Plat.
4. In the event that the Final Plat is not recorded within 60 days of Council approval, the Final Plat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Final Plat is to plat a subdivision for commercial use. This development is within the City's water/sewer service area. This final plat creates a total of 2 new commercial lots within the Vistancia Community. All necessary easements are being dedicated.

Previous Actions:

There has been no previous action.

Options:

A: The Final Plat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Final Plat; although it should be noted that not approving the Final Plat will prevent the Developer from developing this land.

B: The other option would be to formally approve the Final Plat and allow this parcel to be developed.

Staff Recommendation:

Discussion and possible action to approve the Final Plat of CST - Peoria, located at Vistancia Boulevard and El Mirage Road, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Final Plat.

Narrative:

The acceptance of this Final Plat by City Council will allow the developer to move forward in developing this property.

ATTACHMENTS:

Exhibit 1: Final Plat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E., 623-773-7577

FINAL PLAT
FOR
"CST - PEORIA"

A COMMERCIAL DEVELOPMENT

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH,
RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DEDICATION

STATE OF ARIZONA } SS
COUNTY OF MARICOPA }

KNOW ALL MEN BY THESE PRESENTS:

THAT CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER HEREBY PUBLISHES THIS REPLAT AS THE PLAT OF "CST-PEORIA", A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, CITY OF PEORIA, MARICOPA COUNTY, ARIZONA. CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY, HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND DIMENSIONS OF EACH LOT AND EASEMENT AS SHOWN HEREON AND THAT EACH LOT, AND EASEMENT SHALL BE KNOWN BY THE NUMBER, NAME AND/OR LETTER GIVEN TO EACH RESPECTIVELY. CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER, HEREBY DEDICATES TO THE CITY OF PEORIA THE WATER AND SEWER EASEMENTS AS SHOWN HEREON. EASEMENTS ARE HEREBY DEDICATED FOR THE PURPOSES SHOWN HEREON.

PUBLIC UTILITY EASEMENTS (PUE) ARE DEDICATED TO THE CITY OF PEORIA FOR USE AS SUCH. THE MAINTENANCE OF LANDSCAPING WITH THE RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF THE FRONTING PROPERTY OWNER.

WATER / SEWER EASEMENTS:

CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY, HEREBY GRANTS TO THE CITY OF PEORIA, AN ARIZONA MUNICIPAL CORPORATION, IN MARICOPA COUNTY, ARIZONA, ITS SUCCESSORS, AND ASSIGNS, A PERMANENT AND PERPETUAL EASEMENT FOR THE FOLLOWING PURPOSES, NAMELY: THE RIGHT TO ENTER UPON FOR CONSTRUCTION, MAINTENANCE, OPERATION AND REPLACEMENT OF A WATER AND/ OR SEWER LINE OVER, UNDER, AND ACROSS LOT 1 & LOT 2 SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA, TO HAVE AND TO HOLD THE SAID EASEMENT UNTO CITY OF PEORIA, A MUNICIPAL CORPORATION OF MARICOPA COUNTY, ARIZONA AND UNTO ITS SUCCESSORS AND ASSIGNS FOREVER, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS TO PERMIT THE CONSTRUCTION, OPERATION, MAINTENANCE, AND REPLACEMENT OF PUBLIC WATER AND/ OR SEWER LINE, SUBJECT TO NOTES 1, 2, 3 AND 4 BELOW.

AND THE GRANTOR HEREBY COVENANTS THAT IT IS LAWFULLY SEIZED AND POSSESSED ON THIS AFOREMENTIONED TRACT OR PARCEL OF LAND; THAT IT HAS A GOOD AND LAWFUL RIGHT TO SELL AND/OR CONVEY IT; AND THAT IT WILL WARRANT THE TITLE AND QUIET POSSESSION THEREON AGAINST THE LAWFUL CLAIM OF ALL PERSONS.

- THE SAID EASEMENT TO INCLUDE THE RIGHT TO CUT BACK AND TRIM SUCH PORTION OF THE BRANCHES AND TOPS OF THE TREES NOW GROWING OR THAT MAY HEREAFTER GROW UPON THE ABOVE DESCRIBED PREMISES, AS MAY EXTEND OVER SAID EASEMENT, SO AS TO PREVENT THE SAME FROM INTERFERING WITH THE EFFICIENT MAINTENANCE AND OPERATION OF SAID SEWER LINES.
- THE CITY OF PEORIA SHALL NOT BE RESPONSIBLE FOR REPLACING ANY LANDSCAPING OR ANY IMPROVEMENT PLACED IN THE EASEMENT BY GRANTOR OR ITS SUCCESSORS OR ASSIGNS, EXCEPT AS NOTED HEREIN.
- THE CITY OF PEORIA WILL MAKE REASONABLE EFFORTS TO PROMPTLY RESTORE ASPHALTIC CONCRETE PAVEMENT SURFACES.
- GRANTOR, ITS SUCCESSORS OR ASSIGNS AT ITS SOLE COST, SHALL BE RESPONSIBLE FOR PROMPTLY REPLACING ANY ASPHALT, LANDSCAPING OR ANY IMPROVEMENT PLACED IN THE EASEMENT BY GRANTOR OR ITS SUCCESSORS OR ASSIGNS.

THE OWNER DOES HEREBY GRANT TO THE CITY OF PEORIA, AS EASEMENT FOR MAINTENANCE OF ON-SITE RETENTION BASIN(S), PIPE STORAGE SYSTEM(S), OR ANY DRAINAGE FACILITY(IES) WITHIN THIS DEVELOPMENT AS REFLECTED ON THE APPROVED GRADING AND DRAINAGE PLAN. THIS EASEMENT MAY BE EXERCISED BY THE CITY OF PEORIA ONLY AT SUCH TIME THAT THE PROPERTY/CENTER OWNER OR ASSOCIATION RESPONSIBLE FOR THE MAINTENANCE OF SUCH FACILITIES FAILS TO PROVIDE THE REQUIRED MAINTENANCE AND OPERATION AND THE CITY HAS DETERMINED THAT LACK OF SUCH MAINTENANCE AND OPERATION CONSTITUTES A NUISANCE OR IMPACTS PUBLIC HEALTH AND SAFETY, AS LONG AS THE PROPERTY/CENTER OWNER OR ASSOCIATION IS IN EXISTENCE, IT WILL BE RESPONSIBLE FOR PROVIDING ALL REQUIRED MAINTENANCE OF SUCH FACILITIES REGARDLESS OF THE DEDICATION OF THE EASEMENT.

TEMPORARY DRAINAGE EASEMENTS ARE TEMPORARY UNTIL LOT 2 IS DEVELOPED, AND MAY BE ABANDONED AT THAT TIME.

CROSS ACCESS EASEMENTS FOR THE BENEFIT OF LOT 1 ARE GRANTED AT THE LOCATIONS SHOWN HEREON.

OWNER WARRANT AND REPRESENTS TO THE CITY OF PEORIA, AS EASEMENT FOR THE PROPERTY COVERED HEREBY AND THAT TO OWNER'S ACTUAL KNOWLEDGE EVERY LENDER, EASEMENT HOLDER, OR OTHER PERSON, OR ENTITY, HAVING ANY INTEREST IN THE LAND ADVISES TO OR INCONSISTENT WITH THE DEDICATIONS, CONVEYANCES, OR OTHER REAL PROPERTY INTEREST CREATED OR TRANSFERRED BY THIS PLAT HAS CONSENTED TO, OR JOINED IN THIS PLAT, AS EVIDENCED BY INSTRUMENTS WHICH ARE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE, OR WHICH OWNER WILL RECORD NOT LATER THAN THE DATE ON WHICH THIS PLAT IS RECORDED.

CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS OWNER, HAS HERETO CAUSED ITS NAME TO BE ATTESTED BY THE SIGNATURE OF JOHN E. REINHART ITS VICE PRESIDENT THEREUNTO DULY AUTHORIZED THIS 10th DAY OF August 2016.

CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY

BY: JOHN E. REINHART

ITS: VICE PRESIDENT

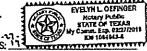
ACKNOWLEDGMENT

STATE OF TEXAS } SS
COUNTY OF BEXAR }

BEFORE ME THIS 10th DAY OF August, 2016, JOHN E. REINHART PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, WHO ACKNOWLEDGED HIMSELF TO BE THE VICE PRESIDENT OF CST ARIZONA LLC, A DELAWARE LIMITED LIABILITY COMPANY, THE LEGAL OWNER OF LOT 2 THE PROPERTY PLATTED HEREON, AND ACKNOWLEDGED THAT JOHN E. REINHART AS VICE PRESIDENT EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

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

NOTARY PUBLIC



OWNER/DEVELOPER

CST ARIZONA LLC
ONE VALERO WAY, BLDG D STE. 200
SAN ANTONIO, TEXAS 78249
PHONE: (210) 692-5000
CONTACT: JOHN E. REINHART

ENGINEER/SURVEYOR

HILGARTWILSON, LLC
2141 E. HIGHLAND AVENUE, STE 250
PHOENIX, ARIZONA 85016
PHONE: (602) 490-0535
FAX: (602) 369-2436
CONTACT: ROBERT A. JOHNSTON, RLS

NOTES:

- NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, WIRE OR REMOVABLE SECTION TYPE FENCING AND/OR PARKING NOR ANY PLANTING EXCEPT GRASS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF PEORIA SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTIONS OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION.
- ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 69 KVA, CABLE TV TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC. SHALL BE INSTALLED UNDERGROUND AS PART OF THE STREET IMPROVEMENTS.
- ALL LOT CORNERS SHALL BE MONUMENTED WITH "X" REBAR AND CAPPED OR TAGGED BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
- SIGNS, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHEDS, HEDGES OR OTHER PLANTS EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN VIEW EASEMENTS OR THE SIGHT DISTANCE TRIANGLES. NO LIMBS, LEAVES, NEEDLES OR OTHER FOLIAGE BETWEEN 30 INCHES IN HEIGHT AND 84 INCHES IN HEIGHT ARE PERMITTED. TREES ARE TO BE PLANTED 50 AS NOT TO OBSTRUCT VIEW OF THE VISIBILITY WHICH COMBINED WITH OTHER OBSTRUCTIONS.
- THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA WATER SERVICE AREA.
- THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA SEWER SERVICE AREA.
- THIS PLAT IS LOCATED WITHIN THE VICINITY OF A MILITARY AIRPORT.
- NO STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED OR ANY VEGETATION BE PLANTED NOR BE ALLOWED TO GROW WITHIN THE DRAINAGE EASEMENT OR TRACT WHICH WOULD IMPEDE THE FLOW OF WATER OVER, UNDER, OR THROUGH THE EASEMENT OR TRACT.

BASIS OF BEARING

BASIS OF BEARING IS N89°30'44"W ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE GILA & SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.

APPROVALS

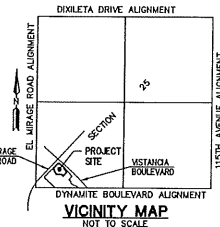
APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA,

THIS DAY _____ OF _____ 2016

APPROVED BY: _____ DATE: _____

ATTESTED BY: _____ DATE: _____

APPROVED BY: _____ DATE: _____



SHEET INDEX

FP01 COVER SHEET, VICINITY MAP, NOTES

FP02 FINAL PLAT

LEGAL DESCRIPTION

A PORTION OF ONE OF THE PARCELS OF LAND CONVEYED TO VISTANCIA, LLC BY DEED IN RECORDING NO. 2002-000078, MARICOPA COUNTY RECORDS, LIVING WITHIN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER (GLO BRASS CAP) OF SAID SECTION 25, FROM WHICH POINT THE WEST QUARTER CORNER (GLO BRASS CAP) THEREOF BEARS NORTH 00 DEGREES 13 MINUTES 14 SECONDS EAST, A DISTANCE OF 238.11 FEET;
THENCE NORTH 30 DEGREES 36 MINUTES 18 SECONDS EAST, A DISTANCE OF 399.45 FEET TO A POINT ON THE EAST LINE OF TRACT "H" AS SHOWN ON THE MAP OF DEDICATION FOR VISTANCIA PHASE 1A RECORDED IN BOOK 647, PAGE 31, MARICOPA COUNTY RECORDS, THE POINT OF BEGINNING;
THENCE ALONG THE SAID EAST LINE THE FOLLOWING (3) COURSES AND DISTANCES:
THENCE NORTH 43 DEGREES 08 MINUTES 24 SECONDS EAST, A DISTANCE OF 231.12 FEET;
THENCE NORTH 48 DEGREES 52 MINUTES 45 SECONDS EAST, A DISTANCE OF 120.00 FEET;
THENCE NORTH 43 DEGREES 08 MINUTES 24 SECONDS EAST, A DISTANCE OF 238.55 FEET;
THENCE NORTH 87 DEGREES 30 MINUTES 19 SECONDS EAST, A DISTANCE OF 51.03 FEET;
THENCE SOUTH 48 DEGREES 07 MINUTES 46 SECONDS EAST, A DISTANCE OF 119.07 FEET TO A POINT ON THE SOUTH LINE OF TRACT "H" AS SHOWN ON SAID MAP OF DEDICATION;
THENCE ALONG SAID SOUTH LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:
THENCE SOUTH 41 DEGREES 52 MINUTES 14 SECONDS WEST, A DISTANCE OF 1.00 FEET;
THENCE SOUTH 48 DEGREES 07 MINUTES 46 SECONDS EAST, A DISTANCE OF 32.00 FEET;
THENCE NORTH 41 DEGREES 52 MINUTES 14 SECONDS EAST, A DISTANCE OF 1.00 FEET TO A POINT ON THE SOUTH LINE OF TRACT "L" AS SHOWN ON SAID MAP OF DEDICATION;
THENCE ALONG SAID SOUTH LINE THE FOLLOWING THREE (3) COURSES AND DISTANCES:
THENCE SOUTH 48 DEGREES 07 MINUTES 46 SECONDS EAST, A DISTANCE OF 105.36 FEET;
THENCE SOUTH 43 DEGREES 47 MINUTES 35 SECONDS EAST, A DISTANCE OF 39.00 FEET;
THENCE SOUTH 40 DEGREES 26 MINUTES 23 SECONDS EAST, A DISTANCE OF 238.54 FEET;
THENCE ACROSS SAID TRACT "L" TRACT THE FOLLOWING NINE (9) COURSES AND DISTANCES:
THENCE SOUTH 43 DEGREES 08 MINUTES 24 SECONDS EAST, A DISTANCE OF 140.48 FEET;
THENCE SOUTH 46 DEGREES 51 MINUTES 36 SECONDS EAST, A DISTANCE OF 23.37 FEET;
THENCE SOUTH 67 DEGREES 02 MINUTES 19 SECONDS EAST, A DISTANCE OF 18.24 FEET;
THENCE SOUTH 43 DEGREES 41 MINUTES 11 SECONDS EAST, A DISTANCE OF 61.20 FEET;
THENCE SOUTH 20 DEGREES 24 MINUTES 15 SECONDS EAST, A DISTANCE OF 23.96 FEET;
THENCE SOUTH 02 DEGREES 03 MINUTES 52 SECONDS WEST, A DISTANCE OF 41.32 FEET;
THENCE SOUTH 48 DEGREES 51 MINUTES 36 SECONDS EAST, A DISTANCE OF 92.53 FEET;
THENCE SOUTH 68 DEGREES 23 MINUTES 50 SECONDS EAST, A DISTANCE OF 131.89 FEET;
THENCE SOUTH 37 DEGREES 00 MINUTES 25 SECONDS EAST, A DISTANCE OF 54.03 FEET TO A POINT ON THE SOUTH LINE THEREOF SAID POINT ALSO BEING THE SOUTH LINE OF SAID SOUTHWEST QUARTER;
THENCE NORTH 89 DEGREES 30 MINUTES 44 SECONDS WEST ALONG SAID SOUTH LINE, A DISTANCE OF 893.38 FEET TO THE SOUTHEAST CORNER OF THAT TRACT AS CONVEYED TO CITY OF PEORIA IN RECORDING NO. 2008-130455, MARICOPA COUNTY RECORDS;
THENCE NORTH 46 DEGREES 51 MINUTES 36 SECONDS WEST ALONG THE NORTHEAST LINE OF SAID CITY OF PEORIA TRACT, A DISTANCE OF 457.41 FEET TO THE POINT OF BEGINNING.

FLOOD ZONE DESIGNATION

THE SUBJECT PROPERTY LIES WITHIN SHADED ZONE "X" WITH A DEFINITION OF: AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREA OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE, AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD. DESIGNATION DETERMINED BY FEMA FLOOD ZONE MAP 04013C1230L, PANEL NUMBER 1230 OF 4425, EFFECTIVE DATE OCTOBER 16, 2013.

SURVEYOR CERTIFICATION

I, ROBERT A. JOHNSTON, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING THE MONTH OF APRIL, 2016; THAT THE SURVEY IS TRUE AND CORRECT AS SHOWN; THAT ALL EXTERIOR BOUNDARY MONUMENTS ACTUALLY EXIST AS SHOWN; AND THAT I AM ADEQUATELY QUALIFIED TO ENABLE THE SURVEY TO BE RETAINED.

ROBERT A. JOHNSTON, RLS
RLS# 37495
HILGARTWILSON, LLC
2141 E. HIGHLAND AVENUE, SUITE 2
PHOENIX, ARIZONA 85016
P: (602) 490-0535
rjohnston@hgwilson.com

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

HILGARTWILSON
ENGINEER | PLANNING | SURVEY
2545 E. HIGHLAND AVE. STE. 250 | P: 602.490.0535 / F: 602.369.2436
PHOENIX, AZ 85016
www.hilgartwilson.com

CST #1683 - PEORIA
EL MIRAGE ROAD - VISTANCIA BOULEVARD
PEORIA, ARIZONA

FINAL PLAT

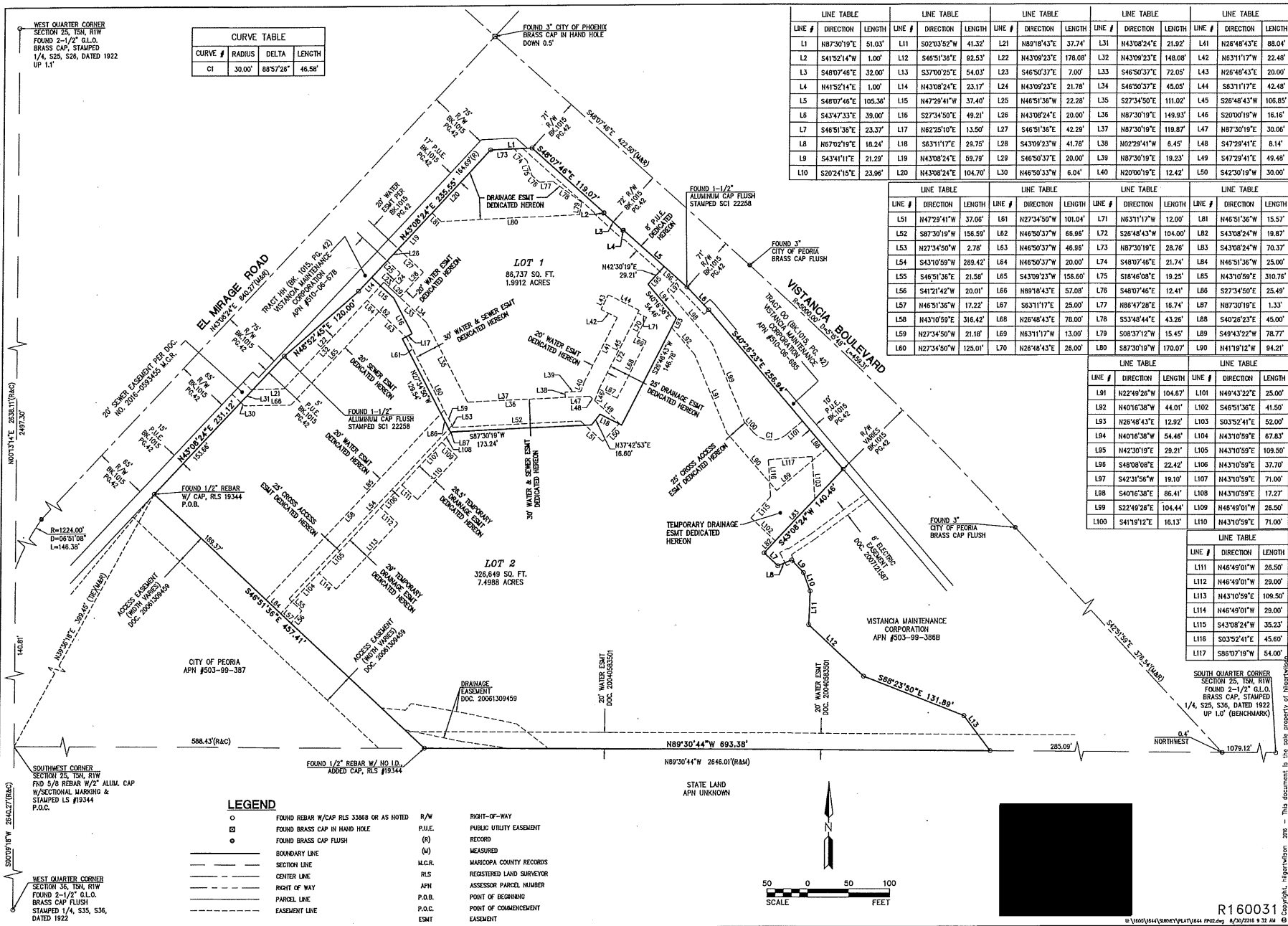
STATUS:
PROJ. NO: 1644
DATE: JULY 2016
SCALE: AS SHOWN
DRAWN: KOF/XO
APPROVED: KJP

DWG. NO.
FP01
SHT. 1 OF 2

R160031

C:\Users\Hilg\Documents\Projects\1644 FP01.dwg 8/9/2016 4:10 PM

© Copyright, Hilgartwilson, 2016 - This document is the sole property of Hilgartwilson.



CURVE TABLE		
CURVE #	RADIUS	DELTA
C1	30.00'	88°57'28"

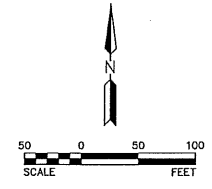
LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N87°30'19"E	51.03'
L2	S41°52'14"W	1.00'
L3	S48°07'46"E	32.00'
L4	N41°52'14"E	1.00'
L5	S48°07'46"E	105.36'
L6	S43°47'33"E	39.00'
L7	S48°07'36"E	23.37'
L8	N67°02'19"E	18.24'
L9	S43°41'11"E	21.29'
L10	S28°24'15"E	23.96'
L11	S02°03'52"W	41.32'
L12	S46°51'36"E	92.53'
L13	S37°00'25"E	54.03'
L14	N43°08'24"E	23.17'
L15	N47°29'41"W	37.40'
L16	S27°34'50"E	49.21'
L17	N62°25'10"E	13.50'
L18	S63°11'17"E	28.75'
L19	N43°08'24"E	59.79'
L20	N43°08'24"E	104.70'
L21	N87°18'43"E	37.74'
L22	N43°09'23"E	178.08'
L23	S46°50'37"E	7.00'
L24	N43°09'23"E	21.78'
L25	N46°51'36"W	22.28'
L26	N43°08'24"E	20.00'
L27	S46°51'36"E	42.29'
L28	S43°09'23"W	41.78'
L29	S46°50'37"E	20.00'
L30	N46°50'33"W	6.04'
L31	N43°08'24"E	21.92'
L32	N43°09'23"E	148.08'
L33	S46°50'37"E	72.05'
L34	S46°50'37"E	45.05'
L35	S27°34'50"E	111.02'
L36	N87°30'19"E	149.93'
L37	N87°30'19"E	119.87'
L38	N02°28'41"W	8.45'
L39	N87°30'19"E	19.23'
L40	N20°00'19"E	12.42'
L41	N26°48'43"E	88.04'
L42	N63°11'17"W	22.48'
L43	N26°48'43"E	20.00'
L44	S63°11'17"E	42.48'
L45	S26°48'43"E	106.85'
L46	S20°00'19"W	16.16'
L47	N87°30'19"E	30.06'
L48	S47°29'41"E	8.14'
L49	S47°29'41"E	49.48'
L50	S42°30'19"W	30.00'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L51	N47°29'41"W	37.06'
L52	S87°30'19"W	156.59'
L53	N27°34'50"W	2.78'
L54	S43°10'59"W	289.42'
L55	S46°51'36"E	21.56'
L56	S41°21'42"W	20.01'
L57	N46°51'36"W	17.22'
L58	N43°10'59"E	316.42'
L59	N27°34'50"W	21.18'
L60	N27°34'50"W	125.01'
L61	N27°34'50"W	101.04'
L62	N46°50'37"W	68.96'
L63	N46°50'37"W	46.98'
L64	N46°50'37"W	20.00'
L65	S43°09'23"W	156.60'
L66	N89°18'43"E	57.08'
L67	S63°11'17"E	25.00'
L68	N26°48'43"E	78.00'
L69	N63°11'17"W	13.00'
L70	N26°48'43"E	26.00'
L71	N63°11'17"W	12.00'
L72	S26°48'43"W	104.00'
L73	N87°30'19"E	28.76'
L74	S48°07'46"E	21.74'
L75	S18°46'08"E	19.25'
L76	S48°07'46"E	12.41'
L77	N86°47'28"E	16.74'
L78	S53°48'44"E	43.26'
L79	S08°37'12"W	15.45'
L80	S87°30'19"W	170.07'
L81	N46°51'36"W	15.57'
L82	S43°08'24"W	19.87'
L83	S43°08'24"W	70.37'
L84	N46°51'36"W	25.00'
L85	N43°10'59"E	310.76'
L86	S27°34'50"E	25.49'
L87	N87°30'19"E	1.33'
L88	S40°28'23"E	45.00'
L89	S49°43'22"W	78.77'
L90	N41°19'12"E	94.21'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L91	N22°49'26"W	104.67'
L92	N40°16'38"W	44.01'
L93	N26°48'43"E	12.92'
L94	N40°16'38"W	54.46'
L95	N42°30'19"E	28.21'
L96	S48°08'08"E	22.42'
L97	S42°31'56"W	19.10'
L98	S40°16'38"E	86.41'
L99	S22°49'26"E	104.44'
L100	S41°19'12"E	16.13'
L101	N49°43'22"E	25.00'
L102	S48°51'36"E	41.50'
L103	S03°52'41"E	52.00'
L104	N43°10'59"E	67.83'
L105	N43°10'59"E	109.50'
L106	N43°10'59"E	37.70'
L107	N43°10'59"E	71.00'
L108	N43°10'59"E	17.27'
L109	N46°49'01"W	26.50'
L110	N43°10'59"E	71.00'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L111	N46°49'01"W	26.50'
L112	N46°49'01"W	29.00'
L113	N43°10'59"E	109.50'
L114	N46°49'01"W	29.00'
L115	S43°08'24"W	35.23'
L116	S03°52'41"E	45.60'
L117	S86°07'19"W	54.00'

- LEGEND**
- FOUND REBAR W/CAP RLS 33688 OR AS NOTED
 - FOUND BRASS CAP IN HAND HOLE
 - FOUND BRASS CAP FLUSH
 - BOUNDARY LINE
 - SECTION LINE
 - CENTER LINE
 - RIGHT OF WAY
 - PARCEL LINE
 - EASEMENT LINE
 - R/W RIGHT-OF-WAY
 - P.U.E. PUBLIC UTILITY EASEMENT
 - (R) RECORD
 - (M) MEASURED
 - M.C.R. MARICOPA COUNTY RECORDS
 - RLS REGISTERED LAND SURVEYOR
 - APH ASSESSOR PARCEL NUMBER
 - P.O.B. POINT OF BEGINNING
 - P.O.C. POINT OF COMMENCEMENT
 - ESMT EASEMENT



HILGART WILSON
ENGINEER | PLANNING | SURVEY | MAINTENANCE
2545 E. HIGHLAND AVE. STE. 250 | P: 602.960.0007 | F: 602.960.2406
PHOENIX, AZ 85016

CST #1683 - PEORIA
EL MIRAGE ROAD & VISTANCIA BOULEVARD
PEORIA, ARIZONA

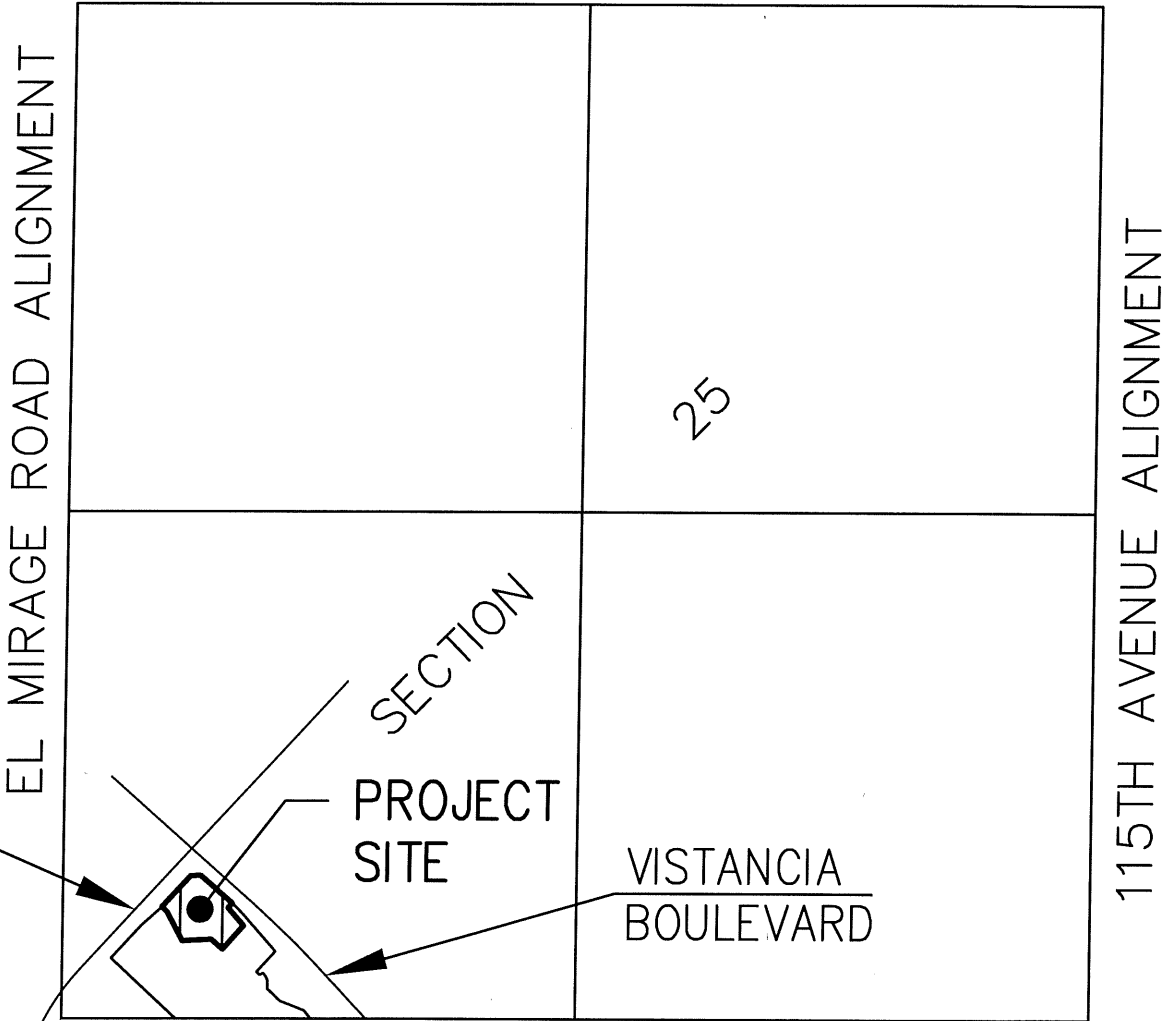
FINAL PLAT

STATUS: **PROJ. NO. 1544**
DATE: JULY 2016
SCALE: AS SHOWN
DRAWN: KDH/KO
APPROVED: KJP

DWG. NO. **FP02**
SHT. 2 OF 2

R160031

DIXILETA DRIVE ALIGNMENT



EL MIRAGE
ROAD

EL MIRAGE ROAD ALIGNMENT

SECTION

PROJECT
SITE

VISTANCIA
BOULEVARD

115TH AVENUE ALIGNMENT

DYNAMITE BOULEVARD ALIGNMENT

VICINITY MAP

NOT TO SCALE

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 15C.

Date Prepared: 9/12/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P.E., Development and Engineering Director

SUBJECT: Final Plat, Westwing Mountain – Parcel 24 - Escena, Lake Pleasant Parkway and Westwing Parkway

Purpose:

This is a request for City Council to approve a Final Plat of Westwing Mountain – Parcel 24 - Escena, located on Lake Pleasant Parkway and Westwing Parkway, and authorize the Mayor and City Clerk to sign and record the Final Plat with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil plans must be approved by the City of Peoria (City) prior to recordation of the Final Plat.
2. An approval of design from the City Engineering Department for the necessary improvements in accordance with the City Subdivision Regulations, as determined by the City Engineer, must be obtained prior to recording the Final Plat.
3. The developer must provide a financial assurance in the amount agreed upon by the City Engineer and an Agreement to Install for construction of the infrastructure improvements in accordance with the City Subdivision Regulations, prior to recordation of the Final Plat.
4. In the event that the Final Plat is not recorded within 60 days of Council approval, the Final Plat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Final Plat is to plat a subdivision for residential use. This development is within the City's water\sewer service area. This final plat creates a total of 53 new lots within the Westwing Mountain Community. All internal roadways are private and will be maintained by the HOA.

This development is located within the City's water\sewer service area.

Previous Actions:

There have been no previous council actions.

Options:

A: The Final Plat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Final Plat; although it should be noted that not approving the Final Plat will prevent the Developer from developing this land.

B: The other option would be to formally approve the Final Plat and allow this parcel to be developed.

Staff Recommendation:

Discussion and possible action to approve the Final Plat of Westwing Mountain – Parcel 24 - Escena, located at Lake Pleasant Parkway and Westwing Parkway, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Final Plat.

Narrative:

The acceptance of this Final Plat by City Council will allow the developer to move forward in developing this property.

ATTACHMENTS:

Exhibit 1: Final Plat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E., 623-773-7577

LEGAL DESCRIPTION

A PORTION OF LAND BEING SITUATED WITHIN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 5 NORTH, RANGE 1 EAST OF THE 96A AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND BRASS CAP FLUSH ACCEPTED AS THE NORTH QUARTER CORNER OF SAID SECTION 33, FROM WHICH A FOUND BRASS CAP FLUSH ACCEPTED AS THE NORTHEAST CORNER THEREOF BEARS SOUTH 89°31'22" EAST, 2845.38 FEET;

THENCE ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, SOUTH 89°31'22" EAST, 839.16 FEET;

THENCE LEAVING SAID NORTH LINE, SOUTH 00°28'38" WEST, 609.25 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WESTWING PARKWAY, SHOWN ON THE MAP OF DEDICATION, RECORDED IN BOOK 684, PAGE 22, RECORDS OF MARICOPA COUNTY, ARIZONA, BEING THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES:

THENCE SOUTH 72°48'53" EAST, 374.05 FEET, TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 2,765.00 FEET;

THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°28'13", AN ARC LENGTH OF 358.89 FEET, TO A POINT OF TANGENCY;

THENCE SOUTH 80°15'06" EAST, 482.16 FEET, TO THE WEST LINE OF PARCEL 22, SHOWN IN THE SPECIAL WARRANTY DEED, RECORDED IN DOCUMENT NO. 2003-0817536, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE AND ALONG SAID WEST LINE, SOUTH 17°11'07" WEST, 478.79 FEET, TO THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHEAST QUARTER;

THENCE LEAVING SAID WEST LINE AND ALONG SAID SOUTH LINE, NORTH 89°50'52" WEST, 1,478.15 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF LAKE PLEASANT PARKWAY, AS DEDICATED IN THE SPECIAL WARRANTY DEEDS, RECORDED IN DOCUMENT NO. 2004-0132120 AND DOCUMENT NO. 2012-0447434, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING 6 COURSES:

THENCE NORTH 16°59'01" EAST, 171.20 FEET;

THENCE SOUTH 73°00'59" EAST, 15.00 FEET;

THENCE NORTH 16°59'01" EAST, 235.59 FEET;

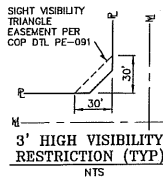
THENCE SOUTH 73°00'59" EAST, 5.00 FEET;

THENCE NORTH 16°59'01" EAST, 387.55 FEET;

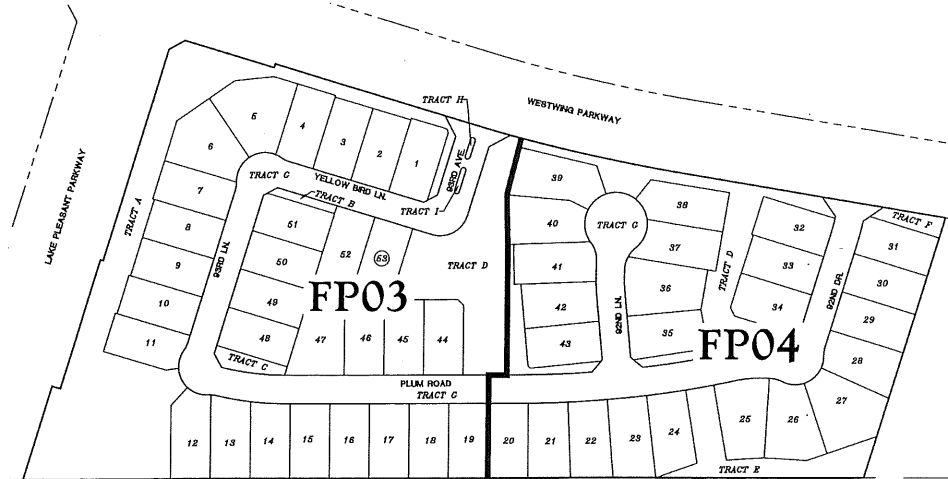
THENCE NORTH 82°05'04" EAST, 32.47 FEET, TO SOUTHERLY RIGHT-OF-WAY LINE OF WESTWING PARKWAY, AS DEDICATED IN THE SPECIAL WARRANTY DEED, RECORDED IN DOCUMENT NO. 2012-0447434, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, SOUTH 72°48'53" EAST, 164.11 FEET,

THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, NORTH 17°11'07" WEST, 7.00 FEET, TO THE POINT OF BEGINNING.



NOTE:
DETAIL PERTAINS TO ALL LOCAL
UNCONTROLLED INTERSECTIONS



WESTWING MOUNTAIN PARCEL 24 SITE SUMMARY TABLE

	PARCEL 24
ZONING	PAD
OVERALL GROSS AREA (ACRES)	24.07
OVERALL NET (*) AREA (ACRES)	20.11
TOTAL NUMBER OF LOTS (PAD): SINGLE FAMILY	53
TOTAL OPEN SPACE (ACRES)	4.81
TOTAL PERCENTAGE OF OPEN SPACE (%)	20.0%
TOTAL USEABLE OPEN SPACE (ACRES)	2.17
TOTAL PERCENTAGE OF USEABLE OPEN SPACE (%)	9.02%
TOTAL NET (*) ROADWAY TRACT (ACRES)	3.20
TOTAL OFFSITE RIGHT-OF-WAY (ACRES)	3.95
MINIMUM LOT SIZE (SF)	9,100
AVERAGE LOT SIZE (SF)	9,949
MAXIMUM LOT SIZE (SF)	14,095
MINIMUM LOT WIDTH (FT)	70'
MINIMUM LOT DEPTH (FT)	115'
DENSITY (DU/AC): PER GROSS AREA	2.20
* NET EXCLUDES WESTWING PARKWAY & LAKE PLEASANT PARKWAY RIGHTS-OF-WAY	

UTILITY COMPANIES

WATER	CITY OF PEORIA
SEWER	CITY OF PEORIA
ELEC.	ARIZONA PUBLIC SERVICE
GAS	SOUTHWEST GAS
TELEPHONE	CENTURYLINK
CABLE TV	COX COMMUNICATIONS
POLICE	CITY OF PEORIA
FIRE	CITY OF PEORIA
SCHOOL DISTRICT	PEORIA UNIFIED SCHOOL DISTRICT
WASTE DISPOSAL	CITY OF PEORIA

LOT TABLE		
LOT #	AREA (SQ.FT)	WIDTH
LOT : 1	9427	70.00'
LOT : 2	9240	70.00'
LOT : 3	9240	70.00'
LOT : 4	9396	70.00'
LOT : 5	14095	115.55'
LOT : 6	12501	101.45'
LOT : 7	9439	70.00'
LOT : 8	9240	70.00'
LOT : 9	9240	70.00'
LOT : 10	9450	70.00'
LOT : 11	9397	70.00'
LOT : 12	10342	70.00'
LOT : 13	9833	70.00'
LOT : 14	9247	70.00'
LOT : 15	9170	70.00'
LOT : 16	9170	70.00'
LOT : 17	9170	70.00'
LOT : 18	9170	70.00'
LOT : 19	9170	70.00'
LOT : 20	9190	70.15'

LOT TABLE		
LOT #	AREA (SQ.FT)	WIDTH
LOT : 21	9463	71.92'
LOT : 22	9700	71.98'
LOT : 23	10163	72.11'
LOT : 24	9887	72.03'
LOT : 25	11351	82.39'
LOT : 26	11679	89.24'
LOT : 27	13581	100.83'
LOT : 28	10082	76.48'
LOT : 29	9450	70.00'
LOT : 30	9450	70.00'
LOT : 31	9442	70.00'
LOT : 32	9300	70.00'
LOT : 33	9100	70.00'
LOT : 34	9878	70.00'
LOT : 35	9699	73.24'
LOT : 36	12108	87.58'
LOT : 37	9752	70.00'
LOT : 38	10315	70.00'
LOT : 39	11926	79.03'
LOT : 40	10712	78.71'

LOT TABLE		
LOT #	AREA (SQ.FT)	WIDTH
LOT : 41	9883	70.00'
LOT : 42	9664	74.14'
LOT : 43	9104	70.00'
LOT : 44	9203	70.00'
LOT : 45	9253	70.00'
LOT : 46	9565	70.00'
LOT : 47	12050	82.21'
LOT : 48	9100	70.00'
LOT : 49	9100	70.00'
LOT : 50	9100	70.00'
LOT : 51	9150	70.00'
LOT : 52	10438	70.00'
LOT : 53	9605	70.00'

TRACT AREA = 348,802 S.F.
LOT AREA = 527,280 S.F.
GROSS AREA = 876,082 S.F.

TRACT TABLE *		
TRACT	AREA (ACRES)	USE
TRACT A	2.2058	DRAINAGE, LANDSCAPE, OPEN SPACE, EMERGENCY ACCESS & SEWER EASEMENT, SLOPE AND DRAINAGE EASEMENT, WATERLINE EASEMENT, LANDSCAPE AND SIDEWALK EASEMENT, GASLINE EASEMENT, SCENIC CORRIDOR EASEMENT, PUBLIC UTILITY EASEMENT
TRACT B	0.0390	DRAINAGE, LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT
TRACT C	0.0797	DRAINAGE, LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT
TRACT D	1.9539	DRAINAGE, LANDSCAPE, OPEN SPACE, LANDSCAPE AND SIDEWALK EASEMENT, PUBLIC UTILITY EASEMENT
TRACT E	0.4425	DRAINAGE, LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT
TRACT F	0.0805	DRAINAGE, LANDSCAPE, OPEN SPACE, LANDSCAPE AND SIDEWALK EASEMENT, PUBLIC UTILITY EASEMENT
TRACT G	3.1691	PRIVATE ACCESSWAY, PUBLIC WATER AND SEWER EASEMENTS, PUBLIC UTILITY EASEMENT, DRAINAGE EASEMENT, REFUSE COLLECTION EASEMENT, EMERGENCY EQUIPMENT ACCESS EASEMENT
TRACT H	0.0075	LANDSCAPE, OPEN SPACE
TRACT I	0.0093	LANDSCAPE, OPEN SPACE

* USES LISTED HEREON ARE NOT INCLUSIVE TO THE ENTIRE TRACT; SEE PLAN SHEETS FOR EXACT LOCATION OF EACH EASEMENT WITHIN TRACT



NO. R160019

WESTWING MOUNTAIN - PARCEL 24 - ESCENA
WESTWING PARKWAY & LAKE PLEASANT PARKWAY
PEORIA, ARIZONA

FINAL PLAT

STATUS:

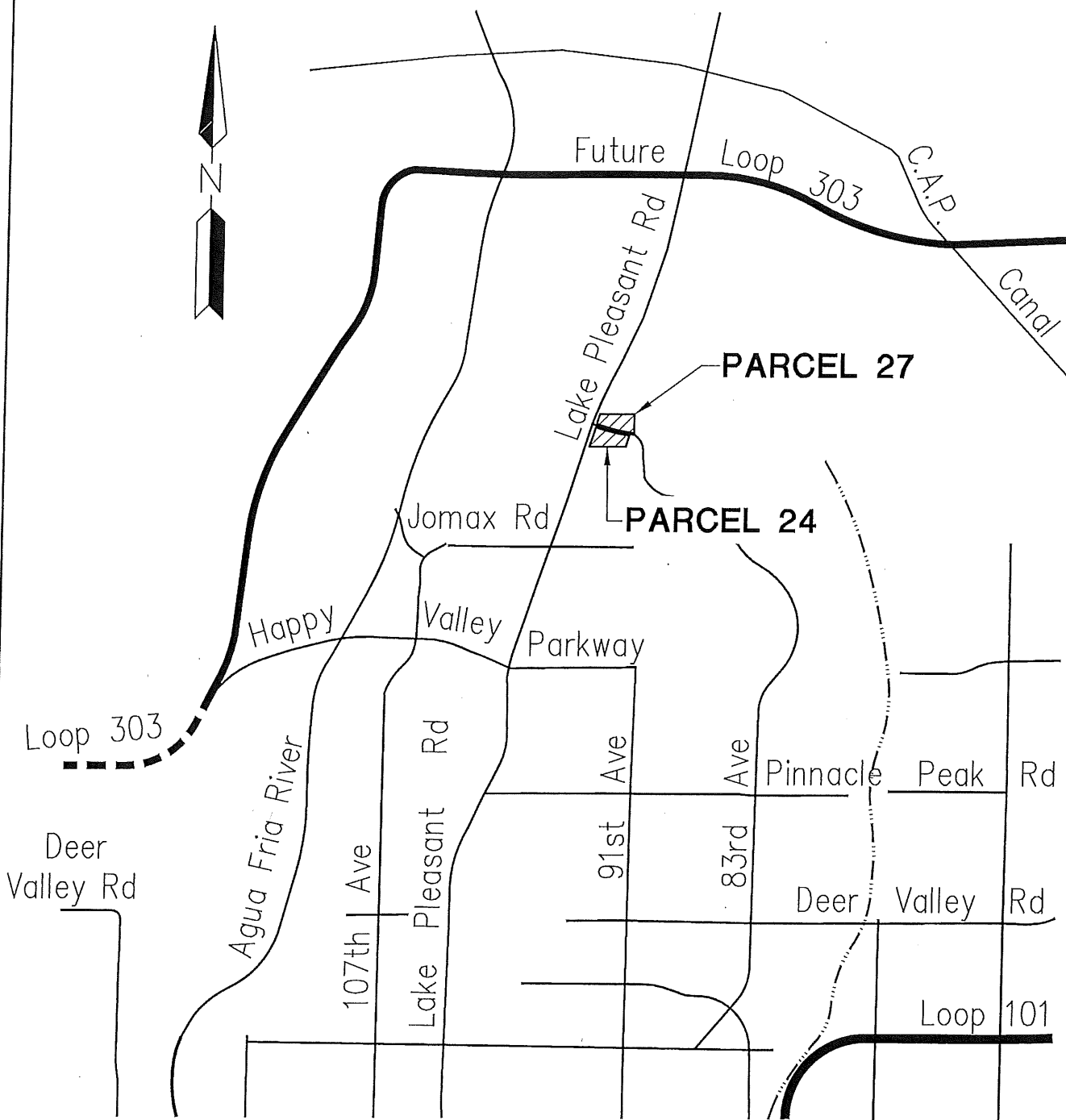
PROJ. NO.: 1276
DATE: MARCH 2016
SCALE: AS SHOWN
DRAWN: DSP
APPROVED: RAJ

DWG. NO.
FP02

SHT. 2 OF 4

U:\1276\1276\SERVICES\PLAT\PARCEL 24\1276-24-FP02.dwg 8/1/2016 1:45 PM

HILGARTWILSON
ENGINEER / PLANNING
2415 WEST WILSON AVENUE, SUITE 200
PHOENIX, AZ 85015
www.hilgartwilson.com



PROJ.NO.: 1276
 DATE: AUG 2016
 SCALE: NTS
 DRAWN BY: DSP
 CHECKED BY: DSP

WESTWING PARCEL 24 & 27
 VICINITY MAP DIAGRAM
 PEORIA, ARIZONA
PROJECT EXHIBIT


HILGARTWILSON
 2141 E. HIGHLAND AVE., STE. 250
 PHOENIX, AZ 85016
 P: 602.490.0535 / F: 602.368.2436

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 16C.

Date Prepared: 9/12/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager

THROUGH: Susan J. Daluddung, AICP, Deputy City Manager

FROM: Andrew Granger, P.E., Development and Engineering Director

SUBJECT: Final Plat, Westwing Mountain – Parcel 27 - Pradera, Lake Pleasant Parkway and Westwing Parkway

Purpose:

This is a request for City Council to approve a Final Plat of Westwing Mountain – Parcel 27 - Pradera, located on Lake Pleasant Parkway and Westwing Parkway, and authorize the Mayor and City Clerk to sign and record the Final Plat with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil plans must be approved by the City of Peoria (City) prior to recordation of the Final Plat.
2. An approval of design from the City Engineering Department for the necessary improvements in accordance with the City Subdivision Regulations, as determined by the City Engineer, must be obtained prior to recording the Final Plat.
3. The developer must provide a financial assurance in the amount agreed upon by the City Engineer and an Agreement to Install for construction of the infrastructure improvements in accordance with the City Subdivision Regulations, prior to recordation of the Final Plat.
4. In the event that the Final Plat is not recorded within 60 days of Council approval, the Final Plat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Final Plat is to plat a subdivision for residential use. This development is within the City's water\sewer service area. This final plat creates a total of 69 new lots within the Westwing Mountain Community. All internal roadways are private and will be maintained by the HOA.

This development is located within the City's water\sewer service area.

Previous Actions:

There have been no previous council actions.

Options:

A: The Final Plat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Final Plat; although it should be noted that not approving the Final Plat will prevent the Developer from developing this land.

B: The other option would be to formally approve the Final Plat and allow this parcel to be developed.

Staff Recommendation:

Discussion and possible action to approve the Final Plat of Westwing Mountain – Parcel 27 - Pradera, located at Lake Pleasant Parkway and Westwing Parkway, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Final Plat.

Narrative:

The acceptance of this Final Plat by City Council will allow the developer to move forward in developing this property.

ATTACHMENTS:

Exhibit 1: Final Plat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E., 623-773-7577

FINAL PLAT OF "WESTWING MOUNTAIN - PARCEL 27 - PRADERA"

A PORTION OF THE NORTHEAST QUARTER OF SECTION 33,
TOWNSHIP 5 NORTH, RANGE 1 EAST OF THE GILA AND SALT
RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DEDICATION

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS
KNOW ALL MEN BY THESE PRESENTS:

THAT WATTANY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HAS SUBDIVIDED UNDER THE NAME "WESTWING MOUNTAIN - PARCEL 27 - PRADERA" BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 5 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON AND HEREBY PUBLISHES THIS PLAT AS AND FOR THE PLAT OF SAID "WESTWING MOUNTAIN - PARCEL 27 - PRADERA" AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND ONES THE OWNERSHIPS OF THE LOTS, TRACTS AND EASEMENTS CONSTITUTING SAME AND THAT EACH LOT, TRACT AND EASEMENT SHALL BE KNOWN BY THE NAME, NUMBER OR LETTER GIVEN TO EACH RESPECTIVELY ON SAID PLAT.

TRACT "O" IS HEREBY DEDICATED TO AND OWNED BY THE HOMEOWNERS ASSOCIATION (HOA) FOR THE PURPOSE OF PRIVATE STREETS/ACCESS. THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION IS RESPONSIBLE FOR MAINTENANCE OF THE PRIVATE STREETS/ACCESS. A PUBLIC UTILITIES EASEMENT, PUBLIC WATER EASEMENT, PUBLIC SEWER EASEMENT, HIGHWAY AND EGRESS FOR REFUSE COLLECTION, EMERGENCY AND SERVICE TYPE ACCESS ARE HEREBY DEDICATED OVER TRACT "O". THE MASTER DEVELOPER, AS OWNER, HEREBY DECLARES THAT EFFECTIVE AS OF THE DATE OF THE RECONSTRUCTION OF THIS PLAT, THE PROPERTY WITHIN "WESTWING MOUNTAIN - PARCEL 27 - PRADERA" SHALL BE HELD, SOLD, CONVEYED, ENCUMBERED, HYPOTHECATED, LEASED, USED, OCCUPIED, AND IMPROVED SUBJECT TO THE FOLLOWING RESTRICTIONS: THE PRIVATE STREETS LOCATED ON THIS PLAT SHALL BE PRIVATE AND SHALL NOT BE DEDICATED TO PUBLIC USE UNTIL SUCH TIME AS ALL OWNERS (I.E. 100%) OF THE LOTS WITHIN THIS PLAT VOTE TO APPROVE SUCH STREETS BEING DEDICATED TO PUBLIC USE AND SUCH DEDICATION IS ACCEPTED BY THE CITY. THE CITY WILL REQUIRE (AS A CONDITION TO ITS ACCEPTANCE OF SUCH DEDICATION), THAT SUCH STREETS SHALL BE UPGRADED TO THE THEN-CURRENT CITY STANDARDS, AT NO EXPENSE TO THE CITY (I.E. SUCH UPGRADING SHALL BE AT THE EXPENSE OF SUCH OWNERS AND/OR A HOMEOWNERS ASSOCIATION THAT INCLUDES SUCH OWNERS. THIS RESTRICTION MAY BE AMENDED ONLY UPON THE WRITTEN CONSENT OF THE CITY AND ALL OWNERS (I.E. 100%) OF THE LOTS WITHIN THIS PLAT.

PUBLIC UTILITY EASEMENTS (PUE) ARE DEDICATED TO THE CITY OF PEORIA FOR USE AS SUCH. THE MAINTENANCE OF LANDSCAPING WITHIN THE RIGHTS-OF-WAY SHALL BE THE RESPONSIBILITY OF THE ABUTTING PROPERTY OWNER.

TRACTS "H", AND "I" SHALL BE RETAINED BY THE DECLARANT FOR FUTURE CONVEYANCE TO THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION FOR THE PURPOSE OF LANDSCAPE, OPEN SPACE, SCENIC CORRIDOR EASEMENT AND PUBLIC UTILITY EASEMENT.

TRACT "A" SHALL BE RETAINED BY THE DECLARANT FOR FUTURE CONVEYANCE TO THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION FOR THE PURPOSE OF DRAINAGE, LANDSCAPE, OPEN SPACE, SCENIC CORRIDOR EASEMENT AND PUBLIC UTILITY EASEMENT.

TRACTS "A", "B", "C", "D", "E", AND "F" SHALL BE RETAINED BY THE DECLARANT FOR FUTURE CONVEYANCE TO THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION FOR THE PURPOSE OF DRAINAGE, LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT.

ALL TRACTS ARE TO BE OWNED AND MAINTAINED BY THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION.

WATER / SEWER EASEMENTS:
WATTANY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, HEREBY GRANTS TO THE CITY OF PEORIA, AN ARIZONA MUNICIPAL CORPORATION, IN MARICOPA COUNTY, ARIZONA, ITS SUCCESSORS AND ASSIGNS, A PERMANENT AND PERPETUAL EASEMENT FOR THE FOLLOWING PURPOSES, NAMELY: THE RIGHT TO ENTER UPON FOR CONSTRUCTION, MAINTENANCE, OPERATION AND REPLACEMENT OF A WATER AND/OR SEWER LINE OVER, UNDER, AND ACROSS TRACT 6 SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA, TO HAVE AND TO HOLD THE SAID EASEMENT UNTO THE CITY OF PEORIA, A MUNICIPAL CORPORATION OF MARICOPA COUNTY, ARIZONA AND UNTO ITS SUCCESSORS AND ASSIGNS FOREVER, TOGETHER WITH THE RIGHT OF HIGHWAY AND EGRESS TO PERMIT THE CONSTRUCTION, OPERATION, MAINTENANCE, AND REPLACEMENT OF PUBLIC WATER AND/OR SEWER LINES SUBJECT TO NOTES 1, 2, 3 AND 4 BELOW. AND THE GRANTOR HEREBY COVENANTS THAT IT IS LAWFULLY SEIZED AND POSSESSED ON THIS AGREMENTED TRACT OR PARCEL OF LAND, THAT IT HAS A GOOD AND LAWFUL RIGHT TO SELL AND/OR CONVEY IT; AND THAT IT WILL WARRANT THE TITLE AND QUIET POSSESSION THEREOF AGAINST THE LAWFUL CLAIM OF ALL PERSONS.

1. THE SAID EASEMENT TO INCLUDE THE RIGHT TO CUT BACK AND TRIM SUCH PORTION OF THE BRANCHES AND TOPS OF THE TREES NOW GROWING OR THAT MAY HEREAFTER GROW UPON THE ABOVE DESCRIBED PREMISES, AS MAY EXTEND OVER SAID EASEMENT, SO AS TO PREVENT THE SAME FROM INTERFERING WITH THE EFFICIENT MAINTENANCE AND OPERATION OF SAID SEWER LINES.

2. THE CITY OF PEORIA SHALL NOT BE RESPONSIBLE FOR REPLACING ANY LANDSCAPING OR ANY IMPROVEMENT PLACED IN THE EASEMENT BY GRANTOR OR ITS SUCCESSORS OR ASSIGNS, EXCEPT AS NOTED HEREIN.

3. THE CITY OF PEORIA WILL MAKE REASONABLE EFFORTS TO PROMPTLY RESTORE ASPHALTIC CONCRETE PAVEMENT SURFACES.

4. GRANTOR, ITS SUCCESSORS OR ASSIGNS AT ITS SOLE COST, SHALL BE RESPONSIBLE FOR PROMPTLY REPLACING ANY ASPHALT, LANDSCAPING OR ANY IMPROVEMENT PLACED IN THE EASEMENT BY GRANTOR OR ITS SUCCESSORS OR ASSIGNS.

THE CITY OF PEORIA IS HEREBY GIVEN AN EASEMENT FOR MAINTENANCE OF LANDSCAPING, RETENTION AND DRAINAGE FACILITIES ON TRACTS A THRU I. THIS EASEMENT MAY BE EXERCISED BY THE CITY OF PEORIA AT SUCH TIME THAT THE HOMEOWNERS ASSOCIATION FAILS TO EXIST AND PROVIDE THE REQUIRED MAINTENANCE AND OPERATION OF THE LANDSCAPING, RETENTION AND DRAINAGE FACILITIES. AS LONG AS THE HOMEOWNERS ASSOCIATION IS IN EXISTENCE, IT WILL BE RESPONSIBLE FOR PROVIDING ALL MAINTENANCE OF LANDSCAPING, RETENTION AND DRAINAGE FACILITIES, REGARDLESS OF THE DEDICATION OF THE EASEMENT.

IN WITNESS WHEREOF:

WATTANY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HAS HERETO CAUSED ITS NAME TO BE AFFIXED AND THE SAID TO BE ATTESTED TO BY THE SIGNATURE OF THE UNDERSIGNED AGENT DULY AUTHORIZED THIS 19th DAY OF August, 2016.

WATTANY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY,

BY: RYAN HUFFMAN, VICE PRESIDENT

NAME: [REDACTED]

TITLE: VICE PRESIDENT

ACKNOWLEDGMENT:

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

ON THIS 19th DAY OF August, 2016, RYAN HUFFMAN PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, WHO ACKNOWLEDGED THEMSELF TO BE A VICE PRESIDENT, AND ACKNOWLEDGED THAT THEY ARE DULY AUTHORIZED, AS VICE PRESIDENT OF WATTANY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AND AS SAID VICE PRESIDENT, EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREON CONTAINED.

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

BY: [REDACTED] 9/19/16 9/19/17
NOTARY PUBLIC DATE MY COMMISSION EXPIRES

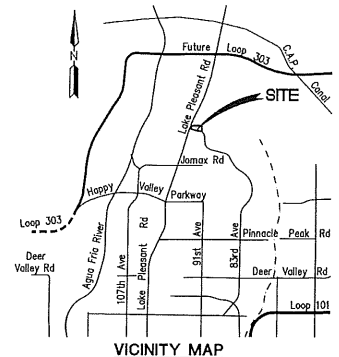


SHEET INDEX

FP01 COVER SHEET
FP02 LEGAL DESCRIPTION, DETAILS, INDEX MAP, & LOT/TRACT TABLE
FP03-FP04 FINAL PLAT

OWNER/DEVELOPER

WATTANY ARIZONA, LLC
9200 E. PIMA CENTER PKWY.
SUITE 200
SCOTTSDALE, ARIZONA 85258
PHONE: 480-302-6080
CONTACT: RYAN HUFFMAN



VICINITY MAP

NOTES

1. THIS PLAT IS SUBJECT TO A MAINTENANCE IMPROVEMENT DISTRICT (MID) #19.
2. NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE PUBLIC UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, WIRE OR REMOVABLE SECTION TYPE FENCING AND/OR PAVING AND ANY PLANTING. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF PEORIA SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTIONS OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION.
3. ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 89 KVA, CABLE TV TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC. SHALL BE INSTALLED UNDERGROUND AS PART OF THE STREET IMPROVEMENTS.
4. MAINTENANCE OF SURFACE AND UNDERGROUND DRAINAGE FACILITIES WITHIN ALL TRACTS, EASEMENTS AND RIGHTS-OF-WAY SHALL BE THE RESPONSIBILITY OF THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION.
5. ALL LOT CORNERS SHALL BE MONUMENTED WITH "R" REBAR AND CAPPED OR TAGGED BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
6. SIGNS, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHRUBS, HEDGES OR OTHER PLANTS EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN VIEW EASEMENTS OR THE SIGHT DISTANCE TRIANGLES. NO LIMBS, LEAVES, NEEDLES OR OTHER FOLLAGE BETWEEN 30 INCHES IN HEIGHT AND 14 INCHES IN HEIGHT ARE PERMITTED. TREES ARE TO BE PLANTED 50 AS NOT TO OBSTRUCT 20% OF THE VISIBILITY WHEN COMBINED WITH OTHER OBSTRUCTIONS.
7. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA WATER SERVICE AREA.
8. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA SEWER SERVICE AREA.
9. THIS PLAT IS LOCATED WITHIN THE VICINITY OF A DESIGNATED TRUCK ROUTE (LAKE PLEASANT PARKWAY).
10. NO STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED OR ANY VEGETATION BE PLANTED NOR BE ALLOWED TO GROW WITHIN THE DRAINAGE EASEMENT OR TRACT WHICH WOULD IMPIDE THE FLOW OF WATER OVER, UNDER, OR THROUGH THE EASEMENT OR TRACT.
11. THE WESTWING MOUNTAIN HOMEOWNERS ASSOCIATION, AN ARIZONA NON-PROFIT CORPORATION, INCLUDING ALL PROPERTY OWNERS IN THE DEVELOPMENT, HAVE THE RESPONSIBILITY FOR MAINTAINING ALL COMMON AREAS TO BE NOTED AS "TRACTS" OR EASEMENTS (INCLUDING LANDSCAPED AREAS AND DRAINAGE FACILITIES) IN ACCORDANCE WITH APPROVED PLANS.
12. BUILDING SETBACKS ARE RESTRICTED TO 1 STORY BUILDING HEIGHT RESTRICTION.
13. THE SUBDIVISION SHALL BE VERIFIED THROUGH CURRENT ZONING RESTRICTIONS.
14. THIS SUBDIVISION HAS A REDUCED LEVEL OF STREET LIGHTING. ANY FUTURE ADDITIONAL STREET LIGHTING WILL BE AT THE EXPENSE OF THE ABUTTING PROPERTY OWNERS, NOT AT CITY EXPENSE.
15. NEW FENCING IS REQUIRED IN THE REAR OF LOTS 23, 24, 26 AND 28-56.
16. LOT 15 DRIVEWAY CONFIGURATION SHALL BE LIMITED TO THE WEST SIDE OF THE LOT AND ALL STRUCTURES SHALL BE OUTSIDE THE LIMIT OF THE SIGHT VISIBILITY LINE.

BASIS OF BEARING

BASES OF BEARING IS 589°31'22" E ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 5 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA.

FLOOD PLAIN DESIGNATION

THE SUBJECT PROPERTY LIES WITHIN SHADED ZONE "X" WITH A DEFINITION OF: AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREA OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD. DESIGNATION DETERMINED BY FEMA FLOOD ZONE MAP 0401SC1232, PANEL NUMBER 1235 OF 4425, EFFECTIVE DATE OCTOBER 16, 2013.

ZONING DESIGNATION

PAD (APPLICATION NO. 298.09A.10 - PRELIMINARY PLAT CASE NO. P15-0011)

APPROVALS

APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA,

THIS DAY _____ OF _____, 2016

APPROVED BY: _____ DATE: _____
MAYOR

ATTESTED BY: _____ DATE: _____
CLERK

APPROVED BY: _____ DATE: _____
FOR CITY ENGINEER

LAND SURVEYOR CERTIFICATION

I, ROBERT A. JOHNSTON, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING THE MONTH OF AUGUST 2015; THAT THE SURVEY IS TRUE AND CORRECT AS SHOWN, THAT ALL MONUMENTS ACTUALLY EXIST AS SHOWN, THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

ROBERT A. JOHNSTON
RUSA 37495
HILGARTWILSON
2141 E. HIGHLAND AVENUE, SUITE 250
PHOENIX, ARIZONA 85016
P: (602) 490-0535
rjohnston@hilgartwilson.com

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

NO. R160020

HILGARTWILSON
ENGINEER | PLANNING | SURVEY | PROJECT MANAGEMENT
SUITE 250, 2141 E. HIGHLAND AVENUE, PHOENIX, AZ 85016
P: 602.490.0535
WWW.HILGARTWILSON.COM

WESTWING MOUNTAIN - PARCEL 27 - PRADERA
WESTWING PARKWAY & LAKE PLEASANT PARKWAY
PEORIA, ARIZONA

FINAL PLAT

STATUS: [REDACTED]

MUNICIPAL TRACKING NO. [REDACTED]

DATE: MARCH 2016
SCALE: AS SHOWN
DRAWING DSP
APPROVED: RAJ

DWG. NO.
FP01

SHT. 1 OF 4

U:\2016\160020\WESTWING PLAT\PARCEL 27\160020-FP01.dwg 8/1/2016 1:53 PM

NORTH QUARTER CORNER
SECTION 33, T14N, R1E
FOUND BRASS CAP FLUSH
STAMPED TSN R1E
1/2 S28 & S33, #25891
P.O.C.

STATE LAND TRUST
UNSUBDIVIDED
S89°31'22"E 2845.38'
(BASIS OF BEARING)
S89°31'22"E 1396.81'

NORTHEAST CORNER
SECTION 33, T14N, R1E
FOUND BRASS CAP FLUSH
STAMPED TSN R1E S27 S28
S33 S34, #25891, DATED 2001

LEGEND

- FOUND 1/2" REBAR W/CAP RLS 19344 OR MONUMENT AS NOTED
- FOUND BRASS CAP IN HAND HOLE
- FOUND BRASS CAP FLUSH
- SET MAG STD DTL 120-1 TYPE "B" AT STREET C/S
- SET MAG STD DTL 120-1 TYPE "C" AT PLAT BOUNDARY CORNERS, RLS 37495
- BOUNDARY LINE
- SECTION LINE
- CENTER LINE
- RIGHT OF WAY
- EASEMENT LINE
- ① PARCEL LINE
- ② UNRESTRICTED VIEW EASEMENT (30'X30')
- ③ WHOLE STORY BUILDING HEIGHT RESTRICTION
- ④ RIGHT-OF-WAY
- ⑤ DRAINAGE EASEMENT
- ⑥ PUBLIC UTILITY EASEMENT
- ⑦ VEHICLE NON-ACCESS EASEMENT
- ⑧ MARICOPA COUNTY RECORDS
- ⑨ REGISTERED LAND SURVEYOR
- ⑩ ASSESSOR PARCEL NUMBER

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N20°19'24"W	31.66'
L2	N58°53'46"E	30.01'
L3	N27°51'44"W	28.28'
L4	S44°31'22"E	28.28'
L5	N33°16'09"W	24.15'
L6	N61°58'43"E	26.97'
L12	N28°19'53"W	42.05'
L13	S82°11'07"W	42.43'
L14	S51°53'46"E	26.45'
L15	N45°28'38"E	28.28'
L16	N89°45'10"E	32.49'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	50.00'	18°11'42"	15.88'
C4	50.00'	18°11'42"	15.88'
C5	50.00'	18°11'42"	15.88'
C6	50.00'	126°23'23"	110.30'
C7	4.42'	180°00'00"	13.89'
C8	4.42'	180°00'00"	13.89'
C9	4.42'	180°00'00"	13.89'
C10	4.42'	180°00'00"	13.89'
C11	4.42'	90°00'00"	6.94'
C12	4.42'	90°00'00"	6.94'
C13	100.00'	37°37'34"	65.67'
C14	200.00'	16°42'29"	58.32'
C15	250.00'	18°25'24"	80.39'
C20	50.00'	126°23'23"	110.30'
C21	50.00'	18°11'42"	15.88'

MATCH SHEET 4



WESTING MOUNTAIN - PARCEL 27 - PRADERA
WESTING PARKWAY & LAKE PLEASANT PARKWAY
PEORIA, ARIZONA

FINAL PLAT

Copyright, Hilgartlison 2016 - This document is the sole property of Hilgartlison.

PROJ. NO: 1276
DATE: MARCH 2016
SCALE: AS SHOWN
DRAWN: DSP
APPROVED: RAJ

DWS. NO.
FP03

SHT. 3 OF 4

NO. R160020

1615001276.DWG/PLAT/ARIZ/27/1276-F03-03.dwg 3/1/2016 1:54 PM

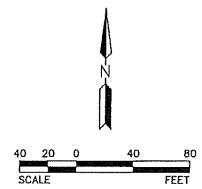


LEGEND

- FOUND 1/2" REBAR W/ CAP RLS 19344 OR MONUMENT AS NOTED
- FOUND BRASS CAP IN HAND HOLE
- FOUND BRASS CAP IN FLUSH
- SET MAG STD DTL 120-1 TYPE "B" AT STREET E'S
- SET MAG STD DTL 120-1 TYPE "C" AT PLAT BOUNDARY CORNERS, RLS 37495
- BOUNDARY LINE
- SECTION LINE
- CENTER LINE
- RIGHT OF WAY
- EASEMENT LINE
- PARCEL LINE
- ① UNOBTAINED VIEW EASEMENT (30'X30')
- ② SINGLE STORY BUILDING HEIGHT RESTRICTION
- R/W RIGHT-OF-WAY
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- V.N.A.E. VEHICLE NON-ACCESS EASEMENT
- M.C.R. MARICOPA COUNTY RECORDS
- RLS REGISTERED LAND SURVEYOR
- APN ASSESSOR PARCEL NUMBER

LINE TABLE		
LINE #	DIRECTION	LENGTH
L7	H35°48'32"W	42.97'
L8	S54°01'31"W	41.89'
L9	S44°31'22"E	28.28'
L10	S45°28'38"W	28.28'
L11	S44°31'22"E	28.28'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C2	50.00'	18°11'42"	15.88'
C3	50.00'	18°11'42"	15.88'
C16	400.00'	10°59'11"	76.70'
C17	225.00'	9°16'16"	36.41'
C18	500.00'	9°16'16"	60.91'
C19	50.00'	126°23'23"	110.30'



HILGARTWILSON
ENGINEER | PLANNING | SURVEY | MANAGEMENT
2245 E. HIGHLAND AVE. STE. 250 | P. 602.490.0525 / F. 602.388.2438
www.hilgartwilson.com

WESTWING MOUNTAIN - PARCEL 27 - PRADERA
WESTWING PARKWAY & LAKE PLEASANT PARKWAY
PEORIA, ARIZONA

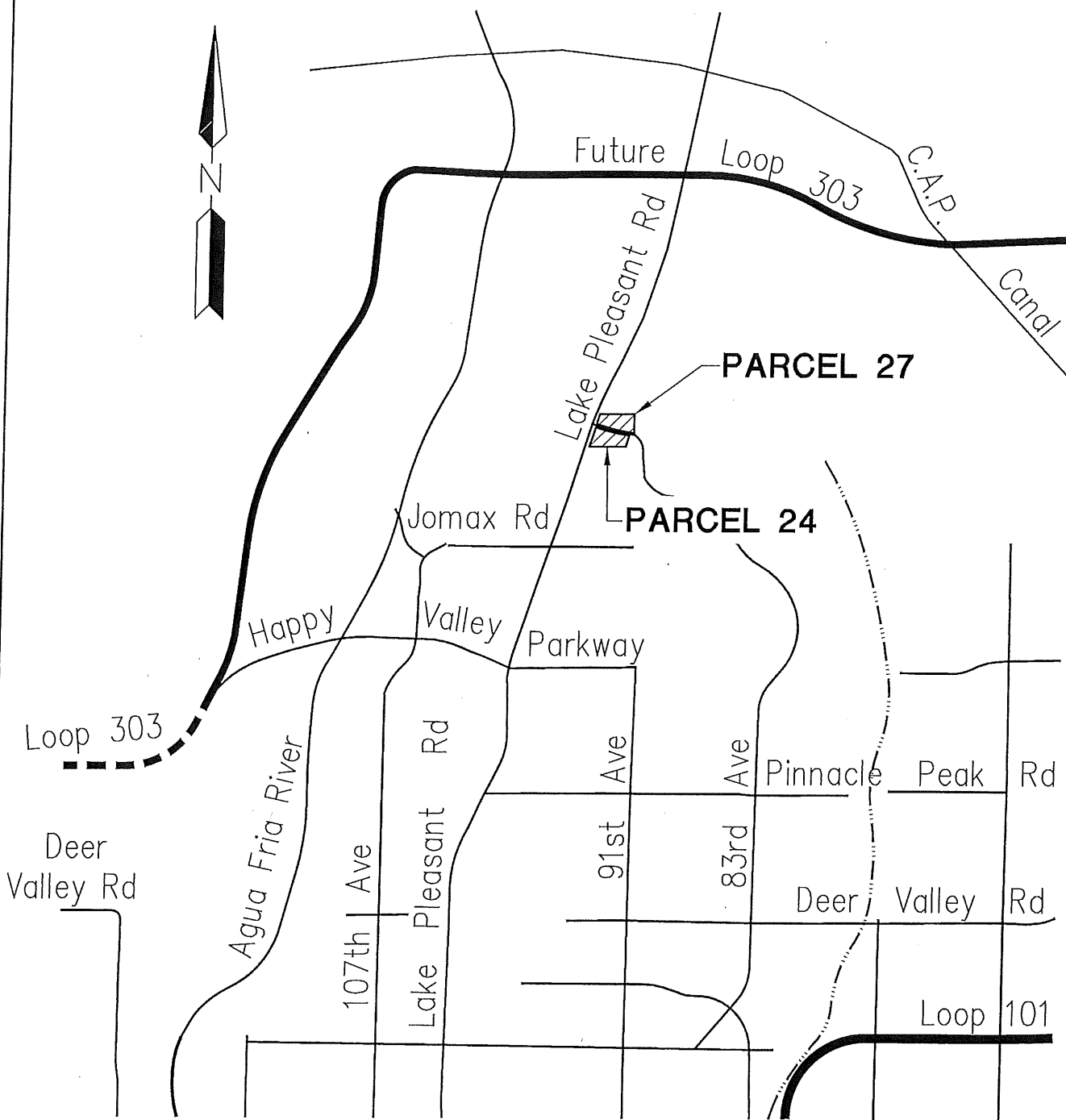
FINAL PLAT

PROJ. NO.: 1276
DATE: MARCH 2016
SCALE: AS SHOWN
DRAWN: DSP
APPROVED: RAJ

MUNICIPAL TRACKING NO:

DWG. NO. **FP04**

SHT. 4 OF 4



PROJ.NO.: 1276
 DATE: AUG 2016
 SCALE: NTS
 DRAWN BY: DSP
 CHECKED BY: DSP

WESTWING PARCEL 24 & 27
 VICINITY MAP DIAGRAM
 PEORIA, ARIZONA
PROJECT EXHIBIT

HILGARTWILSON
 2141 E. HIGHLAND AVE., STE. 250
 PHOENIX, AZ 85016
 P: 602.490.0535 / F: 602.368.2436

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 17C.

Date Prepared: 9/14/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
SUBJECT: Replat, Lot 2 of 83rd and Olive Promenade, 83rd Avenue and Olive Avenue

Purpose:

This is a request for City Council to approve a Replat of Lot 2 of Olive Avenue Promenade, located on 83rd Avenue & Olive Avenue, and authorize the Mayor and City Clerk to sign and record the Replat with the Maricopa County Recorder's Office subject to the following stipulations:

1. All civil plans must be approved by the City of Peoria (City) prior to recordation of the Replat.
2. An approval of design from the City Engineering Department for the necessary improvements in accordance with the City Subdivision Regulations, as determined by the City Engineer, must be obtained prior to recording the Replat.
3. The developer must provide a financial assurance in the amount agreed upon by the City Engineer and an Agreement to Install for construction of the infrastructure improvements in accordance with the City Subdivision Regulations, prior to recordation of the Replat.
4. In the event that the Replat is not recorded within 60 days of Council approval, the Replat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Replat is to replat a lot for the development of single family rental homes. This replat is necessary to dedicate all of the required easements. This development is within the City's water/sewer service area.

Previous Actions:

The site plan was reviewed by the City and completed in April 2016.

Options:

A: The Replat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Replat; although it should be noted that not approving the Replat will prevent the Developer from developing this land.

B: The other option would be to formally approve the Replat and allow this parcel to be developed.

Staff Recommendation:

Discussion and possible action to approve the Replat of Lot 2 of 83rd and Olive Promenade, located at 83rd Avenue and Olive Avenue, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Replat.

Narrative:

The acceptance of this Replat by City Council will allow the developer to move forward in developing this property.

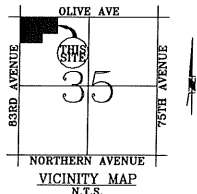
ATTACHMENTS:

Exhibit 1: Replat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E.: 623-773-7577



SECTION 35 TOWNSHIP 3N RANGE 1E
N.T.S.

DEDICATION:

STATE OF ARIZONA }
COUNTY OF MARICOPA } S.S.

KNOW ALL MEN BY THESE PRESENTS: THIS CERTIFIES THAT 83RD AVE & OLIVE LLC, AN ARIZONA LIMITED LIABILITY COMPANY IS THE OWNER OF THE PROPERTY AS SHOWN HEREON AND HEREBY PUBLISHES THIS PLAT AS REPLAT OF "LOT 2 OF 83RD AND OLIVE PROMENADE", BEING A REPLAT OF LOT 2 OF THE FINAL PLAT OF "83RD AND OLIVE PROMENADE", AS RECORDED IN BOOK 1022 OF MAPS, PAGE 49, RECORDS OF MARICOPA COUNTY, ARIZONA AND HEREBY DECLARES THAT SAID REPLAT OF "LOT 2 OF 83RD AND OLIVE PROMENADE" SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE LOTS, STREETS AND EASEMENTS CONSTITUTING SAME AND THAT EACH LOT AND STREET SHALL BE KNOWN BY THE NUMBER, LETTER OR NAME GIVEN EACH RESPECTFULLY ON SAID PLAT.

THE OWNER DOES HEREBY GRANT TO THE CITY OF PEORIA, AS EASEMENT FOR MAINTENANCE OF ON-SITE RETENTION BASIN(S), PIPE STORAGE SYSTEM(S), OR ANY DRAINAGE FACILITY(IES) WITHIN THIS DEVELOPMENT AS REFLECTED ON THE APPROVED GRADING AND DRAINAGE PLAN. THIS EASEMENT MAY BE EXERCISED BY THE CITY OF PEORIA ONLY AT SUCH TIME THAT THE PROPERTY/CENTER OWNER OR ASSOCIATION RESPONSIBLE FOR THE MAINTENANCE OF SUCH FACILITIES FAILS TO PROVIDE THE REQUIRED MAINTENANCE AND OPERATION AND THE CITY HAS DETERMINED THAT LACK OF SUCH MAINTENANCE AND OPERATION CONSTITUTES A NUISANCE OR IMPACTS PUBLIC HEALTH AND SAFETY. AS LONG AS THE PROPERTY/CENTER OWNER OR ASSOCIATION IS IN EXISTENCE, IT WILL BE RESPONSIBLE FOR PROVIDING ALL REQUIRED MAINTENANCE OF SUCH FACILITIES REGARDLESS OF THE DEDICATION OF THE EASEMENT.

THE OWNER DOES HEREBY GRANT TO THE CITY OF PEORIA, AN ARIZONA MUNICIPAL CORPORATION, IN MARICOPA COUNTY, ARIZONA, ITS SUCCESSORS, AND ASSIGNS, A PERMANENT AND PERPETUAL EASEMENT FOR THE FOLLOWING PURPOSES, NAMELY: THE RIGHT TO ENTER UPON FOR CONSTRUCTION, MAINTENANCE, OPERATION AND REPLACEMENT OF A PUBLIC WATER LINE OVER, UNDER, AND ACROSS: LOT 2, AS SHOWN ON THE PLAT, SHEETS 2 & 3 HEREIN, SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA.

TO HAVE AND TO HOLD THE SAID EASEMENT UNTO THE CITY OF PEORIA, A MUNICIPAL CORPORATION OF MARICOPA COUNTY, ARIZONA AND UNTO ITS SUCCESSORS AND ASSIGNS FOREVER, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS TO PERMIT THE CONSTRUCTION, OPERATION, MAINTENANCE, AND REPLACEMENT OF PUBLIC WATER LINE, SUBJECT TO NOTES 1, 2, 3 AND 4.

AND THE GRANTOR HEREBY COVENANTS THAT IT IS LAWFULLY SEIZED AND POSSESSED ON THIS AFOREMENTIONED TRACT OF PARCEL OF LAND, THAT IT HAS A GOOD AND LAWFUL RIGHT TO SELL AND CONVEY IT; AND THAT THEY WILL WARRANT THE TITLE AND QUIET POSSESSION THERETO AGAINST THE LAWFUL CLAIM OF ALL PERSONS.

NOTES:

1. THE SAID EASEMENT TO INCLUDE THE RIGHT TO CUT BACK AND TRIM SUCH PORTION OF THE BRANCHES AND TOPS OF THE TREES NOW GROWING OR THAT MAY HEREAFTER GROW UPON THE ABOVE DESCRIBED PREMISES, AS MAY EXTEND OVER SAID EASEMENT, SO AS TO PREVENT THE SAME FROM INTERFERING WITH THE EFFICIENT MAINTENANCE AND OPERATION OF SAID WATER LINES.
 2. THE CITY OF PEORIA SHALL NOT BE RESPONSIBLE FOR REPLACING ANY LANDSCAPING OR ANY IMPROVEMENT PLACED IN THE EASEMENT BY GRANTOR OR ITS SUCCESSORS OR ASSIGNS, EXCEPT AS NOTED HEREIN.
 3. THE CITY OF PEORIA WILL MAKE REASONABLE EFFORTS TO PROMPTLY RESTORE ASPHALT CONCRETE PAVEMENT SURFACES.
 4. GRANTOR, ITS SUCCESSORS OR ASSIGNS AT ITS SOLE COST, SHALL BE RESPONSIBLE FOR PROMPTLY REPLACING ANY LANDSCAPING OR IMPROVEMENT(S) PLACED IN THE EASEMENT BY GRANTOR OR ITS SUCCESSORS OR ASSIGNS.
- IN THE EVENT THE RIGHT, PRIVILEGE AND EASEMENT HEREIN GRANTED SHALL BE ABANDONED AND PERMANENTLY CEASE TO BE USED FOR THE PURPOSES HEREIN GRANTED ALL RIGHTS HEREIN GRANTED SHALL CEASE AND REVERT TO THE GRANTORS, THEIR HEIRS OR ASSIGNS.

ALL NOTATIONS AND DEDICATIONS STATED ON OR WITHIN THE RECORDED PLAT OF "83RD AND OLIVE PROMENADE" AS RECORDED IN BOOK 1022 OF MAPS, PAGE 49, RECORDS OF MARICOPA COUNTY, ARIZONA SHALL REMAIN IN FULL FORCE AND EFFECT WITH THE RECORDATION OF THE RE-PLAT, UNLESS NOTED OTHERWISE.

STATE OF ARIZONA }
COUNTY OF MARICOPA } S.S.

83RD AVE & OLIVE LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HAS HEREUANTO CAUSED ITS CORPORATE NAME TO BE SIGNED AND THE SAME BE ATTESTED BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVES.

83RD AVE & OLIVE MANAGEMENT LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY: _____ DATE _____

ITS: _____

ACKNOWLEDGEMENT:

STATE OF ARIZONA }
COUNTY OF MARICOPA } S.S.

ON THIS _____ DAY OF _____, 2016, BEFORE ME, THE UNDERSIGNED, PERSONALLY APPEARED, GARY M. BURTON, WHO ACKNOWLEDGED HIMSELF TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE INSTRUMENT WITHIN, AND WHO EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED, FOR AND ON BEHALF OF OWNER.

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

NOTARY PUBLIC _____

DATE _____

MY COMMISSION EXPIRES: _____

REPLAT OF "LOT 2 OF 83RD AND OLIVE PROMENADE" BEING A REPLAT OF LOT 2 OF, "83RD AND OLIVE PROMENADE" FINAL PLAT, AS RECORDED IN BOOK 1022, PAGE 49, RECORDS OF MARICOPA COUNTY, ARIZONA, BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 3 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, STATE OF ARIZONA.

BASIS OF BEARING

THE ASSUMED BEARING OF NB89°02'57"E ALONG THE MONUMENTED CENTERLINE OF OLIVE AVE.

BENCHMARK

BW - P3343 CITY OF PEORIA
MCMD BRASS CAP IN HAND HOLE (0.43' BELOW RIM) @ 83RD AVE. & OLIVE AVE
ELEV. 1124.74'

GENERAL NOTES:

1. NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, WIRE, OR REMOVABLE SECTION TYPE FENCING, AND/OR PAVING/CURBING, NOR ANY PLANTING EXCEPT GRASS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF PEORIA SHALL NOT BE REQUIRED TO, REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION OTHER THAN PAVING/CURBING.
2. ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 69 KVA, CABLE T.V., TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC SHALL BE INSTALLED UNDERGROUND AS PART OF THE STREET IMPROVEMENTS.
3. MAINTENANCE OF SURFACE AND UNDERGROUND DRAINAGE FACILITIES WITHIN ALL LOTS SHALL BE THE RESPONSIBILITY OF THE LOT OWNER, SUBJECT TO ANY ALLOCATION OF SUCH RESPONSIBILITY SET FORTH IN THE DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("CC&RS") RECORDED CONCURRENTLY WITH OR AFTER THE RECORDATION OF THIS PLAT.
4. ALL LOT CORNERS SHALL BE MONUMENTED WITH 1/2" REBAR AND CAPPED OR TAGGED BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
5. SIGNS, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHRUBS, HEDGES OR OTHER PLANTS, BUT EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN VEW EASEMENTS OR THE SIGHT DISTANCE TRIANGLES, NO LIMBS, LEAVES, NEEDLES OR OTHER FOLIAGE ABOVE 30 INCHES IN HEIGHT OR BELOW 84 INCHES ARE PERMITTED. TREES ARE TO BE PLANTED 50 AS NOT TO OBSTRUCT 20% OF THE VISIBILITY WHEN COMBINED WITH OTHER OBSTRUCTIONS.
6. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING A 100-YEAR ASSURED WATER SUPPLY.
7. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA SEWER SERVICE AREA.
8. THIS SUBDIVISION IS LOCATED WITHIN THE VICINITY OF A MILITARY AIRPORT.
9. THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A DESIGNATED TRUCK ROUTE. (83RD AVENUE AND OLIVE AVENUE ARE DESIGNATED AS A TRUCK ROUTE BY THE CITY OF PEORIA)
10. THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A ROCK QUARRY (GRAVEL OPERATION).
11. NO STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED NOR SHALL ANY VEGETATION BE PLANTED OR BE ALLOWED TO GROW WITHIN ANY DRAINAGE EASEMENT WHICH WOULD IMPEDE THE FLOW OF WATER OVER, UNDER, OR THROUGH THE EASEMENT.

LEGAL DESCRIPTION:

AS RECORDED IN SPECIAL WARRANTY DEED, INSTRUMENT NO. 2015-065864, M.C.R.

LOT 2 OF THE FINAL PLAT OF 83RD AND OLIVE PROMENADE, ACCORDING TO THE MAP RECORDED IN BOOK 1022 OF MAPS, PAGE 49, RECORDS OF MARICOPA COUNTY, ARIZONA

RECORDED EASEMENTS:

(THE FOLLOWING COMMENTS REGARDING VARIOUS SCHEDULE B REFERENCES THAT AFFECT THE SUBJECT PARCELS ARE IN ITALICS BELOW)

5. EASEMENTS, RESTRICTIONS, RESERVATIONS, CONDITIONS, SET-BACK LINES AND ALL OTHER MATTERS AS SET FORTH ON THE PLAT OF 83RD AND OLIVE PROMENADE, RECORDED IN BOOK 1022 OF MAPS, PAGE 49. *VARIOUS AREAS ARE SHOWN HEREIN THIS SURVEY.*
8. TERMS, CONDITIONS, EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS, LIABILITIES AND OBLIGATIONS CONTAINED IN AN INSTRUMENT ENTITLED RECIPROCAL EASEMENT AGREEMENT AND RESTRICTIVE COVENANTS, RECORDED IN DOCUMENT NO. 2011-19340. *VARIOUS AREAS ARE SHOWN HEREIN THIS SURVEY. THIS SURVEY FURTHER STATES THAT EXHIBITS D THRU P THEREIN WERE NOT CLEARLY DEFINED AS TO THEIR LOCATION. THEREFORE SAID EXHIBITS ARE GRAPHICAL REPRESENTATIONS UPON THIS SURVEY AND MAKES NO WARRANTY AS TO THE ACCURATE LOCATIONS OR AREAS COVERED.*
10. EASEMENTS FOR PUBLIC WATER LINE AND RIGHTS INCIDENT THERETO, AS SET FORTH IN INSTRUMENT RECORDED IN DOCUMENT NO. 2011-180174. *SHOWN HEREIN THIS SURVEY ACCORDINGLY.*

OWNER

83RD AVE & OLIVE LLC
15300 NORTH 90TH STREET
SUITE 200
SCOTTSDALE, AZ 85260 USA
TEL: (480) 627-7000
CONTACT: GARY M. BURTON

LAND SURVEYOR

A TEAM P.A., INC.
2432 W. PEORIA AVE., SUITE 1323
PHOENIX, ARIZONA 85029
TEL: 602-906-0020
FAX: 602-906-0019
CONTACT: STONE E. WAHL

SHEET INDEX

1 OF 3 COVER SHEET
2 OF 3 OVERALL RE-PLAT OF LOT 2
3 OF 3 LINE TABLES OF VARIOUS EASEMENTS

AREA

LOT 2: 551,082.9463 SQUARE FEET
12.6511 ACRES

LEGEND

	INDICATES CORNER OF THIS SUBDIVISION SEE SHT 2 FOR MONUMENTS FOUND (UNLESS OTHERWISE NOTED)
	PROPERTY LINE
	LOT CORNER SEE SHT 2 FOR MONUMENTS FOUND (UNLESS OTHERWISE NOTED)
	PUBLIC UTILITY EASEMENT RIGHT-OF-WAY
	FOUND BRASS CAP, AS NOTED
	FOUND BRASS CAP IN HAND HOLE

SURVEYORS NOTE:

THIS RE-PLAT CREATES NEW WATER AND STORM DRAIN EASEMENTS AS SHOWN ON SHEETS 2 AND 3 HEREIN. THIS RE-PLAT ALSO ABANDONS A PORTION OF THE EXISTING CITY OF PEORIA WATER EASEMENT AS RECORDED IN LOT 2 OF THE FINAL PLAT OF 83RD AND OLIVE PROMENADE, ACCORDING TO THE MAP RECORDED IN BOOK 1022 OF MAPS, PAGE 49, RECORDS OF MARICOPA COUNTY, ARIZONA.

F.E.M.A. CLASSIFICATION

ZONE X (SHADED)

AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.

F.E.M.A. FLOODPLAIN INFORMATION

COMMUNITY NUMBER	PANEL NUMBER	SUFFIX	INDEX DATE	F.I.R.M. ZONE	BASE FLOOD ELEVATION
040050	705	L	10/16/2013	X (SHADED)	NA

APPROVAL

APPROVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA ON THIS _____ DAY OF _____ 2016

MAYOR: _____ DATE _____

ATTEST BY: _____ DATE _____

CITY CLERK

APPROVED FOR: _____ DATE _____

CITY ENGINEER

SURVEYOR'S CERTIFICATION

I, STONE E. WAHL, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT (CONSISTING OF 2 SHEETS) CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING THE MONTH OF JUNE 2016; THAT THE SURVEY IS TRUE AND CORRECT AS SHOWN; THAT ALL MONUMENTS ACTUALLY EXIST OR WILL BE SET AS SHOWN; AND, THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

2432 W. Peoria Ave. - Ste 1323
Phoenix, Arizona 85029
Phone: (602) 906-0020
Fax: (602) 906-0019



REPLAT OF

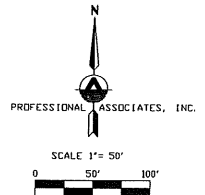
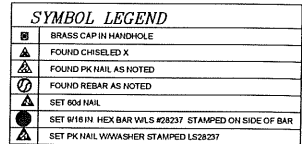
"LOT 2 OF
83RD AND OLIVE PROMENADE"
BK. 1022, PG. 49, MCR.

Dwn: S. WAHL
Ck'd: H.E.
Scale: 1"= N.T.S.

Date: 7/26/16 Job No: 2148-2 v3 Sheet 1 of 3

R160021

OLIVE AVE



R160021

REPLAT OF

**"LOT 2 OF
83RD AND OLIVE PROMENADE"
BK. 1022, PG. 49, MCR.**

Drn: S. WAHL
Ck'd: H.E.
Scale: 1" = N.T.S.

Date: 7/26/16	Job No: 2148-2 v3	Sheet 2 of 3
---------------	-------------------	--------------

2432 W. Peoria Ave. - Ste 1323
Phoenix, Arizona 85029
Phone: (602) 906-0020
Fax: (602) 906-0019



REPLAT OF "LOT 2 OF 83RD AND OLIVE PROMENADE"

DATA FOR REMAINING PORTION OF
EXISTING WATER LINE EASEMENT

LINE	DIRECTION	LENGTH
L1	N88° 03' 03"E	49.51
L2	S0° 02' 19"W	9.19
L3	N88° 03' 03"E	20.01
L4	N0° 02' 19"E	9.19
L5	N88° 03' 03"E	143.23
L6	N43° 03' 03"E	77.82
L7	N1° 56' 57"W	163.06
L8	S88° 03' 03"W	20.00
L9	S1° 56' 57"E	46.62
L10	S88° 03' 03"W	13.60
L11	S1° 56' 57"E	20.00
L12	N88° 03' 03"E	13.60
L13	S1° 56' 57"E	60.11
L14	S88° 03' 03"W	10.82
L15	S1° 56' 57"E	12.00
L16	N88° 03' 03"E	10.82
L17	S1° 56' 57"E	16.05
L18	S43° 03' 03"W	61.26
L19	S88° 03' 03"W	203.77
L20	S0° 02' 05"W	6.00

DATA FOR REMAINING PORTION OF
EXISTING WATER LINE EASEMENT

LINE	DIRECTION	LENGTH
L21	S0° 02' 05"W	14.01
L23	N1° 56' 57"W	42.42
L24	S88° 03' 03"W	20.00
L25	S1° 56' 57"E	42.42
L26	N88° 03' 03"E	20.00

DATA FOR ABANDONED PORTION OF
EXISTING WATER LINE EASEMENT

LINE	DIRECTION	LENGTH
L300	S1° 57' 03"E	52.43
L301	S88° 02' 57"W	20.00
L302	N1° 57' 03"W	52.43
L303	S88° 03' 03"W	33.58
L304	N1° 56' 57"W	20.00
L305	N88° 03' 03"E	376.50
L306	S1° 56' 57"E	20.00
L307	S88° 03' 03"W	322.92
L308	N88° 03' 00"E	156.43

DATA FOR NEW DRAINAGE
EASEMENT DEDICATED HEREON

LINE	DIRECTION	LENGTH
L96	N88° 02' 57"E	16.86
L97	S1° 57' 03"E	16.62
L101	N1° 57' 03"W	38.00
L100	S88° 02' 57"W	252.00
L99	S1° 57' 03"E	38.00
L98	N88° 02' 57"E	252.00
L27	N0° 02' 05"E	43.50
L29	S89° 57' 55"E	24.22
L28	N0° 02' 05"E	18.49
L92	N89° 37' 53"E	25.00
L93	N0° 22' 07"W	267.00
L94	S89° 37' 53"W	25.00
L95	S0° 22' 07"E	267.00

DATA FOR NEW WATER LINE
EASEMENT DEDICATED HEREON

LINE	DIRECTION	LENGTH
L30	N89° 37' 53"E	4.33
L32	N89° 37' 53"E	12.00
L91	S0° 02' 05"W	20.00
L34	N89° 37' 53"E	133.89
L90	S89° 37' 53"W	141.90
L89	S45° 11' 22"W	33.10
L88	S0° 11' 22"W	198.93
L40	N0° 11' 22"E	61.88
L39	N45° 11' 22"E	7.73
L38	N44° 48' 38"W	8.35
L37	N45° 11' 22"E	12.00
L36	S44° 48' 38"E	8.35
L35	N45° 11' 22"E	29.82
L51	N43° 56' 09"E	25.78
L50	N0° 00' 00"E	33.36
L49	N90° 00' 00"W	14.50
L48	N0° 00' 00"E	20.00
L47	N90° 00' 00"E	14.50
L46	N0° 00' 00"E	78.62
L45	N90° 00' 00"W	10.00
L44	N0° 00' 00"E	12.00
L43	N90° 00' 00"E	10.00
L42	N0° 00' 00"E	9.61
L41	N88° 48' 09"E	344.66
L71	S88° 40' 05"W	282.35
L67	S88° 40' 05"W	111.20
L61	S89° 58' 58"W	5.50
L60	N0° 01' 04"W	12.00
L59	N89° 58' 58"E	5.50
L58	N0° 00' 00"E	76.96
L57	S89° 58' 58"W	5.00
L56	N0° 01' 04"W	12.00
L55	N89° 58' 58"E	5.00
L54	N0° 00' 00"E	86.26
L53	N43° 56' 09"E	37.00
L52	N87° 52' 19"E	360.55
L66	S0° 00' 00"E	84.71
L65	S89° 58' 56"W	30.17
L64	N0° 00' 00"E	20.00
L63	N89° 58' 56"E	10.17

DATA FOR NEW WATER LINE
EASEMENT DEDICATED HEREON

LINE	DIRECTION	LENGTH
L62	N0° 00' 00"E	86.24
L70	S1° 19' 55"E	9.50
L69	S88° 38' 57"W	12.00
L68	N1° 19' 55"W	9.50
L76	S81° 48' 01"W	47.12
L75	S8° 11' 59"E	5.38
L74	S81° 48' 01"W	12.00
L73	N8° 11' 59"W	5.38
L72	S81° 48' 01"W	34.55
L77	S88° 40' 05"W	93.14
L78	S30° 03' 01"W	156.46
L87	S89° 44' 46"E	11.51
L86	S0° 15' 14"W	12.00
L85	N89° 44' 46"W	11.49
L84	S0° 11' 22"W	72.21
L83	S78° 33' 38"E	16.26
L82	S11° 26' 22"W	20.00
L81	N78° 33' 38"W	15.56
L80	S45° 11' 22"W	26.37
L79	N89° 48' 36"W	56.08
L129	N88° 48' 09"E	148.78
L128	S1° 15' 58"E	8.03
L127	N88° 44' 02"E	20.00
L126	N1° 15' 58"W	8.01
L125	N88° 40' 09"E	8.98
L136	N87° 52' 19"E	133.89
L135	N43° 56' 09"E	41.91
L134	N0° 00' 00"E	142.07
L133	N88° 48' 09"E	126.83
L132	S1° 15' 58"E	8.03
L131	N88° 44' 02"E	20.00
L130	N1° 15' 58"W	8.01
L154	S88° 40' 05"W	204.50
L153	N1° 19' 46"W	8.44
L152	S88° 41' 16"W	23.84
L151	S1° 19' 55"E	8.45
L150	S88° 40' 05"W	163.85
L149	N0° 00' 00"E	160.45
L148	N89° 58' 56"E	12.15
L147	N0° 01' 04"W	20.00

DATA FOR NEW WATER LINE
EASEMENT DEDICATED HEREON

LINE	DIRECTION	LENGTH
L146	S89° 58' 56"W	12.36
L145	N43° 56' 09"E	21.17
L144	N87° 52' 19"E	127.33
L143	S2° 07' 41"E	1.31
L142	N87° 52' 19"E	12.00
L141	N2° 07' 41"W	1.31
L140	N87° 52' 19"E	67.33
L139	S2° 07' 41"E	7.77
L138	N87° 52' 19"E	20.00
L137	N2° 07' 41"W	7.77
L111	S81° 48' 01"W	6.58
L109	S81° 48' 01"W	12.00
L108	S8° 11' 59"E	3.44
L107	S81° 48' 01"W	53.81
L106	S88° 41' 16"W	12.83
L105	N1° 19' 55"W	7.75
L104	S88° 40' 05"W	20.00
L103	S1° 19' 55"E	10.30
L110	N8° 11' 59"W	3.44
L112	S88° 40' 05"W	83.12
L114	S59° 56' 59"E	9.00
L113	S30° 03' 01"W	1.23
L115	S30° 03' 01"W	20.00
L116	N59° 56' 59"W	9.00
L117	S30° 03' 01"W	135.59
L123	N89° 48' 36"W	4.50
L122	S0° 11' 22"W	12.00
L121	S89° 48' 36"E	4.50
L120	S0° 11' 22"W	45.57
L119	S45° 11' 22"W	14.34
L118	N89° 48' 36"W	59.37
L124	S0° 11' 22"W	160.22
L27	N0° 02' 05"E	43.50
L102	N0° 11' 22"E	20.01

R160021

2432 W. Peoria Ave. - Site 1321
Phoenix, Arizona 85029
Phone:(602) 906-0020
Fax:(602) 906-0019



REPLAT OF

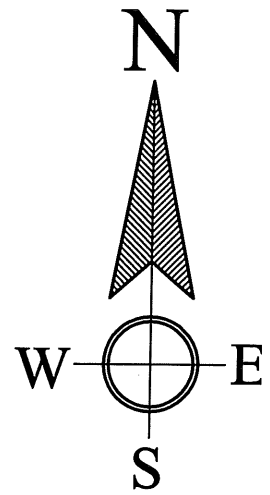
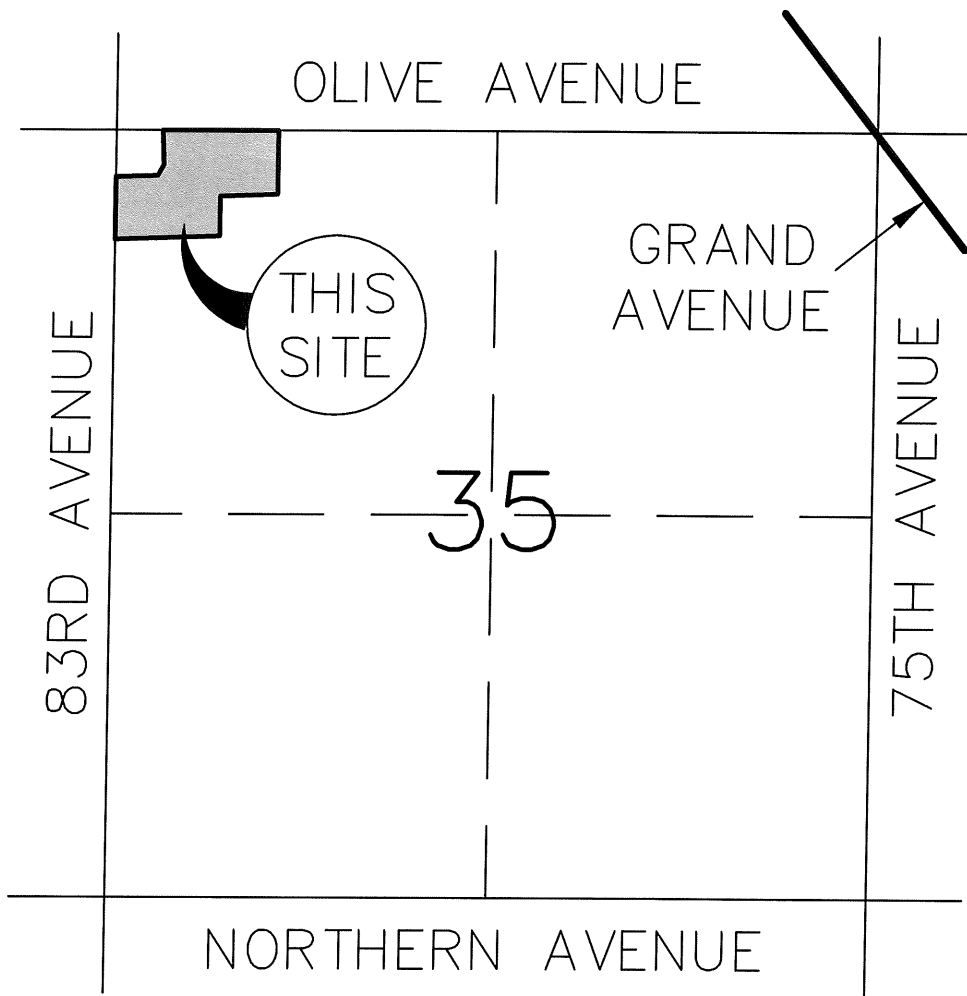
"LOT 2 OF
83RD AND OLIVE PROMENADE"
BK. 1022, PG. 49, MCR.

Drawn: S. WAHL

Checked: H.E.

Scale: 1"= N.T.S.

Date: 7/26/16 Job No: 2148-2 v3 Sheet 3 of 3



VICINITY MAP

NTS

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 18C.

Date Prepared: 9/14/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
SUBJECT: Replat, Lot 2505 & 2506 of Trilogy West Phase 1 – Parcel C41, Vistancia Boulevard and Lone Mountain Road

Purpose:

This is a request for City Council to approve a Replat of Lot 2505 & 2506 of Trilogy West Phase 1 - Parcel C41, located on Vistancia Blvd. South of Lone Mountain Road, and authorize the Mayor and City Clerk to sign and record the Replat with the Maricopa County Recorder's Office subject to the following stipulation:

In the event that the Replat is not recorded within 60 days of Council approval, the Replat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Replat is to adjust the lot line between two residential lots within a subdivision. This is necessary to accommodate the developer's desired housing product. This Replat does not create any additional lots.

Previous Actions:

Trilogy West Parcel C41 was approved by Council in November 2014 and recorded in Book 1214 Page 44.

Options:

A: The Replat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Replat; although it should be noted that not approving the Replat will prevent the Developer from developing this land as desired.

B: The other option would be to formally approve the Replat and allow this parcel to be developed as desired.

Staff Recommendation:

Discussion and possible action to approve the Replat of Lot 2505 & 2506 of Trilogy West Phase 1 – Parcel C41, located at Vistancia Boulevard South of Lone Mountain Road, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Replat.

Narrative:

The acceptance of this Replat by City Council will allow the developer to move forward in developing this property.

ATTACHMENTS:

Exhibit 1: Replat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E.: 623-773-7577

DEDICATION

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

KNOW ALL PERSONS BY THESE PRESENTS,

THAT VISTANCIA WEST CONSTRUCTION LP, A DELAWARE LIMITED PARTNERSHIP, AS OWNER, DOES HEREBY PUBLISH THIS REPLAT FOR "LOT 2505 & 2506 OF TRILOGY WEST PHASE 1-PARCEL C41", AN AMENDMENT OF LOTS 2505 AND 2506 AS RECORDED IN BOOK 1214 OF MAPS, PAGE 44, M.C.R., BEING A PORTION OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, CITY OF PEORIA, ARIZONA, AS PLATTED HEREON AND HEREBY PUBLISHES THIS REPLAT AS AND FOR THE REPLAT OF SAID "A PORTION OF TRILOGY WEST PHASE 1 - PARCEL C41" DESCRIBED HEREON, AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE LOTS AND EASEMENTS CONSTITUTING SAME AND THAT EACH LOT SHALL BE KNOWN BY THE NUMBER, GIVEN TO EACH RESPECTIVELY ON SAID PLAT.

ALL NOTATIONS AND DEDICATIONS STATED ON OR WITHIN THE RECORDED PLAT "TRILOGY WEST PHASE 1 - PARCEL C41" RECORDED IN BOOK 1214 OF MAPS, PAGE 44, M.C.R. SHALL REMAIN IN FULL FORCE AND EFFECT WITH THE RECORDED OF THIS REPLAT, UNLESS OTHERWISE NOTED.

LANDSCAPING AND OTHER IMPROVEMENTS (OTHER THAN UTILITY IMPROVEMENTS, MAINTENANCE OF WHICH SHALL BE THE RESPONSIBILITY OF THE UTILITY PROVIDER) WITHIN EACH P.U.E. SHALL BE MAINTAINED BY THE OWNER OF THE LOT OR TRACT ON WHICH SUCH P.U.E. IS LOCATED.

THE UNDERSIGNED VISTANCIA WEST CONSTRUCTION LP, A DELAWARE LIMITED PARTNERSHIP, HAS CAUSED ITS NAME TO BE AFFIXED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF THE UNDERSIGNED SIGNER THEREUNTO DULY AUTHORIZED

THIS ____ DAY OF ____, 2016.

VISTANCIA WEST CONSTRUCTION LP, A DELAWARE LIMITED PARTNERSHIP

BY: VISTANCIA WEST CONSTRUCTION HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER

ITS: _____

ITS: _____

REPLAT NARRATIVE

LOTS 2505 AND 2506 COMMON LOT LINE WAS ADJUSTED TO ACCOMMODATE THIS DEVELOPER'S DESIRED PRODUCT.

FLOOD ZONE INFORMATION

ZONE "X":
AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.

PER FLOOD INSURANCE RATE MAP NUMBER 06013C-0815 L, MARICOPA COUNTY, DATED OCTOBER 16, 2013.

FLOOD ZONE DESIGNATION PROVIDED BY FEDERAL EMERGENCY MANAGEMENT AGENCY.

LIENHOLDER RATIFICATION AND CONSENT

KNOW ALL MEN BY THESE PRESENTS:

THE UNDERSIGNED, AS BENEFICIARY UNDER THAT CERTAIN DEED OF TRUST RECORDED SEPTEMBER 29, 2014, AS INSTRUMENT NO. 2014-0043592 OF THE OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, HEREBY CONSENT TO AND JOIN IN THAT CERTAIN FINAL PLAT FOR "TRILOGY WEST PHASE 1 - PARCEL C41" AND AGREE THAT SUCH PLAT AND THE EASEMENTS SHOWN THEREON AND DEDICATED AS SUCH SHALL BE SUPERIOR TO, AND HAVE PRIORITY OVER, THE ABOVE-DESCRIBED DEED OF TRUST.

WESTERN ALLIANCE BANK, AN ARIZONA CORPORATION

BY: _____

ITS: _____

LIENHOLDER RATIFICATION AND CONSENT ACKNOWLEDGEMENT

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

ON THIS ____ DAY OF ____, 2016, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED

_____, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

DEDICATION ACKNOWLEDGEMENT

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

ON THIS ____ DAY OF ____, 2016, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED

_____, PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER SIGNATURE ON THE INSTRUMENT THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

SUBDIVIDER'S CERTIFICATIONS

BY ITS EXECUTION OF THIS PLAT, VISTANCIA WEST CONSTRUCTION LP, A DELAWARE LIMITED PARTNERSHIP, AS SUBDIVIDER, HEREBY CERTIFIES: (1) RULES AS MAY BE ESTABLISHED BY THE STATE DEPARTMENT OF TRANSPORTATION RELATING TO PROVISIONS FOR THE SAFETY OF ENTRANCE UPON AND DEPARTURE FROM ADJUTING STATE PRIMARY HIGHWAYS HAVE BEEN FOLLOWED AS APPLICABLE; (2) RULES AS MAY BE ESTABLISHED BY THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY RELATING TO THE CONSTRUCTION OR PREVENTION OF CONSTRUCTION OF STREETS IN LAND ESTABLISHED AS BEING SUBJECT TO PERIODIC INUNDATION HAVE BEEN FOLLOWED AS APPLICABLE; (3) RULES AS MAY BE ESTABLISHED BY THE MARICOPA COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES RELATING TO THE PROVISION OF DOMESTIC WATER SUPPLY AND SANITARY SEWER DISPOSAL HAVE BEEN FOLLOWED AS APPLICABLE; AND (4) THE REQUIREMENTS OF THE CITY OF PEORIA ZONING ORDINANCE AND THE CITY OF PEORIA INFRASTRUCTURE DEVELOPMENT GUIDELINES HAVE BEEN ADDRESSED AND FOLLOWED AS APPLICABLE.

VISTANCIA WEST CONSTRUCTION LP, A DELAWARE LIMITED PARTNERSHIP

BY: VISTANCIA WEST CONSTRUCTION HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER

ITS: _____

ITS: _____

APPROVAL

APPROVED BY THE MAYOR AND CITY COUNCIL OF PEORIA, ARIZONA ON THIS

____ DAY OF ____, 2016.

BY: _____

ATTEST: _____

CITY CLERK

FOR CITY ENGINEER

DATE _____

DATE _____

DATE _____

REPLAT FOR "LOT 2505 & 2506 OF TRILOGY WEST PHASE 1 - PARCEL C41"

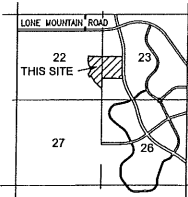
AN AMENDMENT OF LOTS 2505 AND 2506 AS RECORDED IN BOOK 1214 OF MAPS, PAGE 44, M.C.R., BEING A PORTION OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, CITY OF PEORIA, ARIZONA

BASIS OF BEARING

THE BASIS OF BEARING IS NORTH 89°45'09" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, ACCORDING TO BOOK 1032 OF MAPS, PAGE 6, MARICOPA COUNTY, ARIZONA.

NOTES

1. THE SUBDIVISION IS SUBJECT TO A MAINTENANCE IMPROVEMENT DISTRICT (MID# 1169).
2. NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, WIRE, OR REMOVABLE SECTION TYPE FENCING, AND/OR PAVING, NOR ANY PLANTING EXCEPT GRASS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF PEORIA SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION.
3. ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 69 KVA, CABLE T.V., TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC. SHALL BE INSTALLED UNDERGROUND AS PART OF THE STREET IMPROVEMENTS.
4. ALL LOT CORNERS SHALL BE MONUMENTED WITH 1/2" REBAR AND CAPPED OR TAGGED BEARING THE REGISTRATION NUMBER OF THE SURVEYOR RESPONSIBLE FOR THEIR PLACEMENT.
5. SIGNS, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHRUBS, HEDGES OR OTHER PLANTS, BUT EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN VIEW EASEMENTS OR THE UNOBSTRUCTED VIEW EASEMENT. NO LIMBS, LEAVES, NEEDLES OR OTHER FOLIAGE ABOVE 30 INCHES IN HEIGHT OR BELOW 64 INCHES ARE PERMITTED. TREES ARE TO BE PLANTED SO AS NOT TO OBSTRUCT 20% OF THE VISIBILITY WHEN COMBINED WITH OTHER OBSTRUCTIONS.
6. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING A 100-YEAR ASSURED WATER SUPPLY.
7. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA SEWER SERVICE AREA.
8. THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A DESIGNATED TRUCK ROUTE. (VISTANCIA BOULEVARD AND WESTLAND ROAD).



COUNTY RECORDER

OWNER / DEVELOPER

VISTANCIA WEST CONSTRUCTION LP
8800 NORTH GAINES CENTER DRIVE,
SUITE 350
SCOTTSDALE, ARIZONA 85258
PHONE: (480) 348-6063
FAX: (480) 946-0138
CONTACT: JOAN SCARBROUGH

ENGINEER

COE & VAN LOO CONSULTANTS INC.
4550 NORTH 12TH STREET
PHOENIX, ARIZONA 85014
PHONE: (602) 264-6831
FAX: (602) 264-6831
CONTACT: RYAN WEED

BY:

LARRY E. SULLIVAN
REGISTRATION NUMBER 22782
4550 N. 12TH STREET
PHOENIX, ARIZONA 85014
(602)-264-6831
CVLSURVEY@CVLCI.COM

CERTIFICATION

I, LARRY E. SULLIVAN, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA, THAT THIS MAP, CONSISTING OF TWO (2) SHEETS, CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF JUNE, 2016, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN, THAT THEIR POSITIONS ARE CORRECTLY SHOWN AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE BOUNDARY TO BE REPRODUCED.

PROJECT NO: R1400017A

GROSS AREA = 0.327 ACRES

SEE SHEET 2 FOR LOT AREA
TABLE AND LEGEND

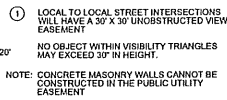
CVL Drafted: R. WEED
CVL Plotted: 07-02-18/01
CVL Plot #:

RE-PLAT

TRILOGY WEST PHASE 1 - PARCEL C41
PEORIA, ARIZONA

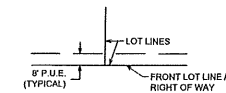
Coe & Van Loo Consultants, Inc.

CVL
CONSULTANTS
4550 N. 12TH STREET
PHOENIX, ARIZONA 85014
602-264-6831
www.cvl.com

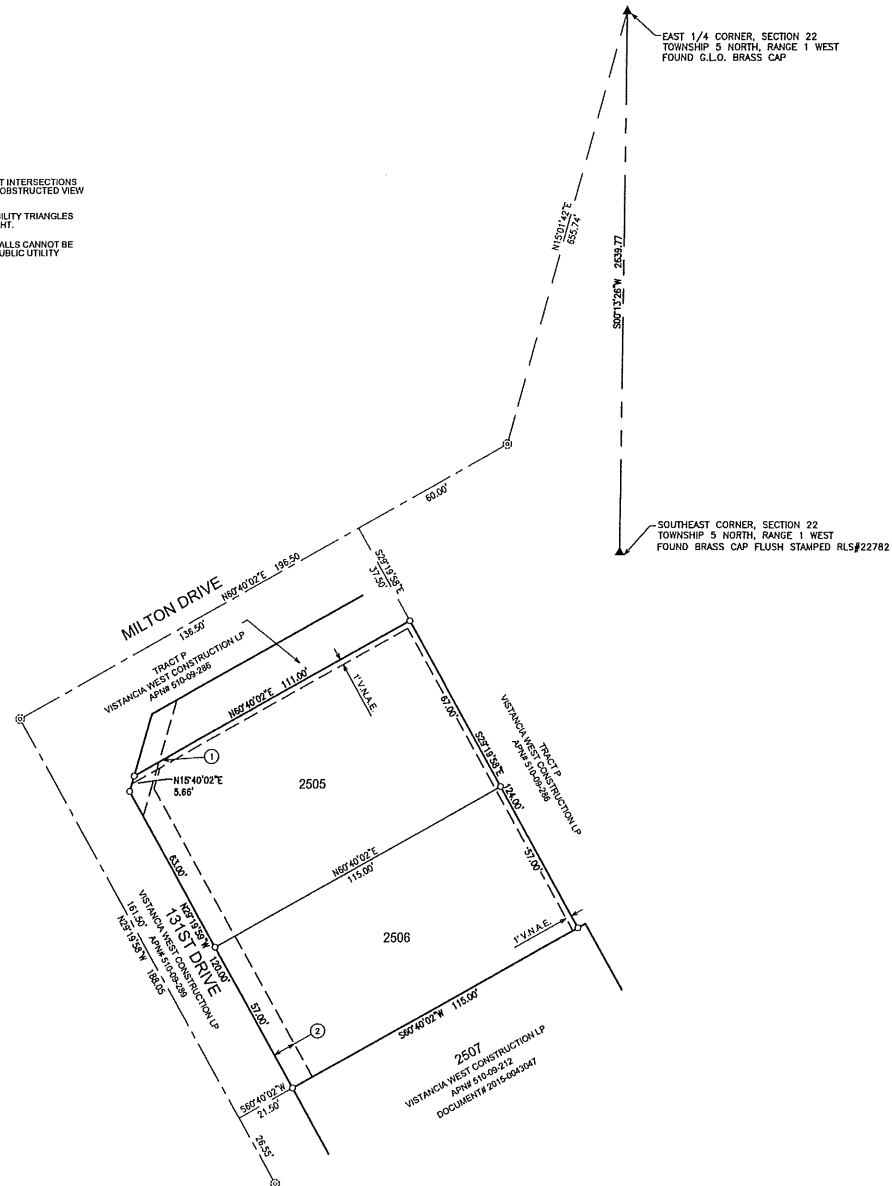


TYPICAL LOT LAYOUT
(NOT-TO-SCALE)

LOT	AREA (SQUARE FEET)
2505	7697
2506	6555
TOTAL	14252



TYPICAL PUBLIC UTILITY
EASEMENT DETAIL
(NOT-TO-SCALE)



COUNTY RECORDER



Phoenix, Arizona 85014
602-264-6831
www.cvlci.com

DATE _____

--

1133

1000

NOTES

REVI:

1

02

1

2

10

1

2

A. F40

Coe & Van Loo Consultants, Inc.

TRILOGY WEST PHASE 1 - PARCEL C41
PEORIA, ARIZONA

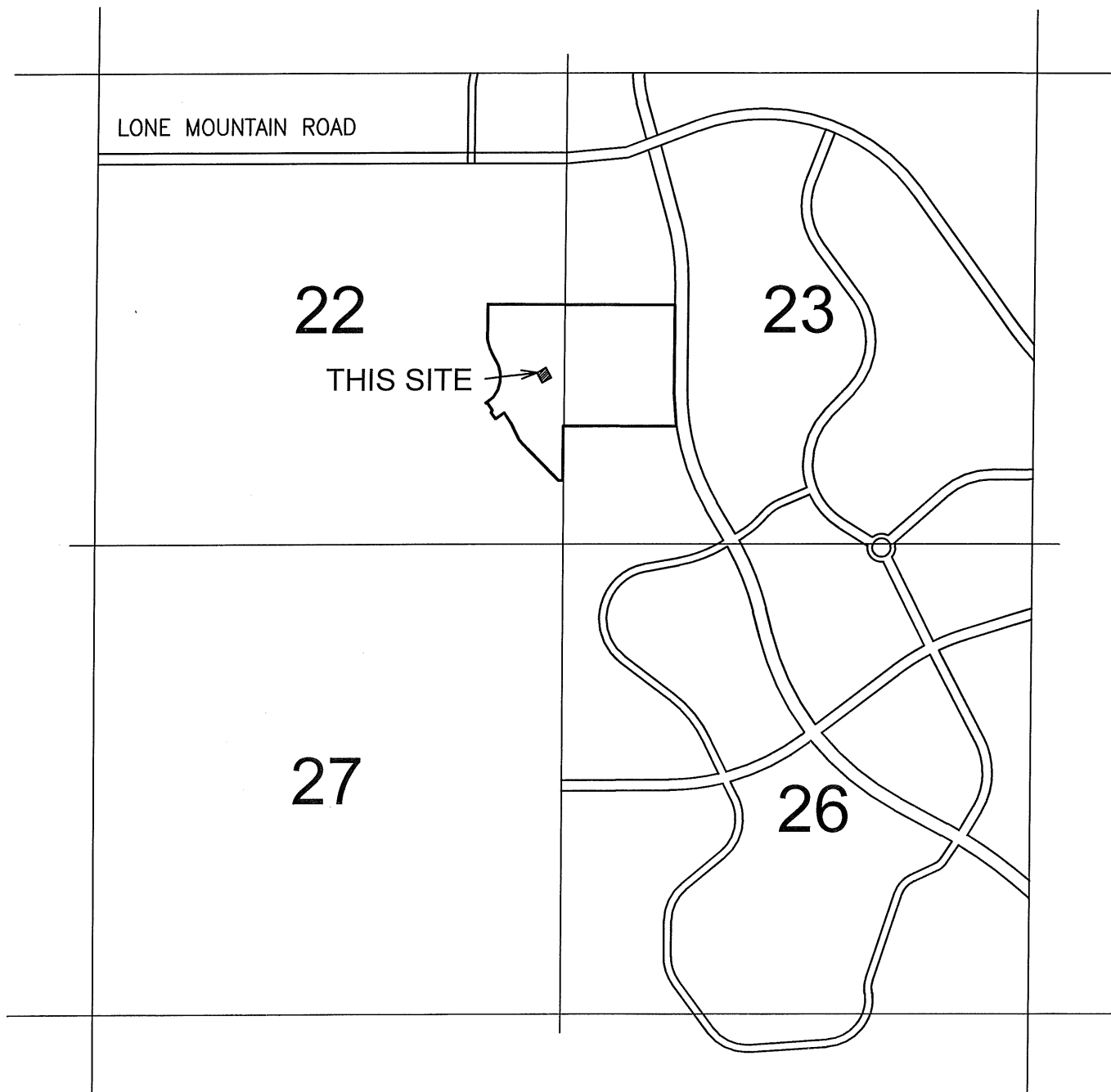
RE-PLAT

2 SHEET OF 2

L Contact: R. WEED
 L Project #: 07-0218101

1. *For the*

PROJECT NO.: R140017A



VICINITY MAP
(NOT-TO-SCALE)

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 19C.

Date Prepared: 9/14/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
SUBJECT: Replat of Lot 2 of a Replat of Vistancia Marketplace II - Parcel A-24, Vistancia Boulevard and El Mirage Road

Purpose:

This is a request for City Council to approve a Replat of Lot 2 of a Replat of Vistancia Marketplace II – Parcel A-24, located on Vistancia Boulevard and El Mirage Road, and authorize the Mayor and City Clerk to sign and record the Final Plat with the Maricopa County Recorder's Office subject to the following stipulation:

In the event that the Replat is not recorded within 60 days of Council approval, the Replat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The purpose of the Replat is to establish four lots within an existing commercial subdivision. This development is within the City's water/sewer service area.

Previous Actions:

The Final Plat was recorded in October 2007, in Book 1094 Page 21.

Options:

A: The Replat has been approved through the Development and Engineering Department. An option would be to not formally accept the proposed Replat; although it should be noted that not approving the Replat will prevent the Developer from developing these lots as planned.

B: The other option would be to formally approve the Replat and allow the further development of this parcel.

Staff Recommendation:

Discussion and possible action to approve the Replat of Lot 2 of a Replat of Vistancia

Marketplace II - Parcel A-24, located at Vistancia Boulevard and El Mirage Road, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Replat.

Narrative:

The acceptance of this Replat by City Council will allow the developer to move forward in developing this property.

ATTACHMENTS:

Exhibit 1: Replat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E.: 623-773-7577

FINAL PLAT "RE-PLAT OF LOT 2 OF A RE-PLAT OF VISTANCIA MARKETPLACE II - PARCEL A-24"

BEING A RE-SUBDIVISION OF LOT 2 OF PARCEL A-24 AS RECORDED IN BOOK 1094, PG. 21, M.C.R., AND
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 1 WEST,
OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXISTING EASEMENTS

EASEMENTS FROM THE FOLLOWING RECORD DOCUMENTS
ARE SHOWN HEREON FOR REFERENCE.

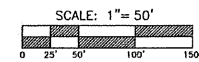
- ① - PLAT BOOK 955, PAGE 41 M.C.R.
(CITY OF PEORIA WATER & SEWER EASEMENT,
AND DRAINAGE EASEMENT)
- ② - INSTRUMENT NO. 2008-340043 M.C.R.
(8" GAS LINE EASEMENT)
- ③ - INSTRUMENT NO. 2008-548344 M.C.R.
(ARIZONA PUBLIC SERVICE UTILITY EASEMENT)
- ④ - PLAT BOOK 1094, PAGE 21 M.C.R.
(CITY OF PEORIA WATER EASEMENT
AND INGRESS/EGRESS EASEMENT)

LEGEND

- - PROPERTY CORNER FOUND, AS NOTED
- - FOUND 5/8" REBAR WITH ALUMINUM
CAP STAMPED L5439596 (ACCEPTED)
- ⊙ - FOUND 2" BRASS CAP FLUSH (AS NOTED)
- ⊠ - FOUND 2" G.L.O. BRASS CAP (AS NOTED)
- ⊡ - G.L.O. BRASS CAP RECORDED BUT NOT
FOUND (AS NOTED)
- - TO BE SET 5/8" REBAR/CHP RLS # 16913
- (R/A) - RECORD AND ACCEPTED, BASED ON
MEASUREMENTS AND CALCULATIONS
- (R/C) - RECORD AND CALCULATED
- EX - "EXISTING"
- M.C.R. - "MARICOPA COUNTY RECORDER"
- NO. - "NUMBER"
- DOC. - "DOCUMENT"
- N.Y.A.E. - "NON-VEHICULAR ACCESS EASEMENT"
- COR. - "CORNER"
- SEC. - "SECTION"
- - PROPERTY LINE
- - - - - BOUNDARY TIE
- - - - - MISC. EASEMENTS
- - - - - MONUMENT LINE
- - - - - RIGHT-OF-WAY
- - - - - FLOOD PLAIN LIMITS

LOT AREA TABLE

LOT 1: NOT A PART
LOT 2: 2.6264 AC / 114,406 SQ FT
LOT 3: 1.3296 AC / 57,919 SQ FT
LOT 4: 0.7241 AC / 31,541 SQ FT
LOT 5: 1.3383 AC / 58,296 SQ FT
OVERALL: 6.0184 AC / 262,162 SQ FT



#R070033B

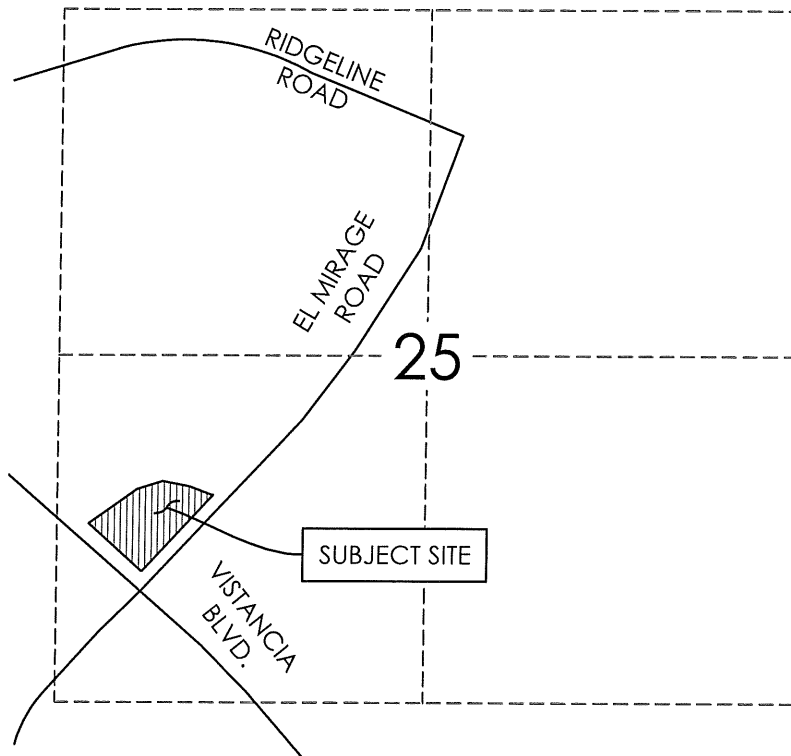
AVESPRO
8002 E. Via de Ventura, Suite 101
Peoria, AZ 85345
PH: (602) 375-5487
FAX: (602) 375-5437
www.avespro.net

PERSONS

FINAL PLAT
"RE-PLAT OF LOT 2 OF A RE-PLAT OF VISTANCIA MARKETPLACE II - PARCEL A-24"
PEORIA, ARIZONA

PROJECT NO.: 13065
DRAWING DATE: 07/14/16
DRAWN BY: TC
CHECKED BY: PV
DRAWING SCALE: AS SHOWN
DRAWING FILE: USUAL JP

FINAL PLAT
FP2
2 of 2



T-2-N, R-2-E
VICINITY MAP
 N.T.S.



VESPRO

8502 E. Via De Ventura, Suite 101
 Scottsdale, AZ 85258
 Ph: (480) 393-3640 Fx: (480) 393-3639

VICINITY MAP
 VISTANCIA MARKETPLACE II
 PEORIA, ARIZONA

DATE: 09-12-16 SCALE: N.T.S. PROJ. NO: 15065 CAD FILE: 15065_Vicinity Map

EXHIBIT

A

1 of 1

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 20C.

Date Prepared: 9/14/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Andrew Granger, P.E., Development and Engineering Director
SUBJECT: Condominium Replat, The Northwest Portion of Building E of Union Hills Office Park, Union Hills Drive and 91st Avenue

Purpose:

This is a request for City Council to approve a Condominium Replat of The Northwest Portion of Building E of Union Hills Office Park, and authorize the Mayor and City Clerk to sign and record the Condominium Replat with the Maricopa County Recorder's Office subject to the following stipulation:

In the event that the Condominium Replat is not recorded within 60 days of Council approval, the Condominium Replat will become void. The developer may request re-approval from the City, with the understanding that the City has the option of imposing additional requirements or stipulations.

Background/Summary:

The Amendment to the Condominium Replat is needed to facilitate the sale of a condo unit to a business entity by the owner. The Union Hills Office Park condo plat was originally set up with individual units identified within buildings throughout the site (July, 2006). As sales have taken place in the condominium subdivision over the past few years, reconfigurations of the units have been necessary (for example, shifting of unit lines or combining of units). This is similar to a residential subdivision when individual lot lines require shifting. As the owner continues to sell condominium units, additional plat amendments may be required.

Previous Actions:

The condominium plat was reviewed by the City and completed in July of 2006.

Options:

A: The Condominium Replat has been approved through the Development and Engineering Department. An option would be to not accept the proposed Condominium Replat; although it should be noted that not approving the Condominium Replat will hinder the Developer from selling these units as intended.

B: The other option would be to formally approve the Condominium Replat and allow these units to be sold and developed.

Staff Recommendation:

Discussion and possible action to approve the Condominium Replat of the Northwest Portion of Building E of Union Hills Office Park, located at Union Hills Drive and West of 91st Avenue, subject to stipulations.

Fiscal Analysis:

There is no direct budgetary impact to the City to approve the Final Plat.

Narrative:

The acceptance of this Final Plat by City Council will allow the developer to move forward in developing this property.

ATTACHMENTS:

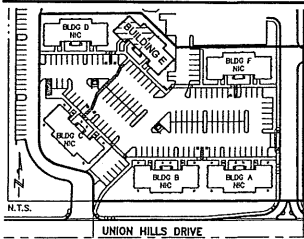
Exhibit 1: Condominium Replat

Exhibit 2: Vicinity Map

Contact Name and Number:

Jodi Breyfogle, P.E., 623-773-7577

INDEX MAP

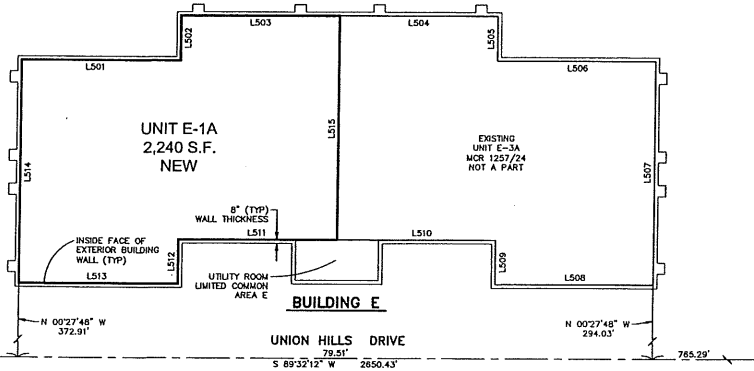
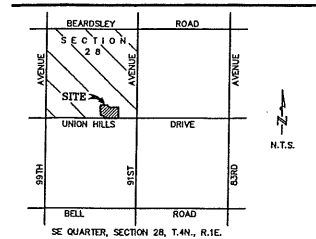


CONDOMINIUM REPLAT OF

"THE NORTHWEST PORTION OF BUILDING E OF UNION HILLS OFFICE PARK"

A REPLAT OF A CONDOMINIUM RECORDED IN BOOK 853, PAGE 44,
RECORDS OF MARICOPA COUNTY, ARIZONA,
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28,
TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE G. & S.R.B. & M.,
MARICOPA COUNTY, ARIZONA
OWNER: M & S BUCKY, LLC

VICINITY MAP



LINE	DIRECTION	DISTANCE
L501	S 45°41'24" E	28.00'
L502	N 44°18'36" E	8.00'
L503	S 45°41'24" E	28.00'
L504	S 45°41'24" E	28.00'
L505	S 44°18'36" W	8.00'
L506	S 45°41'24" E	28.00'
L507	S 44°18'36" W	40.00'
L508	N 45°41'24" W	28.00'
L509	N 44°18'36" E	8.00'
L510	N 45°41'24" W	28.00'
L511	N 45°41'24" W	28.00'
L512	S 44°18'36" W	8.00'
L513	N 45°41'24" W	28.00'
L514	N 44°18'36" E	40.00'
L515	S 44°18'36" W	40.00'

NOTES

- UNIT DIMENSIONS ARE TO THE INSIDE FACE OF EXTERIOR WALLS AND CENTER OF DIMENSIONING WALLS.
- ALL EXTERIOR WALLS ARE COMMON ELEMENTS.
- THE BUILDING E LOCATION WITH DIMENSIONED TIES TO PROPERTY LINES AND SECTION CORNERS ARE SHOWN ON SHEET 3 OF THE CONDOMINIUM PLAT FOR UNION HILLS OFFICE PARK AS RECORDED IN BOOK 853, PAGE 44, RECORDS OF MARICOPA COUNTY, ARIZONA.



SCALE: 1" = 10'

GENERAL NOTES

- NO CONSTRUCTION OF ANY KIND SHALL BE CONSTRUCTED OR PLACED WITHIN THE UTILITY EASEMENTS, EXCEPT UTILITIES, WOOD, NAIL, OR REMOVABLE SECTION TYPE FENCING, ANY/OR FENCING, NOR ANY PLANTING EXCEPT GRASS. IT SHALL BE FURTHER UNDERSTOOD THAT THE CITY OF PEORIA SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION OR RECONSTRUCTION.
- ALL NEW AND EXISTING UTILITY, ELECTRICAL FACILITIES LESS THAN 69 KVA, CABLE T.V., TELECOMMUNICATIONS FIBER OPTICS, CELLULAR, GAS, ETC. SHALL BE INSTALLED UNDERGROUND AS PART OF THE IMPROVEMENTS.
- MAINTENANCE OF SURFACE AND UNDERGROUND DRAINAGE FACILITIES WITHIN ALL TRACTS, EASEMENTS AND RIGHTS-OF-WAY SHALL BE THE RESPONSIBILITY OF THE CONDOMINIUM ASSOCIATION.
- ALL LOT CORNERS SHALL BE MONUMENTED WITH 1/2" REBAR AND CAPPED OR TAGGED BEARING THE REISTRATION NUMBER OF THE SUBDIVISION RESPONSIBLE FOR THEIR PLACEMENT.
- SPRINKLER, FENCES, WALLS, UTILITY BOXES, STRUCTURES, SHRUBS, HEDGES OR OTHER PLANTS, BUT EXCLUDING TREES OVER 30 INCHES IN HEIGHT SHALL NOT BE PERMITTED WITHIN VEV EASEMENTS OR THE RIGHT DISTANCE, HAZARDOUS, NO LIMBS, LEAVES, NEEDLES OR OTHER FOLIAGE ABOVE 30 INCHES IN HEIGHT OR BELOW 84 INCHES ARE PERMITTED. TREES ARE TO BE PLANTED SO AS NOT TO OBSTRUCT 20% OF THE VISIBILITY WHEN COMBINED WITH OTHER OBSTRUCTIONS.
- THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING A 100-YEAR ASSURED WATER SUPPLY.
- THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF PEORIA SENIOR SERVICE AREA.
- THIS SUBDIVISION IS LOCATED WITHIN THE VICINITY OF A MILITARY AIRPORT. INFORMATION ABOUT THEIR BOUNDARIES AND RESPONSIBILITIES IN CONNECTION WITH OWNING A UNIT, THE PERMITTER BUILDING WALL SHALL BE MAINTAINED, REPAIRED AND REPLACED BY UNION HILLS OFFICE PARK OWNERS ASSOCIATION AND NO UNIT OWNER SHALL ALTER OR MODIFY ANY PERMITTER BUILDING WALL WITHOUT THE PRIOR WRITTEN APPROVAL OF THE BOARD OF DIRECTORS OF THE UNION HILLS OFFICE PARK OWNERS ASSOCIATION.
- THIS SUBDIVISION IS LOCATED IN THE VICINITY OF A ROCK QUARRY (GRAVEL OPERATION). NO STRUCTURE OF ANY KIND BE CONSTRUCTED OR ANY VEGETATION BE PLANTED NOR BE ALLOWED TO GROW WITHIN THE DRAINAGE EASEMENT OR TRACT WHICH WOULD IMPERE THE FLOW OF WATER OVER, UNDER, OR THROUGH THE EASEMENT OR TRACT.
- AN ASSOCIATION, INCLUDING ALL PROPERTY OWNERS IN THE DEVELOPMENT, HAS BEEN FORMED AND HAS THE RESPONSIBILITY FOR MAINTAINING ALL COMMON AREAS OR EASEMENTS (INCLUDING LANDSCAPED AREAS AND DRAINAGE FACILITIES) IN ACCORDANCE WITH APPROVED PLANS.
- THE BOUNDARIES OF EACH UNIT AS SHOWN ON THIS PLAT ARE AS FOLLOWS: (A) THE VERTICAL BOUNDARIES ARE THE INTERIOR SURFACES OF THE PERMETER BUILDING WALLS (AND THE INTERIOR SURFACE OF ANY WINDOWS OR DOORS IN THE PERMETER BUILDING WALLS) AND A VERTICAL PLANE RUNNING THROUGH THE CENTER OF ANY PARTY WALL SEPARATING THE UNIT FROM ANOTHER UNIT OR FROM A FIRE RISER ROOM OR ELECTRICAL ROOM. (B) THE LOWER HORIZONTAL BOUNDARY IS THE TOP OF THE CONCRETE FLOOR SLAB OF THE BUILDING. AND (C) THE UPPER HORIZONTAL BOUNDARY IS A HORIZONTAL PLANE HAVING AN ELEVATION CONCORDING WITH THE LOWEST POINT OF THE BOTTOM SURFACE OF THE ROOF TRUSSES. ALL SPACES, INTERIOR PARTITIONS AND OTHER FIXTURES AND IMPROVEMENTS (INCLUDING, BUT NOT LIMITED TO, CHIMNEYS, FLUES, WIRES, CONDUITS, HEATING AND AIR CONDITIONING UNITS, NOT EXCLUDING THEIR BOUNDARIES AND RESPONSIBILITIES IN CONNECTION WITH OWNING A UNIT, THE PERMITTER BUILDING WALL SHALL BE MAINTAINED, REPAIRED AND REPLACED BY UNION HILLS OFFICE PARK OWNERS ASSOCIATION AND NO UNIT OWNER SHALL ALTER OR MODIFY ANY PERMITTER BUILDING WALL WITHOUT THE PRIOR WRITTEN APPROVAL OF THE BOARD OF DIRECTORS OF THE UNION HILLS OFFICE PARK OWNERS ASSOCIATION.

DEDICATION

STATE OF ARIZONA }
COUNTY OF MARICOPA }

KNOW ALL MEN BY THESE PRESENTS, THAT M & S BUCKY, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, THE OWNER OF THE CONDOMINIUM UNIT SHOWN HEREON, HAS SUBDIVIDED UNDER THE NAME OF "THE NORTHWEST PORTION OF BUILDING E OF UNION HILLS OFFICE PARK", BEING A REPLAT OF A CONDOMINIUM RECORDED IN BOOK 853, PAGE 44, RECORDS OF MARICOPA COUNTY, ARIZONA, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 1 EAST OF THE G. & S.R.B. & M., AND HEREBY PUBLISHES THIS PLAT AS AND FOR THE PLAT OF "THE NORTHWEST PORTION OF BUILDING E OF UNION HILLS OFFICE PARK" AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE MEASUREMENTS AND DIMENSIONS OF THE UNITS CONSTITUTING SAME AND THAT EACH UNIT SHALL BE KNOWN BY THE NUMBER OR NAME GIVEN TO EACH RESPECTIVELY ON SAID PLAT.

THE INTENT OF THIS REPLAT IS TO CHANGE THE UNIT DIMENSIONS OF THE UNITS E-1 AND E-2 IN BUILDING E OF THE CONDOMINIUM PLAT FOR UNION HILLS OFFICE PARK, AND ALL NOTATIONS AND DEDICATIONS STARTED ON OR WITHIN THE RECORDED CONDOMINIUM PLAT FOR UNION HILLS OFFICE PARK (M.C.R. BOOK 853, PAGE 44) SHALL REMAIN IN FULL FORCE AND EFFECT WITH THE RECONSTRUCTION OF THIS CONDOMINIUM REPLAT.

IN WITNESS WHEREOF, M & S BUCKY, LLC, AN ARIZONA LIMITED LIABILITY COMPANY HAS HEREIN CAUSED ITS NAME TO BE SIGNED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF ITS OFFICER THEREUNTO DULY AUTHORIZED TO DO SO.

M & S BUCKY, LLC, AN ARIZONA LIMITED LIABILITY COMPANY

BY:
PHILLIS S. PILVINS, MEMBER

ACKNOWLEDGMENT

STATE OF ARIZONA }
COUNTY OF MARICOPA }

ON THIS 6th DAY OF September, 2018 BEFORE ME THE UNDERSIGNED NOTARY PUBLIC PERSONALLY APPEARED PHILLIS S. PILVINS, WHO ACKNOWLEDGED HERSELF TO BE AN OFFICER OF M & S BUCKY, LLC, AN ARIZONA LIMITED LIABILITY COMPANY AND THAT SHE, AS SUCH OFFICER, BEING DULY AUTHORIZED TO DO, HEREBY EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS WHEREOF, I HERETO SET MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES April 1, 2018



APPROVALS

APPROVED BY:

THE MAYOR AND CITY COUNCIL OF THE CITY OF PEORIA, ARIZONA THIS
DAY OF 2018.

MAYOR DATE

CITY CLERK DATE

FOR CITY ENGINEER DATE

OWNERS ASSOCIATION RATIFICATION

BY THIS RATIFICATION Sean D'Souza DULY ELECTED
President OF UNION HILLS OFFICE PARK OWNERS
ASSOCIATION, HEREBY RATIFIES THE AMENDMENTS IDENTIFIED HEREON.

SIGNATURE DATE 9-7-2018

ACKNOWLEDGMENT, ASSOCIATION

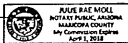
STATE OF ARIZONA }
COUNTY OF MARICOPA }

ON THIS 7th DAY OF September, 2018 BEFORE ME THE UNDERSIGNED NOTARY PUBLIC PERSONALLY APPEARED Sean D'Souza, WHO ACKNOWLEDGED HIMSELF TO BE AN OFFICER OF UNION HILLS OFFICE PARK OWNERS ASSOCIATION AND THAT HE, AS SUCH OFFICER, BEING DULY AUTHORIZED TO DO, HEREBY EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS WHEREOF, I HERETO SET MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC

MY COMMISSION EXPIRES April 1, 2018



LEGAL DESCRIPTION

UNITS E-1, AND E-2, OF THE CONDOMINIUM PLAT FOR UNION HILLS OFFICE PARK AS RECORDED IN BOOK 853 OF MAPS, PAGE 44, RECORDS OF MARICOPA COUNTY, ARIZONA.

FLOOD ZONE INFORMATION

LOCATED IN FLOOD ZONE "X", FEMA MAP NO. 04013C 1245L, OCTOBER 16, 2013.

CERTIFICATION

THIS IS TO CERTIFY THAT THE SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREIN WAS MADE UNDER MY DIRECTION DURING THE MONTH OF JUNE 2018; AND THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN.

DATE 6-7-18
C. DON WALKER, R.L.S. #35880

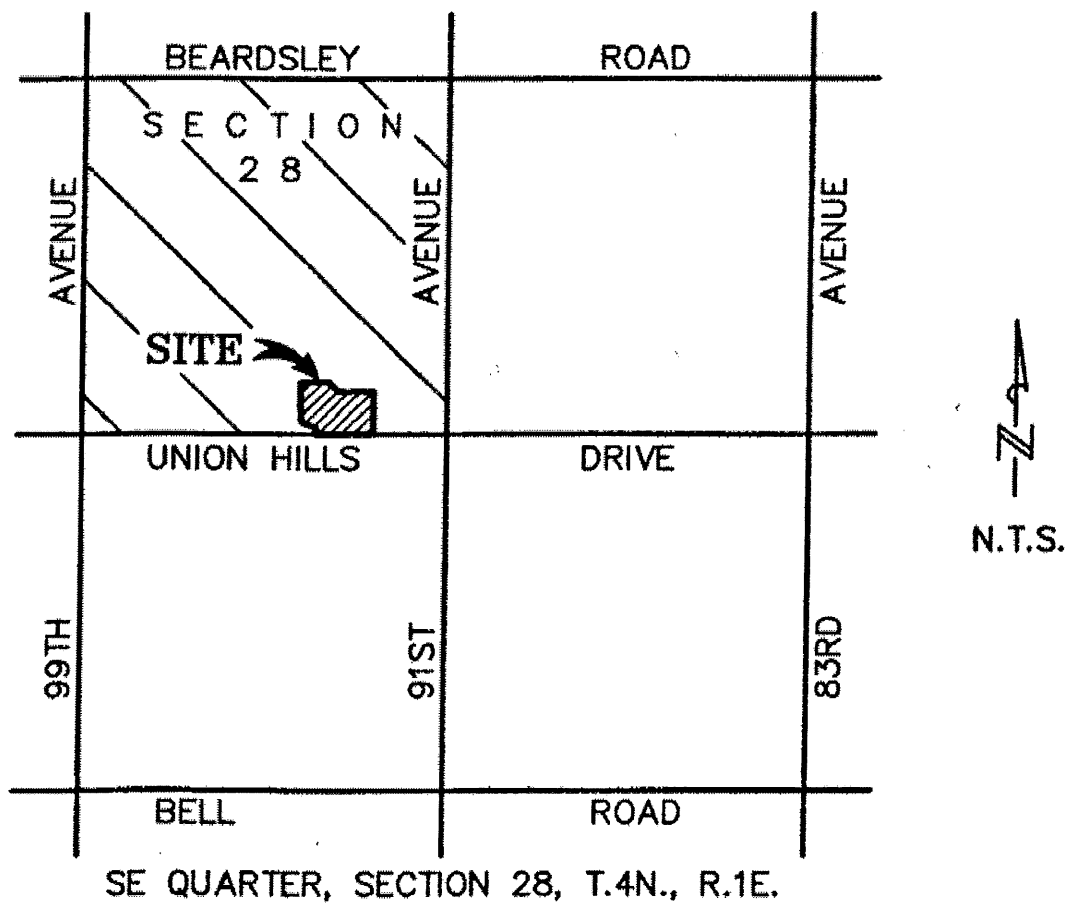
DRW ENGINEERING, INC.		Design: CDW
10320 West McDowell Road, Suite K-1136 Avondale, Arizona 85392		Drawn: VSP
Phone: (623)478-8800 Fax: (623)478-8841 E-mail: drw@drwengineering.com		Scale: 1" = 10'
		Job #: 16013
CONDOMINIUM PLAT		
CONDOMINIUM REPLAT OF THE NORTHWEST PORTION OF BUILDING E OF UNION HILLS OFFICE PARK 9220 WEST UNION HILLS DRIVE PEORIA, ARIZONA		

R050162A

Date: 6/7/18

Sheet 1 OF 1

VICINITY MAP



**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 21C.

Date Prepared: 9/19/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Julie Ayers, Deputy City Manager
FROM: Brent Mattingly, Finance Director
SUBJECT: PUBLIC HEARING - Liquor License, Fry's Fuel Center #657, 25371 North Lake Pleasant Parkway

Purpose:

Pursuant to Arizona Law the City must make a recommendation to the State Liquor Board regarding the approval of applications to sell alcoholic beverages in the City. The Standard for the City's recommendation is whether the best interest of the community will be served by the issuance of these licenses and whether the public convenience is served.

Background/Summary:

Fry's Fuel Center #657, is a new gas station, located at 25371 N. Lake Pleasant Parkway. The new owners have applied for a New Wine and Beer (Series 10) Liquor License. The application agent is Lauren K. Merrett. A Series 10 permits the retail sale of beer and wine for consumption off premises.

Some of the businesses around Fry's Fuel Center #657 are Lowe's Home Improvement, Char Pizzeria and Wells Fargo Bank. There are no staff concerns with Fry's Fuel Center #657. The public hearing notice was posted for at least 20 days, and no comments were received during the posting period. The license application was reviewed according to State law and all Departments gave approvals.

Previous Actions:

There has never been a liquor license at 25371 N. Lake Pleasant Parkway.

Options:

A. Recommend approval to the Arizona State Liquor Board for a New Wine and Beer (Series 10) Liquor License for Fry's Fuel Center #657, located at 25371 N. Lake Pleasant Parkway, Lauren K. Merrett, Applicant, LL#20015882.

B. Recommend denial to the Arizona State Liquor Board for a New Wine and Beer (Series 10) Liquor License for Fry's Fuel Center #657, located at 25371 N. Lake Pleasant Parkway, Lauren

K. Merrett, Applicant, LL#20015882.

Staff Recommendation:

Discussion and possible action to recommend approval to the State Liquor Board for a New Wine and Beer (Series 10) Liquor License for Fry's Fuel Center #657, located at 25371 North Lake Pleasant Parkway, Lauren K. Merrett, Applicant, LL#20015882.

Fiscal Analysis:

The item has no financial implications.

Narrative:

The appropriate fees have been paid and the applicant has been advised that a representative needs to be present at the meeting to answer any questions that the Council or public may have.

ATTACHMENTS:

Fry's Fuel Center App

Contact Name and Number:

Samuel Brown, 623-773-7658



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

Application for Liquor License
Type or Print with Black Ink

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE
A service fee of \$25 will be charged for all dishonored checks (A.R.S. § 44-6852)

SECTION 1 This application is for a:

- ☐ Interim Permit (Complete Section 5)
☒ New License (Complete Sections 2, 3, 4, 13, 14, 15, 16)
☐ Person Transfer (Complete Section 2, 3, 4, 12, 13, 14, 16)
☐ Location Transfer (Bars and Liquor Stores Only)
(Complete Section 2, 3, 4, 11, 13, 14, 16)
☐ Probate/ Will Assignment/ Divorce Decree
(Complete Sections 2, 3, 4, 9, 13, 14, 16)
(Fee not required)
☐ Government (Complete Sections 2, 3, 4, 10, 13, 16)
☐ Seasonal

SECTION 2 Type of Ownership:

- ☐ J.T.W.R.O.S. (Complete Section 6)
☐ Individual (Complete Section 6)
☐ Partnership (Complete Section 6)
☒ Corporation (Complete Section 7)
☐ Limited Liability Co (Complete Section 7)
☐ Club (Complete Section 8)
☐ Government (Complete Section 10)
☐ Trust (Complete Section 6)
☐ Tribe (Complete Section 6)
☐ Other (Explain) _____

16-905-4 UPR LC M 406

SECTION 3 Type of license

1. Type of License: Series 10 LICENSE # 10076806

SECTION 4 Applicants

1. Individual Owner/Agent's Name: Merrett Lauren Kay
Last First Middle
2. Owner Name: Smith's Food & Drug Centers, Inc.
(Ownership name for type of ownership checked on section 2) B1000047
3. Business Name: Fry's Fuel Center #657
(Exactly as it appears on the exterior of premises)
4. Business Location Address: 25371 N. Lake Pleasant Parkway, Peoria, AZ 85383 Maricopa
(Do not use PO Box) Street City State Zip Code County
5. Mailing Address: P.O. Box 305103 Nashville TN 37230
(All correspondence will be mailed to this address) Street City State Zip Code
6. Business Phone: Pending Daytime Contact Phone: [REDACTED]
7. Email Address: None - choose not to disclose
8. Is the Business located within the incorporated limits of the above city or town? ☒ Yes ☐ No
9. Does the Business location address have a street address for a City or Town but is actually in the boundaries of another City, Town or Tribal Reservation? ☐ Yes ☒ No
If yes, what City, Town or Tribal Reservation is this Business located in: _____
10. Total Price paid for Series 6 Bar, Series 7 Beer & Wine Bar or Series 9 Liquor Store (license only) \$ _____

Department Use Only			
Fees: <u>100</u>	Application	Interim Permit	Site Inspection
			Finger Prints
Is Arizona Statement of Citizenship & Alien Status for State Benefits complete? ☒ Yes ☐ No			Total of All Fees \$ <u>100</u>
Accepted by: <u>[REDACTED]</u>	Date: <u>08/04/2016</u>	License # <u>10076806</u>	

SECTION 5 Interim Permit

- If you intend to operate business when your application is pending you will need an interim permit pursuant to ARS § 4-203.01
- There **MUST** be a valid license of the same type you are applying for currently issued to the location or for the replacement of a Hotel/Motel license with a Restaurant license pursuant to A.R.S. § 4-203.01.

1. Enter license number currently at the location: _____

2. Is the license currently in use? ☐ Yes ☐ No If no, how long has it been out of use? _____

Attach a copy of the license currently issued at this location to this application.

I, _____ declare that I am the CURRENT OWNER, AGENT, OR CONTROLLING PERSON on (Print Full Name) the stated license and location.	
X _____ (Signature of CURRENT Individual Owner/Agent)	State of _____ County of _____ The foregoing instrument was acknowledged before me this _____ Day _____ of _____ Month _____ Year _____ Signature of NOTARY PUBLIC

SECTION 6 Individual, Partnership, J.T.W.R.O.S, Trust, Tribe Ownerships

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

Individual

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code

Is any person other than above, going to share in profit/losses of the business? ☐ Yes ☐ No

If Yes, give name, current address, and telephone number of person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City	State	Zip Code	Phone #

Partnership

Name of Partnership: _____

General-Limited	Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
☐ ☐								
☐ ☐								
☐ ☐								
☐ ☐								

J.T.W.R.O.S (Joint Tenant with Rights of Survivorship)

Name of J.T.W.R.O.S: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 6 - continued

TRUST

Name of Trust: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

TRIBE

Name of Tribal Ownership: _____

Last	First	Middle	Mailing Address	City	State	Zip Code

SECTION 7 Corporations/ Limited Liability Co

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD.

☒ Corporation Complete Questions 1, 2, 3, 4, 5, 6, and 7

☐ LLC. Complete Questions 1, 2, 3, 4, 5, 6, and 7

- Name of Corporation/ L.L.C.: Smith's Food & Drug Centers, Inc.
- Date Incorporated/Organized: 1/89 State where Incorporated/Organized: Ohio
- AZ Corporation or AZ L.L.C File No: F-0042954-3 Date authorized to do Business in AZ: 4/89
- Is Corp/L.L.C. Non Profit? ☐ Yes ☒ No
- List Directors, Officers, Members in Corporation/L.L.C:

Last	First	Middle	Title	Mailing Address	City	State	Zip Code
Please see attached							

(Attach additional sheet if necessary)

- List all Stockholders / percentage owners who own 10% or more:

Last	First	Middle	%Owned	Mailing Address	City	State	Zip Code
Please see attached							

(Attach additional sheet if necessary)

- If the corporation/ L.L.C are owned by another entity, attach an Organizational **FLOWCHART** showing the structure of the ownership. Attach additional sheets as needed in order to disclose the Officers, Directors, Members, Managers, Partners, Stockholders and percentage owners of those entities.

The Kroger Co.
1014 Vine St
Cincinnati OH 45202-1100

100% owner of

Fred Meyer's Inc.
3800 SE 22nd Ave
Portland OR 97202

100% owner of

Smiths Food & Drug Inc.
DBA Fry's Food & Drug Stores
500 S 99th Ave.
Tolleson AZ 85353

The Kroger Co. is a publicly traded corporation no individual or entity has 10% ownership or greater.

THE KROGER CO.
an Ohio corporation

OFFICERS

David B. Dillon	Chairman of the Board
W. Rodney McMullen	Chief Executive Officer
Michael L. Ellis	President and Chief Operating Officer
Kathleen S. Barclay	Senior Vice President
Geoffrey J. Covert	Senior Vice President
Michael J. Donnelly	Senior Vice President
Christopher T. Hjelm	Senior Vice President and Chief Information Officer
M. Marnette Perry	Senior Vice President
J. Michael Schlotman	Senior Vice President and Chief Financial Officer
Mark C. Tuffin	Senior Vice President
Robert W. Clark	Group Vice President
Kevin M. Dougherty	Group Vice President
Lynn Marmar	Group Vice President
Erin S. Sharp	Group Vice President, Manufacturing
Christine S. Wheatley	Group Vice President, Secretary and General Counsel
Todd A. Foley	Vice President and Treasurer
Scott M. Henderson	Vice President of Pension Investment and Strategy
Mary Elizabeth Van Oflen	Vice President, Corporate Controller & Assistant Treasurer
Bruce M. Gack	Assistant Secretary
Dorothy D. Roberts	Assistant Secretary
Joseph W. Bradley	Assistant Treasurer
Carin L. Fike	Assistant Treasurer

FRED MEYER, INC.
a Delaware corporation

OFFICERS:

Lynn T. Gust	President
David Deatherage	Senior Vice President and Chief Financial Officer
Christine S. Wheatley	Vice President and Secretary
Todd A. Foley	Vice President and Treasurer
Nona M. Soltero	Vice President and Assistant Secretary
James C. Aalberg	Vice President and Assistant Treasurer
Robert Currey-Wilson	Vice President
Nicholas G. Hodge	Vice President
Bruce M. Gack	Assistant Secretary
Steven J. Prough	Assistant Secretary
Dorothy D. Roberts	Assistant Secretary
Mary Elizabeth Van Oflen	Assistant Treasurer
Joseph W. Bradley	Assistant Treasurer

SMITH'S FOOD & DRUG CENTERS, INC.
an Ohio corporation

OFFICERS

Jay Cummins	President - Smith's
Stephen M. McKinney	Vice President and President - Fry's
Gary E. Boyd	Vice President and Controller - Smith's
David Weakland	Vice President and Chief Financial Officer - Fry's
Christine S. Wheatley	Vice President and Secretary
Todd A. Foley	Vice President and Treasurer
Thomas Acevedo	Vice President and Assistant Secretary
Peter H. Barth	Vice President and Assistant Secretary
Zane M. Day	Vice President
Terry M. Evans	Vice President
Monica Games	Vice President, Merchandising - Fry's
Colleen Juergensen	Vice President
Kyle S. McKay	Vice President and Assistant Secretary
Steven J. Prough	Vice President and Assistant Secretary
Ann M. Reed	Vice President
Keith Shoemaker	Vice President, Operations - Fry's
Steven M. Sorensen	Vice President
Bruce M. Gack	Assistant Secretary
Dorothy D. Roberts	Assistant Secretary
Joseph W. Bradley	Assistant Treasurer
Mary Elizabeth Van Oflen	Assistant Treasurer

SECTION 8 Club Applicants

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE, AN "APPLICANT" TYPE FINGERPRINT CARD AND \$22 PROCESSING FEE FOR EACH CARD

1. Name of Club: _____
2. Is Club non-profit? ☐ Yes ☐ No
3. List all controlling members (minimum of four (4) requested)

Last	First	Middle	Mailing Address	City	State	Zip Code

(Attach additional sheet if necessary)

SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Liquor License

1. Current Licensee's Name: _____
(Exactly as it appear on the license) Last First Middle
2. Assignee's Name: _____
Last First Middle
3. License Type: _____ License Number: _____

ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE.

SECTION 10 Government (for cities, towns, or counties only)

1. Government Entity: _____
2. Person/Designee: _____
First Last Middle Day time Contact Phone #

A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISE FROM WHICH SPIRITUOUS LIQUOR IS SERVED.

SECTION 11 Location to Location Transfer: Series 6 Bar, Series 7 Beer & Wine Series 9 Liquor Stores only)

1. Current Business: Name: _____
Address: _____
(Exactly as it appears on license)
2. New Business: Name: _____
Address: _____
1. License Type: _____ License Number: _____

SECTION 12 Person to Person Transfer

Questions to be completed by Current Licensee (Bar and Liquor Stores Only- Series, 06, 07, and 09)

1. Individual Owner / Agent Name: _____ Entity: _____
Last First Middle (Individual, Agent, Etc.)

2. Ownership Name: _____
(Exactly as it appears on license)

3. Business Name: _____
(Exactly as it appears on license)

4. Business Location Address: _____
Street City State Zip

5. License Type: _____ License Number: _____

6. Current Mailing Address: _____
Street City State Zip

7. Have all creditors, lien holders, interest holders, etc. been notified? ☐ Yes ☐ No

8. Does the applicant intend to operate the business while this application is pending? ☐ Yes ☐ No

If yes, complete Section 5 (Interim Permit) of this application; attach fee, and current license to this application.

9. I, (Print Full Name) _____ hereby authorize the department to process this Application to transfer the privilege of the license to the applicant provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, (Print Full Name) _____, declare that I am the **CURRENT OWNER, MEMBER, PARTNER STOCKHOLDER or LICENSEE** of the stated license. I have read the above Section 12 and confirm that all statements are true, correct, and complete.

NOTARY

X _____
(Signature of CURRENT Individual Owner/Agent)

My commission expires on: _____
Date

State of _____ County of _____
The foregoing instrument was acknowledged before me this _____
Day of _____ Month _____ Year

Signature of NOTARY PUBLIC

SECTION 13 Proximity to Church or School

Questions to be completed by all in-state applicants.

A.R.S. § 4-207. (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building.

The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02) Series 12
- b) Hotel/motel license (§ 4-205.01) Series 11
- c) Microbrewery Series 3
- d) Craft Distillery Series 18

- e) Government license (§ 4-205.03) Series 5
- f) Fenced playing area of a golf course (§ 4-207(B)(5))
- g) Wholesaler Series 4
- h) Farm Winery Series 13

1. Distance to nearest School: 2080 ft
(If less than one (1) mile note footage)

Name of School: Basis School

Address: 25950 N. Lake Pleasant Parkway 85383

2. Distance to nearest Church: 1560 ft
(If less than one (1) mile note footage)

Name of Church: Discovery Pointe Church

Address: 9812 W. Yearling Rd., Peoria, AZ 85383

SECTION 14 Business Financials

1. I am the: ☐ Lessee ☐ Sub-lessee ☒ Owner ☐ Purchaser ☐ Management Company

2. If the premise is leased give lessors:

Name: _____

Address: _____
Street City State Zip

3. Monthly Rent/ Lease Rate: \$ _____

4. What is the remaining length of the lease? Yrs. _____ Months _____

5. What is the penalty if the lease is not fulfilled? \$ _____ or Other: _____
(Give details-attach additional sheet if necessary)

6. Total money borrowed for the Business not including lease? \$ 0 - this is a publicly traded corporation.
Please List Lenders/People you owe money to for business.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip

(Attach additional sheet if necessary)

7. What type of business will this license be used for (be specific)?

Grocery store.

8. Has a license or a transfer license for the premises on this application been denied by the state within the past (1) year? ☐ Yes ☒ No If yes, attach explanation.

9. Does any spirituous liquor manufacture, wholesaler, or employee have an interest in your business? ☐ Yes ☒ No

10. Is the premises currently licensed with a liquor license? ☐ Yes ☒ No

If yes, give license number and licensee's name:

License #: _____ Individual Owner / Agent Name: _____
(Exactly as it appears on license)

SECTION 15 Restaurant or hotel/motel license applicants

1. Is there an existing Restaurant or Hotel/Motel Liquor License at the proposed location? ☐ Yes ☐ No
2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.
3. All Restaurant and Hotel/Motel applicants must complete a Restaurant Operation Plan form provided by the Department of Liquor Licenses and Control.
4. As stated in A.R.S. § 4-205.02. (H)(2), a Restaurant is an establishment which derives at least forty (40) percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from sales of food and spirituous liquor on the licensed premises. By applying for this ☐ Restaurant ☐ Hotel/Motel, I certify that I understand that I must maintain a minimum of forty (40) percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit form with this application.

(Applicant's Signature)

5. I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing; specify why the extension is necessary; and the new inspection date you are requesting.

(Applicant's Initials)

SECTION 16 Diagram of Premises

Check ALL boxes that apply to your business:

- | | | |
|---|--|--|
| ☒ Entrances/Exits | ☒ Liquor storage areas | Patio: ☐ Contiguous |
| ☐ Walk-up windows | ☐ Drive-through windows | ☐ Non Contiguous |

1. Is your licensed premises currently closed due to construction, renovation or redesign? ☒ Yes ☐ No
If yes, what is your estimated completion date? 10/2016

Month/Day/Year

2. Restaurants and Hotel/Motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Place for diagram is on section 16 number 6.
3. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored on the premises unless it is a restaurant (see # 3 above).
4. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises such as parking lots, living quarters, etc.
5. As stated in A.R.S. § 4-207.01 (B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to the boundaries, entrances, exits, added or deleted doors, windows, service windows or increase or decrease to the square footage after submitting this initial diagram.

(Applicant's Initials)

SECTION 16 Diagram of Premises – continued

6. On the diagram please show only the areas where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, hi-top tables, dining tables, dining chairs, dance floor, stage, game room, and the kitchen. DO NOT include parking lots, living quarters, etc. When completing diagram, North is up ↑.

If a legible copy of a rendering or drawing of your diagram of the premises is attached to this application, please write the words "DIAGRAM ATTACHED" in the box provided for the diagram on the application.

DIAGRAM OF PREMISES

Please see attached

SECTION 17 SIGNATURE BLOCK

NOTARY

I, (Print Full Name) Lauren Kay Merrett, hereby declare that I am the Owner/Agent filling this application as stated //in Section 4 # 1. I have read this application and verify all statements to be true, correct and complete.

[Redacted Signature]
(Signature of CURRENT Individual Owner/Agent)

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this

My commission expires on:



MARGIE SANTIBANEZ
NOTARY PUBLIC, ARIZONA
MARICOPA COUNTY
My Commission Expires
February 22, 2020

14 of August, 2016
Day Month Year

[Redacted Signature]
Signature of NOTARY PUBLIC

A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 22R.

Date Prepared: 9/19/2016

Council Meeting Date: 10/4/2016

TO: Honorable Mayor and City Council

FROM: Steve Burg, Acting City Attorney

SUBJECT: Code Amendment, Chapter 13, Section 13-107, Home Detention Alternative Program

Purpose:

This is a request for the Mayor and City Council to adopt an Ordinance amending the Home Detention Alternative Program, City Code § 13-107, to eliminate the doubling requirement, clarify that home detention eligibility be contingent upon completion of the mandatory minimum days of jail required by Arizona Revised Statutes, and require any partial numbers of jail days be rounded up to the nearest whole number.

Background/Summary:

The City enacted a Home Detention Alternative Program in 2012. Pursuant to authority granted by State law, home detention is an alternative to traditional jail time where an individual is electronically monitored and serves their time at home pursuant to a restrictive sentencing order. The decision to enact the Program followed two years of study and discussion and was supported by the City Attorney's Office, Municipal Court, and Police Department. The City's Program was based on three important principles: (1) home detention is a sentencing and victim rights issue, so the City Attorney's Office needs to be an active participant in the decision as to whether it is appropriate in individual cases, (2) not all criminal misdemeanors are appropriate for home detention, and (3) it must be designed to ensure that victims and the public are protected.

Recently the impacted departments conducted a review of the Program to determine if it has met its objectives. Our conclusion is that the Program has been a success by all standards. The use of home detention has met the interests of justice and fulfilled the principles identified.

In conducting the Program review, we did identify certain limited situations where the initial City Code provisions in § 13-107 either were silent on or potentially in conflict with application of the Program's principles. As a result, we have drafted an Ordinance to amend 13-107 to address three minor areas of the Program.

While considering the initial home detention ordinance, the City Council was concerned whether allowing defendants to serve home detention instead of being held in a secure jail facility would be counter to public safety interests or would convey a bad value statement. To address these

concerns, the City Council passed the ordinance with a requirement that the minimum number of home detention days required by Arizona Revised Statutes be doubled.

The City has had an opportunity to measure the impact of home detention and the doubling provision on crime enforcement and prevention. For multiple reasons, the City Attorney's Office and the Municipal Court support eliminating the mandatory doubling provision in Section 13-107, and adding the clarifications about jail time. Because many of our DUI defendants do not reside in Peoria, the doubling factor does not serve as much of a Peoria community interest as expected in terms of public safety. The requirements that the Department of Motor Vehicles imposes on offenders has a more direct impact on public safety. The DMV mandates alcohol counseling and installation of ignition interlock, which more directly controls driving habits of offenders, thereby increasing the safety of the community and other users of the roadways.

Peoria is unique in terms of the doubling provision -- conforming Peoria's Home Detention Alternative Program to statute would bring Peoria in line with the computation used by all other Arizona cities. Also, removing the "doubling factor" would allow the court to better meet the due process legal requirements that the sentence imposed be proportionate to the facts of each case. Currently, due to perception that there is already an increased penalty in Peoria due to the doubling of home detention, there is little deviation from the mandatory minimums as required by Arizona Revised Statutes and the City's Program. Removing the mandatory doubling factor means that, case by case, the prosecutors may recommend jail and home detention terms that better correlate to specific Blood Alcohol readings and the driving violations that actually occurred.

Recent statements from the Arizona Supreme Court's Fair Justice Task Force require courts to avoid excessive financial penalties or risk of incarceration for nonpayment. Home detention over doubled, extended periods is expensive. Defendants must pay the per diem up front, which not only postpones when the home detention is served as defendants attempt to save or raise the money up front, it also delays payment of fines and reimbursement of court costs such as court-appointed attorney expenses. Providers charge approximately \$20 a day, so a typical detention can cost hundreds of dollars; some cost defendants thousands of dollars.

In addition to the deletion of the doubling requirement, the proposed amendments clarify that any imprisonment time must be served in the custody of jail authorities before defendants may serve home detention. Peoria does not have a jail of its own, so the imprisonment time required by Arizona Revised Statutes must be served in another jurisdiction's jail. Typically, this is the Maricopa County jail. The clarification makes it clear that time such as the time defendants spend detained or under arrest, whether on scene or while being processed for the offense at the police department, does not count as "imprisonment time". Only time spent in the custody of "jail authorities" counts as imprisonment time. This is in conformity with the statutes and case law in Arizona.

Finally, the amendments require that, in calculating the number of jail days required by Arizona Revised Statutes, any fractions or partial numbers be rounded up instead of down. This eliminates any confusion or disparity as to how to treat any partial numbers, and better serves the City's interest in public safety.

Previous Actions:

No action has occurred previously on this request.

Options:

A: Adopt Ordinance No. 2016-__ amending City Code § 13-107.

B: Direct staff to make such changes as the Mayor and City Council determines to be appropriate.

C: Take no action on the proposed amendments.

Staff Recommendation:

Discussion and possible action to adopt **ORD. 2016-30**, amending Chapter 13 of the Peoria City Code (1992 Edition), by amending Section 13-107 pertaining to the Home Detention Alternative Program, clarifying how jail time should be imposed and served, and by requiring at least the statutory minimum number of home detention days be imposed while allowing discretionary increases by the prosecutors or judges.

Fiscal Analysis:

The City does not collect any funds for home detention.

ATTACHMENTS:

Ordinance 2016 amending City Code Section 13-107

ORDINANCE NO. 2016-30

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 13 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 13-107 PERTAINING TO HOME DETENTION ALTERNATIVE PROGRAM; POWERS AND DUTIES; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 13 of the Peoria City Code (1992) is amended by amending Section 13-107 pertaining to Home Detention Alternative Program; powers and duties and which shall read as follows:

Sec. 13-107. Home Detention Alternative Program; powers and duties.

(a) The HDAP shall allow the sentencing judge to impose a period of home detention that will be at least ~~two times~~ the number of days required by statute for institutionalized incarceration, not including those days which are suspended by the Court.

(b) The Court shall order that persons participating in the HDAP be subject to all of the following:

(1) Electronic monitoring or any form of geographic monitoring that will advise the Court or its designee of the location of the person participating in HDAP at all times.

(2) If the person is employed within Maricopa County or the City of Peoria or attending a licensed or accredited educational institution in Maricopa County and located within 35 miles of the City of Peoria, the Court may designate work hours during which electronic or geographic monitoring is not required and the person may be outside of their home. The person participating in HDAP must provide written proof of their work and/or school hours to the Court of its designee.

(3) Being tested for the use of alcohol or drugs at such frequencies, not less than weekly, as determined by the Court, and participation in an alcohol or drug treatment program approved by the Court.

(4) Restrictions on association with individuals that the Court has determined to be detrimental to the person's successful completion of the HDAP.

(5) Compliance with all other conditions in the initial release order issued by the Court.

(6) Compliance with any other provision that the Court may impose pursuant to A.R.S. §9-499.07.

(7) Completion of at least the statutory minimum number of days of imprisonment as established by Arizona Revised Statutes in the custody of jail authorities. In calculating the statutory minimum number of days of imprisonment to be served, any partial numbers shall be rounded up to the nearest whole number.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 4th day of October, 2016.

Cathy Carlat, Mayor

Dated:

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen J. Burg, Acting City Attorney

Published in Peoria Times
Publication Dates: October 14, 2016
Effective Date:

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 23.

Date Prepared: 8/23/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Susan J. Daluddung, AICP, Deputy City Manager
FROM: Rhonda Geriminsky, (623) 773-7340
SUBJECT: Council Calendar

Purpose:

To provide the Mayor and City Council with the City Council Calendar for October and November.

ATTACHMENTS:

October 2016
November 2016

Contact Name and Number:

Rhonda Geriminsky, (623) 773-7340



City Council Calendar

Color Key:
City Council

< September	October 2016					November >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	<u>4</u> City Council Meetings	5	6	7	8
9	10	<u>11</u> Council Boards and Commissions Subcommittee	12	13	14	15
16	17	<u>18</u> City Council Meetings	19	20	21	22
23	24	25	26	27	28	29
30	31					



City Council Calendar

Color Key:
City Council

< October	November 2016					December >
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		<u>1</u> City Council Meeting	2	3	4	5
6	7	8	9	10	11	12
13	14	<u>15</u> Council Boards and Commissions Subcommittee	16	17	18	19
20	21	<u>22</u> City Council Meeting	23	24	25	26
27	28	29	30			

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 24.A.

Date Prepared: 9/12/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Jeff Tyne, Deputy City Manager
FROM: Roy W. Minter, Jr., Chief of Police and John W. Imig, IT Director/CTO
SUBJECT: Employee Awards from the Arizona Chapter of Association of Public-Safety Communications Officials and National Emergency Number Association

Background/Summary:

The Arizona Chapter of Association of Public-Safety Communications Officials (APCO) and National Emergency Number Association (NENA) is a joint chapter representing Arizona's emergency response professionals. The chapter encourages the development and enhancement of a universal emergency telephone number through planning, training and education enabling all citizens to have immediate access to emergency public safety services.

Each year the organization recognizes top professionals nominated by peers across the state in categories as follows: Telecommunicator of the Year, Supervisor of the Year, Director/Manager of the Year and Technician of the Year. Three Peoria employees received awards at the annual training conference on September 7, 2016. Congratulations and thank you for your commitment and dedication to the citizens of Peoria.

Telecommunicator of the Year:
Fabiola Johnson / Peoria Police Department

Communications Supervisor of the Year:
Mike Folia / Peoria Police Department

Technician of the Year:
Dave Collett / City of Peoria Information Technology

Contact Name and Number:

Roy W. Minter, Jr., Chief of Police, 623-773-7059
John W. Imig, IT Director/CTO, 623-773-7253

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

Agenda Item: 24.C.

Date Prepared: 9/26/2016

Council Meeting Date: 10/4/2016

TO: Carl Swenson, City Manager
THROUGH: Jeff Tyne, Deputy City Manager
FROM: Bobby Ruiz, Fire Chief
SUBJECT: Fire Prevention Week

Background/Summary:

October has nationally become known as Fire Prevention Month, due in part to the fact that young elementary school children are taught about fire and life safety during this time of the year. Businesses in the community also use October as a time to emphasize their focus on safety in the community.

The Peoria Fire-Medical Department is an extremely active participant in Fire Prevention Month. Events include such things as neighborhood smoke detector walks, visits to senior living facilities, training citizens in CPR, visits to businesses who are promoting fire safety, and many school visits to emphasize home safety and escape plans. In addition to these events, Peoria Fire-Medical Department will partner with the Peoria Police Department to put on Public Safety Night, also known as G.A.I.N. (Getting Arizona Involved in Neighborhoods). Fire Prevention month will end with an open house at each fire station on October 29th from 9:00 a.m. to 12:00 p.m.

Contact Name and Number:

Bobby Ruiz, (623) 773-7380