MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING
NOTICE AND AGENDA
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, December 4, 2018, at or after 7:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
John Officer, Council Member
Roxanne Ziegler, Council Member

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Marana Town Council and to the general public that the Town Council will hold a meeting open to the public on December 4, 2018, at or after 7:00 PM located in the Council Chambers of the Marana Municipal Complex, 11555 W. Civic Center Drive, Marana, Arizona.

ACTION MAY BE TAKEN BY THE COUNCIL ON ANY ITEM LISTED ON THIS AGENDA. Revisions to the agenda can occur up to 24 hours prior to the meeting. Revised agenda items appear in *italics*.

As a courtesy to others, please turn off or put in silent mode all electronic devices.

Meeting Times

Welcome to this Marana Town Council meeting. Regular Council meetings are usually held the first and third Tuesday of each month at 7:00 PM at the Marana Municipal Complex, although the date or time may change and additional meetings may be called at other times and/or places. Contact the Town Clerk or watch for posted agendas for other meetings. This agenda may be revised up to 24 hours prior to the meeting. In such a case a new agenda will be posted in place of this agenda.

Speaking at Meetings

If you are interested in speaking to the Council during the Call to the Public or Public Hearings, you must fill out a speaker card (located in the lobby outside the Council Chambers) and deliver it to the Town Clerk prior to the convening of the meeting.

All persons attending the Council meeting, whether speaking to the Council or not, are expected to observe the Council rules, as well as the rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly will be removed from the meeting and will not be allowed to return.

Accessibility
To better serve the citizens of Marana and others attending our meetings, the Council Chambers are wheelchair and handicapped accessible. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Town Clerk at (520) 382-1999. Requests should be made as early as possible to arrange the accommodation.

Agendas
Copies of the agenda are available the day of the meeting in the lobby outside the Council Chambers or online at www.maranaaz.gov under Agendas and Minutes. For questions about the Council meetings, special services or procedures, please contact the Town Clerk, at (520) 382-1999, Monday through Friday from 8:00 AM to 5:00 PM.

This Notice and Agenda Posted no later than 24 hours prior to the meeting, at the Marana Municipal Complex, 11555 W. Civic Center Drive, the Marana Operations Center, 5100 W. Ina Road, and at www.maranaaz.gov under Agendas and Minutes.

REGULAR COUNCIL MEETING

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE/INVOCATION/MOMENT OF SILENCE

APPROVAL OF AGENDA

CALL TO THE PUBLIC
At this time any member of the public is allowed to address the Town Council on any issue within the jurisdiction of the Town Council, except for items scheduled for a Public Hearing at this meeting. The speaker may have up to three minutes to speak. Any persons wishing to address the Council must complete a speaker card located outside the Council Chambers and deliver it to the Town Clerk prior to the commencement of the meeting. Individuals addressing a meeting at the Call to the Public will not be provided with electronic technology capabilities beyond the existing voice amplification and recording capabilities in the facilities. Pursuant to the Arizona Open Meeting Law, at the conclusion of Call to the Public, individual members of the Council may respond to criticism made by those who have addressed the Council, and may ask staff to review the matter, or may ask that the matter be placed on a future agenda.

PROCLAMATIONS

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

PRESENTATIONS

P1 Presentation: Relating to Parks and Recreation; update regarding the El Rio Preserve project, including discussion of potential phasing of the project and possible funding methods (Jim Conroy)

CONSENT AGENDA

The Consent Agenda contains items requiring action by the Council which are generally routine items not requiring Council discussion. A single motion and affirmative vote will approve all items on the Consent Agenda, including any resolutions or ordinances. Prior to a motion to approve the Consent Agenda, any Council member may remove any item from the Consent Agenda and that item will be discussed and voted upon separately.

C1 Resolution No. 2018-105: Relating to Municipal Court; approving the appointment of Dixie Debonis as a civil traffic violation hearing officer for the Marana Municipal Court (Laine Sklar)

C2 Resolution No. 2018-106: Relating to Municipal Court; approving the reappointment of Kimberly Epling as a civil traffic violation hearing officer for the Marana Municipal Court (Laine Sklar)

C3 Resolution No. 2018-107: Relating to Facilities; approving and authorizing the Town Manager to administer the amended Town of Marana Meeting Facilities Usage Policy (Jane Fairall)

C4 Resolution No. 2018-108: Relating to Public Works; approving and authorizing the Mayor to sign a public improvement participation agreement with the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints for the construction of Church driveway improvements as part of the Coachline Boulevard Reconstruction project (Frank Cassidy)

C5 Resolution No. 2018-109: Relating to Parks and Recreation; authorizing the Town Manager to exercise the Town's right to terminate the Lease Agreement with Saint Christopher Roman Catholic Parish—Marana for the construction and maintenance of a pocket park in Honea Heights; and directing staff to locate the Honea Heights pocket park on Town-owned property in Honea Heights, if feasible (Frank Cassidy)

C6 Resolution No. 2018-110: Relating to Development; approving and authorizing the Mayor to sign the First Amendment to Development Agreement Regarding Parks and Recreation Development Impact Fee Credits for the Saguaro Bloom Development Project (Frank Cassidy)

C7 Resolution No. 2018-111: Relating to Administration; approving the transfer of up to $265,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2018-2019 budget to a newly assigned project code in the General Fund for the purchase of real property (portions of Assessor's Parcel Numbers 217-34-002M and -002N) and related costs (Yiannis Kalaitzidis)

C8 Ordinance No. 2018.022: Relating to Utilities; amending Marana Town Code Title 14 (Utilities), Chapter 14-4 (construction and financing of utility facilities) to modify section 14-4-3 (capacity requirements) and to add new sections 14-4-4 (refund of cost of facilities funded and installed by the town) and 14-4-5 (notice of protected facility and associated charge), establishing protected facilities provisions for privately-constructed and town-constructed water and wastewater facilities; and designating an effective date (Frank Cassidy)

C9 Approval of the November 13, 2018 Special Council Meeting Minutes for the Council Oath of Office and approval of the November 13, 2018 Special Council Meeting Minutes (Hilary H. Hiser)

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a Location/Owner Transfer series #7 Beer and Wine Bar liquor license application submitted by Jeffrey Craig Miller on behalf of Fry's Marketplace #689, located at 12100 N. Thornydale Road, Marana, Arizona 85742 (Hilary H. Hiser)

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 Resolution No. 2018-112: Relating to Parks and Recreation; approving and authorizing the Mayor to sign a Real Property Acquisition Agreement with Marana Unified School District for the purchase of land needed for parking and associated purposes near the El Rio Preserve project (Frank Cassidy)

A2 Resolution No. 2018-113: Relating to Personnel; approving an additional paid holiday on December 31, 2018 for eligible Town of Marana employees (Curry C. Hale)

ITEMS FOR DISCUSSION / POSSIBLE ACTION

D1 Relating to Legislation and Government Actions; discussion and possible action regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of the other governmental bodies (Jamsheed Mehta)

EXECUTIVE SESSIONS

Pursuant to A.R.S. § 38-431.03, the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

E1 Executive Session pursuant to A.R.S. §38-431.03 (A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

FUTURE AGENDA ITEMS

Notwithstanding the mayor's discretion regarding the items to be placed on the agenda, if three or more Council members request that an item be placed on the agenda, it must be placed on the agenda for the second regular Town Council meeting after the date of the request, pursuant to Marana Town Code Section 2-4-2(B).

ADJOURNMENT

Council-Regular Meeting **P1**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Jim Conroy, Parks & Recreation Director

Date: December 4, 2018

Strategic Plan Focus Area:
Commerce, Community, Heritage, Recreation

Strategic Plan Focus Area Additional Info:
Commerce Principle Statement 2: Seek to retain diverse industries and commerce. #13 Invest Town resources to ensure travel ways, public spaces, park, public facilities and other community spaces are clean, maintained, and showcase Marana's high standard of excellence. #15 Ensure capital improvement projects advance the community's economic development goals and adhere to aesthetic standards. This project is designed to create a space that is easily maintained to prevent trash, mosquitoes, and flooding. Open space increases nearby home values and attracts wildlife-watcher tourism, which is of significant value in AZ.

Recreation Principle Statement 1: Promote healthy and active lifestyles through dynamic programming, community partnerships, and high-quality recreational amenities for residents and visitors. #4 Continue creating path, greenway, and trail linkages to parks, recreation facilities, schools, commercial development and other public infrastructure.

Principle Statement 3 Capitalize on the uniqueness and value of the Sonoran Desert in our recreation programming, community planning and tourism attraction efforts. #1 Use recreation facilities and programming as opportunities to highlight the unique Sonoran Desert. #3. Develop partnerships with Univ. AZ, Desert Museum to enhance programming and amenities (and Tucson Audubon Society). Birding outings and promotion of the site through Univ. of AZ and Audubon Society.

Heritage Principle Statement 1: Seek to preserve the unique history and culture of Marana for generations to come. #1 Create a comprehensive preservation policy focusing on the discovery, classification, and maintenance of historically or culturally significant artifacts, sites and stories. El Rio Preserve contains culturally significant artifacts, as part of Los Morteros.

Subject: Presentation: Relating to Parks and Recreation; update regarding the El Rio Preserve project, including discussion of potential phasing of the project and possible funding methods (Jim Conroy)

Discussion:

El Rio Open Space was designated by Council as a Town Preserve, subject to Parks and Recreation regulations through Ordinance No. 2015.007. Council then allocated funding to create a landscape plan for the preserve that creates opportunities for hiking and bird-watching, with native landscaping that improves wildlife habitat. The 104-acre site is located along the west bank of the Santa Cruz River, north of Coachline Blvd.

A conceptual design project was first presented to Council in 2016, as a means to create a community amenity and to make maintenance easier by reducing flooding, mosquitoes, and trash accumulation on the site. Tonight's presentation is an update on the progress of the project as well as describe its relationship and fit with other uses in the larger geographic area. Additionally, staff will provide some information on the social and economic value of riparian restoration, potential phasing of the project, and discussion of some possible funding methods to consider.

While no specific action or approval is sought this evening, staff will incorporate feedback and direction received regarding the potential phasing of this project in the preparation of the Town's fiscal year 2019-2020 Capital Improvement Program.

Staff Recommendation:

Presentation only.

Suggested Motion:

Presentation only.

Attachments

No file(s) attached.

Council-Regular Meeting **C1**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Laine Sklar, Town Magistrate

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2018-105: Relating to Municipal Court; approving the appointment of Dixie Debonis as a civil traffic violation hearing officer for the Marana Municipal Court (Laine Sklar)

Discussion:

A.R.S. Section 28-1553 and Marana Town Code Section 5-2-3 provide that the Town Magistrate, with the approval of the Town Council, may appoint one or more hearing officers to preside over civil traffic violation cases. For a number of years, in the interests of efficiency and timely customer service, a civil traffic violation hearing officer has been appointed to assist with signing minute entries pertaining to civil traffic cases, as well as signing orders amending civil traffic cases, when the judge is unavailable. A single civil traffic violation hearing officer was appointed in June 2017. Due to workload, the court and its users would benefit from the appointment of a second civil traffic violation hearing officer.

Dixie Debonis has worked in the Marana Municipal Court since 2013 and has proven to be detail-oriented, efficient, and reliable. Ms. Debonis works as the Court Operations Specialist and among other duties, she manages civil traffic cases that have been sent to collections due to nonpayment. Ms. Debonis has attended the Arizona Supreme Court's Civil Traffic Hearing Officer training program and is qualified to serve as a civil traffic violation hearing officer. Town Magistrate Laine Sklar recommends appointing Dixie Debonis to serve as a civil traffic violation hearing officer for the Marana Municipal Court.

Staff Recommendation:

Staff recommends approving the appointment of Dixie Debonis as a civil traffic violation hearing officer.

Suggested Motion:

I move to adopt Resolution No. 2018-105, approving the appointment of Dixie Debonis as a civil traffic violation hearing officer for the Marana Municipal Court.

Attachments

Resolution 2018-105 Appointment of D. Debonis as Civil Traffic Hearing Officer

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MARANA RESOLUTION NO. 2018-105

RELATING TO MUNICIPAL COURT; APPROVING THE APPOINTMENT OF DIXIE DEBONIS AS A CIVIL TRAFFIC VIOLATION HEARING OFFICER FOR THE MARANA MUNICIPAL COURT

WHEREAS Section 5-2-3 of the Town Code provides that the Town Magistrate, with the approval of the Town Council, may appoint one or more hearing officers to preside over civil traffic violation cases; and

WHEREAS the court and its users would benefit from the appointment of an additional civil traffic hearing officer; and

WHEREAS the Town Magistrate wishes to appoint Dixie Debonis to serve as a civil traffic violation hearing officer on as-needed basis; and

WHEREAS the Town Council finds that Dixie Debonis possesses the requisite skill and character to perform as a civil traffic violation hearing officer.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, AS FOLLOWS:

SECTION 1. The Town Council hereby approves the appointment of Dixie Debonis to serve as a civil traffic violation hearing officer on an as-needed basis, with a term effective immediately and expiring on September 30, 2019.

SECTION 2. The Town Council further directs that the hearing officer, Dixie Debonis, who is a regular employee of the Town, shall receive no additional compensation as hearing officer other than her regular pay and benefits as an employee of the Town.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 4th day of December, 2018.

Mayor Ed Honea

ATTEST:

Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Council-Regular Meeting **C2**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Laine Sklar, Town Magistrate

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2018-106: Relating to Municipal Court; approving the reappointment of Kimberly Epling as a civil traffic violation hearing officer for the Marana Municipal Court (Laine Sklar)

Discussion:

A.R.S. Section 28-1553 and Marana Town Code Section 5-2-3 provide that the Town Magistrate, with the approval of the Town Council, may appoint one or more hearing officers to preside over civil traffic violation cases. For a number of years, in the interests of efficiency and timely customer service, a civil traffic violation hearing officer has been appointed to assist with signing minute entries pertaining to civil traffic cases, as well as signing orders amending civil traffic cases, when the judge is unavailable. Kimberly Epling was appointed as a civil traffic violation hearing officer in June 2017. Her term has since expired.

Ms. Epling has worked as a court clerk in the Marana Municipal Court since 2012 and has proven to be detail-oriented, efficient, and reliable. Ms. Epling's primary responsibilities as a court clerk involve working on civil traffic violation cases. Ms. Epling has attended the Arizona Supreme Court's Civil Traffic Hearing Officer training program and is qualified to serve as a civil traffic violation hearing officer. She has served the court well during her previous term as a Civil Traffic Violation Hearing Officer. Town Magistrate Laine Sklar recommends reappointing Kimberly Epling to serve as a civil traffic violation hearing officer for the Marana Municipal Court.

Staff Recommendation:

Staff recommends approving the reappointment of Kimberly Epling as a civil traffic violation hearing officer.

Suggested Motion:

I move to adopt Resolution No. 2018-106, approving the reappointment of Kimberly Epling as a civil traffic violation hearing officer for the Marana Municipal Court.

Attachments

Resolution 2018-106 Reappointment of K. Epling as Civil Traffic Hearing Officer

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MARANA RESOLUTION NO. 2018-106

RELATING TO MUNICIPAL COURT; APPROVING THE REAPPOINTMENT OF KIMBERLY EPLING AS A CIVIL TRAFFIC VIOLATION HEARING OFFICER FOR THE MARANA MUNICIPAL COURT

WHEREAS Section 5-2-3 of the Town Code provides that the Town Magistrate, with the approval of the Town Council, may appoint one or more hearing officers to preside over civil traffic violation cases; and

WHEREAS Kimberly Epling was appointed as a civil traffic violation hearing officer on June 6, 2017, and her term has now expired; and

WHEREAS the Town Magistrate wishes to reappoint Kimberly Epling to serve as a civil traffic violation hearing officer on as-needed basis; and

WHEREAS the Town Council finds that Kimberly Epling possesses the requisite skill and character to perform as a civil traffic violation hearing officer.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, AS FOLLOWS:

SECTION 1. The Town Council hereby approves the reappointment of Kimberly Epling to serve as a civil traffic violation hearing officer on an as-needed basis, with a term effective immediately and expiring on September 30, 2019.

SECTION 2. The Town Council further directs that the hearing officer, Kimberly Epling, who is a regular employee of the Town, shall receive no additional compensation as hearing officer other than her regular pay and benefits as an employee of the Town.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 4th day of December, 2018.

Mayor Ed Honea

ATTEST:

Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Council-Regular Meeting **C3**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Jane Fairall, Deputy Town Attorney

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2018-107: Relating to Facilities; approving and authorizing the Town Manager to administer the amended Town of Marana Meeting Facilities Usage Policy (Jane Fairall)

Discussion:

In September 2005, the Town Council adopted a Meeting Facilities Usage Policy for the Marana Municipal Complex (MMC) and the Marana Operations Center (MOC). In May 2011, the Council adopted an amended policy. The amended policy added the MOC Community Room as a facility available for use, and limited the number of approved uses and users of the facilities. Approved uses/users include only:

- Town of Marana meetings. Examples include Town Council meetings, Town Commission meetings, meetings between developers and members of the public as a part of a Town project or process and neighborhood meetings.
- Federal, state, county, local or tribal government agency meetings.
- School district meetings. However, Town Facilities are not available for ongoing classes as part of a school's regular curriculum.
- Town of Marana employee group or association meetings.
- Educational, cultural, and community-related (non-political) group meetings or events. Examples include the Marana Chamber of Commerce, Marana Heritage Conservancy, AGTS and homeowners' associations.

The proposed amended policy on tonight's agenda adds the new Marana Police Department (MPD) Community Room as a facility available for use for the approved uses and users, subject to the same rules as applied to other MMC facilities and the MOC. The new MPD Community Room was designed to allow such uses without compromising the security of the PD facility.

Staff Recommendation:
Staff recommends approval of the amended facilities usage policy.

Suggested Motion:
I move to adopt Resolution No. 2018-107, approving and authorizing the Town Manager to administer the amended Town of Marana Meeting Facilities Usage Policy.

Attachments

Resolution 2018-107 Amended Facility Usage Policy
Exhibt A - Amended Facility Usage Poilcy

MARANA RESOLUTION NO. 2018-107

RELATING TO FACILITIES; APPROVING AND AUTHORIZING THE TOWN MANAGER TO ADMINISTER THE AMENDED TOWN OF MARANA MEETING FACILITIES USAGE POLICY

WHEREAS, on May 18, 2011, via Resolution No. 2011-47 the Town Council approved an amended Town Meeting Facilities Usage Policy; and

WHEREAS, the Mayor and Council of the Town of Marana feel it is in the best interests of the public to amend this policy.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the amended Town of Marana Meeting Facilities Usage Policy attached to and incorporated by this reference in this resolution as Exhibit A is hereby approved.

IT IS FURTHER RESOLVED that the Town's manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, and objectives of the aforementioned Town of Marana Meeting Facilities Usage Policy.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 4th day of December, 2018.

Mayor Ed Honea

ATTEST:

Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

TOWN OF MARANA MEETING FACILITIES USAGE POLICY

A. *Purpose*. This usage policy is intended to provide guidelines and set procedures for use and reservation of available Town meeting facilities at the Marana Municipal Complex, 11555 West Civic Center Drive (the "MMC") and the Marana Operations Center, 5100 West Ina Road (the "MOC"). The MMC and MOC meeting facilities addressed in this policy are collectively referred to as the "Facilities".

B. *Facilities Available.* The following Facilities are available for use pursuant to this policy:

- MMC Council Chambers[1]
- MMC Conference Center
- MMC Atrium
- MMC Marana Police Department (MPD) Community Room
- MOC Community Room

The approximate seating capacity in each of the Facilities is as follows:

Marana Municipal Complex

- Council Chambers – 172
- Conference Center – 100 (capacity varies based on room arrangement; lower capacity when tables are used; may be divided into three rooms depending on the size of the group requesting its use.)
- Atrium – 73
- MPD Community Room - 97 (capacity varies based on room arrangement; lower capacity when tables are used.)

Marana Operations Center

- Community Room – 67

An entity may request the use of a specific available Facility; however, **the Town of Marana reserves the right, in its sole discretion, to determine which available Facility will be assigned to a requestor**.

C. *Allowed Groups/Uses.* The MMC and MOC are primarily intended and designed for Town of Marana government business and municipal office purposes. Therefore, the Facilities are not available for religious services, for political organizations or events or to private businesses. Additionally, the Facilities may not be used for commercial or fundraising activities. However, the Facilities are available for the following uses:

- Town of Marana meetings. Examples include Town Council meetings, Town Commission meetings, meetings between developers and members of the public as a part of a Town project or process and neighborhood meetings.

[1] As a general policy, the Council Chambers will not be made available if another Facility will accommodate the group requesting its use.

- Federal, state, county, local or tribal government agency meetings.
- School district meetings. However, Town Facilities are not available for ongoing classes as part of a school's regular curriculum.
- Town of Marana employee group or association meetings.
- Educational, cultural, and community-related (non-political) group meetings or events. Examples include the Marana Chamber of Commerce, Marana Heritage Conservancy, AGTS and homeowners' associations.

D. ***Priority for Use of Facilities (in the following order).***

1. Town Council meetings*
2. Town Board and Commission meetings*
3. Town staff and Town sponsored or hosted meetings*
4. Town co-sponsored meetings*
5. Federal, state, county, local tribal government agency and school district meetings
6. Town employee groups or association meetings
7. Educational, cultural, and community-related group meetings or events

*These categories are collectively referred to in this Policy as "**Town-Managed Meetings**".

E. ***Facility Availability.*** Facilities at the MMC are available for use from 7:00 AM to 9:00 PM, Monday through Friday, excluding Town-recognized holidays[2]. Meetings shall conclude by 8:30 PM, and the Facility shall be vacated no later than 9:00 PM. Facilities at the MOC are available for use from 7:00 AM to 5:00 PM, Monday through Friday, excluding Town-recognized holidays. Meetings shall conclude by 4:30 PM, and the Facility shall be vacated no later than 5:00 PM. Town-Managed Meetings and meetings of Town employee groups or associations are exempt from the requirements of this paragraph.

F. ***Facility Priority.*** Town-Managed Meetings shall be given preference at all times in scheduling use of the Facilities. Other meetings will be scheduled on a first-come, first-served basis. **Because of high demand for the Facilities for Town-Managed Meetings, availability of the Facilities during Regular Business Hours is extremely limited and subject to change.** If an unforeseen circumstance requires the use of any Facilities to be needed for Town-Managed Meetings, a group or agency may be required to reschedule or relocate their meeting.

G. ***Scheduling.*** The MMC first floor customer service representative shall be responsible for scheduling the Facilities located in the MMC, except for the MPD Community Room. The MPD customer service clerk shall be responsible for scheduling the MPD Community Room. The MOC receptionist shall be responsible for scheduling the Facilities located in the MOC. The person responsible for each of the Facilities shall maintain a calendar of scheduled uses including

[2] Town-recognized holidays are New Years Day (January 1), Martin Luther King, Jr./Civil Rights Day (third Monday in January), Washington's/Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veteran's Day (November 11 or when observed), Thanksgiving Day (fourth Thursday in November), Day after Thanksgiving (fourth Friday in November), Christmas Eve (December 24), and Christmas Day (December 25)

the purpose of the meeting, the size of the group, time and date of meeting, any special setup, and the person responsible for the meeting.

1. Town-Managed Meetings shall be scheduled as follows:

- Town staff shall reserve the Facilities and receive confirmation of reservation by utilizing a calendaring system maintained by the MMC first floor customer service representative, the MPD customer service clerk, or the MOC receptionist, as applicable.

- Town staff shall schedule technical assistance through the Technology Services Help Desk.

2. All other groups/meetings shall be scheduled as follows:

- Contact the MMC first floor customer service representative at (520) 382-1999 for availability and scheduling of the Facilities in the MMC, other than the MPD Community Room; contact the MPD customer service clerk at (520) 382-2053 for availability and scheduling of the MPD Community Room; or contact the MOC receptionist at (520) 382-2500 for availability and scheduling of the Facilities in the MOC.

- Organizations or groups wanting to schedule use of the Facilities must schedule at least seven working days prior to the event or meeting unless this requirement is waived by the Town Manager's Office, or by the Chief of Police for the MPD Community Room.

- A Facilities permit application and use agreement must be completed and include the necessary information. Tentative reservations can be taken over the telephone; however, the permit application and use agreement must be submitted to the MMC first floor customer service representative (for MMC Facilities other than the MPD Community Room)), the MPD customer service clerk (for the MPD Community Room), or the MOC receptionist (for MOC Facilities) no later than five days after the tentative reservation has been made. If the agreement is not received, the tentative reservation will be cancelled.

- The Facilities permit application and use agreement will be forwarded to the Town Manager's Officer (for MMC or MOC Facilities) or to the Chief of Police (for the MPD Community Room) for approval or disapproval and for the imposition of any additional conditions, such as a security deposit or insurance requirements.

- Depending upon the nature of the event, the number of participants and the organization's past use of the Facilities, an organization may be required to provide a security deposit and/or a certificate of insurance naming the Town of Marana as an additional insured.

- The person scheduling and signing the permit application and use agreement must be at least 18 years of age.

- Meetings may be scheduled up to three months in advance; however, if an unforeseen circumstance requires the use of any Facilities to be needed for Town-Managed Meetings, a group or agency may be required to reschedule or relocate their meeting.

- Groups utilizing any of the Facilities must comply with the provisions in Title IIA of the Americans with Disabilities Act.

- Groups or organizations desiring to reserve Facilities on an on-going or regular basis are encouraged to request approval by the Town Council of a formal written meeting facility use agreement, containing such terms and provisions as the Town Council determines appropriate based on the nature, extent, duration and purpose of the use.

H. ***Visitor Parking and Entrance.*** Parking is available at the parking lots north and east of the MMC. Access to the Council Chambers and the Atrium is through the front entrance of the MMC. The Conference Center is accessed either through the front entrance of the MMC (during regular business hours) or via the elevator or outside staircase (after regular business hours). The MPD Community Room is accessed through the front entrance of the Police Department Building. For the MOC, parking is available south and west of the main MOC entrance.

I. ***Rules of Conduct.*** The following rules apply to all meetings in the Facilities (rules marked with an asterisk [*] do not apply to Town-Managed Meetings):

- Any group using the Facilities shall not discriminate on the basis of race, color, national origin, sex, religion, age or disability.

- Any group using the Facilities shall conduct their meetings and themselves in a professional and courteous manner.

- All activities must be under adult supervision, eighteen years of age or older.

- The responsible party must restore the Facilities to their original condition. No custodial services are provided with the use of the Facilities. The user will be responsible for cleaning up the room and removing any trash.

- The Town will not be responsible for any furniture or equipment brought by the user, and such equipment must be removed at the conclusion of the event.

- Town furniture shall not be moved between rooms.*

- The Town will not store equipment, supplies, materials, etc., for organizations using the rooms.*

- The user may post signs or notices upon the premises; however, nothing that may injure, mar, or in any way deface the premises shall be used. Nails, hooks, adhesive fasteners, tacks or screws are prohibited on any part of the building or premises.*

- Open flames are prohibited in the Facilities.

- No animals shall be allowed upon the premises except dogs assisting disabled individuals.

- Smoking is prohibited in Town Facilities.

- The total number of people shall not exceed the posted capacity of any of the meeting rooms.

- The event shall be confined to the reserved area and shall not interfere with the general public or any other ongoing activities within the Facilities.*
- The use of the Town of Marana name is strictly prohibited by any organization or person for any purpose in connection with the use of the meeting rooms for publicity or otherwise except to identify the location of the event. Unapproved use of the Town of Marana name or logo shall be grounds for termination of the use agreement and may be subject to other legal action.*
- The permitted use of the Facilities by a group does not, in any way, constitute an endorsement by the Town of Marana of the user's policies or beliefs.
- Food and beverages are prohibited in the Council Chambers.
- With the exception of the Council Chambers, food and beverages are permitted in the Facilities. The meeting organizer is responsible for providing all food and beverages and any necessary equipment and supplies. No coffee service equipment or supplies are available. Red punch is prohibited. Any damage due to food or beverages will be assessed and billed to the sponsoring department or organization.
- Alcoholic beverages are prohibited.
- The Town Manager and designated Town officials and employees shall have free access to all areas at all times.
- The Facilities used by the applicant will be examined carefully after use. If there is any damage, the Town will make all repairs and bill the applicant. The applicant shall pay for all damages to Town property arising from the use of the Town Facilities where the applicant is deemed responsible. If the applicant causes any damage to Town property, the applicant may be denied future use of the Facilities, may be required to provide a security deposit and/or may be required to provide a certificate of insurance naming the Town of Marana as an additional insured.
- The Town reserves the right to revoke a group or organization's right to use the Facilities at any time, including during an event if there is a danger of injury or damage to person(s) or property.

Council-Regular Meeting **C4**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2018-108: Relating to Public Works; approving and authorizing the Mayor to sign a public improvement participation agreement with the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints for the construction of Church driveway improvements as part of the Coachline Boulevard Reconstruction project (Frank Cassidy)

Discussion:

A contractor has been procured for the Coachline Boulevard Reconstruction project (ST057), which is about to begin in earnest. The Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints owns a four-acre site at the corner of Coachline Boulevard and Idle Wild Drive, adjacent to the Coachline Reconstruction project, where the Church is in the process of designing and constructing a new Marana Stake Center church facility. Driveway improvements for the Marana Stake Center will connect to the Coachline Reconstruction project.

Ove the years, the Town has developed and routinely used a standard form of "public improvement participation agreement," or "PIPA," as a way for owners of property located adjacent to public works construction to utilize the services of the Town's contractor. A PIPA avoids mutual disruption by competing contractors, allows adjacent property owners to benefit from economies of scale and mobilization savings, and offsets the inconvenience of road construction.

This item proposes a PIPA for the construction of the driveway improvements at the new Marana Stake Center church facility. The Town's contractor, Sunland Asphalt & Construction, Inc., has prepared a proposal for the work, which is attached as Exhibit A to the proposed PIPA. The Church has deposited the full amount of the proposal with

the Town, and is obligated under the PIPA to pay any cost overruns associated with the driveway improvements. A copy of the proposed PIPA and its exhibits is included with the backup materials for this agenda item.

Staff Recommendation:

Staff recommends adoption of Resolution 2018-108, approving and authorizing the Mayor to sign a PIPA with the LDS Church for the construction of Church driveway improvements as part of the Coachline Boulevard Reconstruction project.

Suggested Motion:

I move to adopt Resolution 2018-108, approving and authorizing the Mayor to sign a PIPA with the LDS Church for the construction of Church driveway improvements as part of the Coachline Boulevard Reconstruction project.

Attachments

Resolution 2018-108 Coachline LDS Church PIPA

LDS Church Coachline Reconstruction PIPA Signed

MARANA RESOLUTION NO. 2018-108

RELATING TO PUBLIC WORKS; APPROVING AND AUTHORIZING THE MAYOR TO SIGN A PUBLIC IMPROVEMENT PARTICIPATION AGREEMENT WITH THE CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS FOR THE CONSTRUCTION OF CHURCH DRIVEWAY IMPROVEMENTS AS PART OF THE COACHLINE BOULEVARD RECONSTRUCTION PROJECT

WHEREAS the Town has entered into a construction contract with SUNLAND ASPHALT & CONSTRUCTION, INC. for the construction of the Coachline Boulevard Reconstruction project, Town of Marana Project No. ST057 (the "Road Project"); and

WHEREAS the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (the "LDS Church") owns a parcel of land located at the northeast corner of Coachline Boulevard and Idle Wild Drive (the "Subject Property"); and

WHEREAS the LDS Church soon plans to construct a church on the Subject Property, for which the LDS Church need two depressed curb driveways (the "Church Driveways"); and

WHEREAS Town staff has negotiated an agreement with the LDS Church to assure payment of all costs associated with the construction of the Church Driveways as part of the Road Project; and

WHEREAS the Mayor and Council of the Town of Marana feel it is in the best interests of the citizens of Marana to enter into the public improvement participation agreement for the construction of the Church Driveways as part of the Road Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the public improvement participation agreement with the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS for the construction of the Church Driveways as part of the Road Project, a copy of which is found in the agenda materials accompanying this resolution, is hereby approved, and the Mayor is authorized to sign it for and on behalf of the Town of Marana.

IT IS FURTHER RESOLVED that the Town Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, conditions and objectives of the agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 4th day of December, 2018.

_____
Mayor Ed Honea

ATTEST:

_____
Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

PUBLIC IMPROVEMENT PARTICIPATION AGREEMENT
TOWN OF MARANA, ARIZONA

This Public Improvement Participation Agreement (this "Agreement") is made and entered into by and between the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (the "LDS Church"), a Utah corporation sole and the TOWN OF MARANA ("Marana"), an Arizona municipal corporation. The LDS Church and Marana are sometimes collectively referred to in this Agreement as the "Parties," either of which is sometimes referred to as a "Party."

RECITALS

A. Marana has entered into a construction contract with SUNLAND ASPHALT & CONSTRUCTION, INC. ("Sunland") for the Coachline Boulevard Reconstruction project, Town of Marana Project No. ST057 (the "Road Project").

B. The LDS Church own an approximately four-acre parcel of land located at the northeast corner of Coachline Boulevard and Idle Wild Drive, bearing Pima County Assessor's Parcel number 226-07-005T and referred to in this Agreement as the "Subject Property."

C. The LDS Church soon plans to construct a church on the Subject Property, for which the LDS Church need two depressed curb driveways (the "Church Driveways").

D. Construction of the Road Project is currently underway.

E. The Parties believe that the most economical and least disruptive way to accomplish the prompt construction of the Church Driveways is for the Parties to arrange to have it done by Sunland in connection with the construction of the Road Project.

F. Sunland has provided the Parties with a proposed price of $2,573.07 for the construction of the Church Driveways. A true and correct copy of Sunland's proposal is attached to and incorporated in this Agreement as Exhibit A.

G. The purpose of this Agreement is to facilitate Marana's construction of the Church Driveways as part of the Road Project with design and construction funding provided by the LDS Church.

AGREEMENT

NOW, THEREFORE, based on the foregoing recitals, which are incorporated here as the intention of the Parties in entering into this Agreement, the Parties agree as follows:

1. **Depiction of the Church Driveways.** The Church Driveways depiction attached as Exhibit B shows the nature and extent of the work to be done by Sunland pursuant to this Agreement, which Marana and Sunland shall incorporate into the Road Project design.

2. **Grant of right of entry and temporary construction easement.** The LDS Church hereby grants Marana and Sunland a right of entry and temporary construction easement over the Subject

Property, to accommodate construction of those portions of the Church Driveways located on the Subject Property.

3. **The LDS Church's obligation to pay construction costs for the Church Driveways.** The LDS Church shall pay all construction costs associated with the construction of the Church Driveways. Marana and Sunland agree that the construction costs for the construction and installation of the Church Driveways are anticipated to be $2,573.07, as itemized and attached to this Agreement as Exhibit A. Marana and Sunland anticipate that the construction and installation of the Church Driveways will be substantially completed by the date the Road Project is completed.

4. **Cash deposit to secure the LDS Church's obligations under this Agreement.** The LDS Church's obligations under this Agreement, including without limitation the LDS Church's obligations under paragraph 3 above, shall be secured by a cash deposit to Marana in the amount of $2,573.07, referred to in this Agreement as the "Church's Cash Deposit."

5. **Reconciliation and final payment.** No later than 30 days after substantial completion of the Church Driveways, Marana shall provide to the LDS Church an itemized statement of Marana's Church Driveways construction costs and a check or invoice representing the difference between Marana's Church Driveways construction costs and the Church's Cash Deposit. If the Church's Cash Deposit was insufficient to cover LDS Church's obligations under this Agreement, the LDS Church shall pay Marana the balance of the Church Driveways construction costs as set forth in the invoice within 30 days after the itemized statement and invoice are provided to the LDS Church. Any amounts unpaid after 30 days shall accrue simple interest at the rate of 10% per year until paid in full.

6. **Recording.** This Agreement shall not be recorded.

7. **Notices.** All notices shall be in writing and shall be sufficiently given and served upon the other Party by electronic mail, receipt of which has been acknowledged by the other Party, or by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

The LDS Church: CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
Attn: Rocky F. Snider, Project Manager
31500 Grape Street, Suite 3-200
Lake Elsinore, CA 92532-9702

With a copy to: BRUCE CALL, ARCHITECT
4572 E Camp Lowell Dr
Tucson AZ 85712

Marana: TOWN OF MARANA
c/o Marana Legal Department
11555 West Civic Center Drive
Marana, AZ 85653

8. **Governing law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona, and any lawsuit to enforce any provision of this Agreement or to obtain any remedy with respect to this Agreement shall be brought in the Pima County Superior Court, and for this purpose the Parties expressly and irrevocably consent to the jurisdiction of the Pima County Superior Court.

9. **Court costs and reasonable attorneys' fees to prevailing Party in dispute.** If a Party fails to perform any of its obligations under this Agreement, or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and costs determined pursuant to A.R.S. § 12-341.01.

10. **Exhibits.** Any exhibit attached to this Agreement shall be deemed to have been incorporated in this Agreement by reference with the same force and effect as if fully set forth in the body of this Agreement.

11. **Cancellation for conflicts.** This Agreement is subject to A.R.S. § 38-511, which provides for cancellation of contracts in certain instances involving conflicts of interest.

12. **Counterparts.** This Agreement may be executed in any number of counterparts. Each counterpart shall be deemed an original, but all counterparts shall constitute but one agreement.

13. **Effective Date of Agreement.** The date of this Agreement (the "Effective Date") shall for all purposes be the date of the Mayor's signature on this Agreement.

The LDS Church:

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah corporation sole

By: _____
Rocky F. Snider, Authorized Signor

Date: 11-9-18

Marana:

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: _____

ATTEST:

_____
Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

STATE OF ARIZONA)
) ss.
County of Pima)

*Please see C.A notary attachment RH

The foregoing instrument was acknowledged before me this ____ day of November, 2018, by Rocky F. Snider, Authorized Signor for the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, a Utah corporation sole, on its behalf.

(Seal)

Rachel A H.
Notary Public

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Riverside)

On Nov 9 2018 before me, RACHEL A. HERNANDEZ, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared Rocky F. Snider,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

RACHEL A. HERNANDEZ
Commission # 2105880
Notary Public - California
Riverside County
My Comm. Expires Apr 5, 2019

Signature Rachel A Hernandez (Seal)

EXHIBIT A TO LDS CHURCH/MARANA COACHLINE BOULEVARD PIPA

CHANGE ORDER REQUEST NO.: 1

Sunland Asphalt & Construction Inc.
Town of Marana
Coachline Blvd Reconstruction

Attention: Tom Houle

CHANGE ORDER REQUEST SUMMARY

Item No.	Description	QTY	UNIT	UNIT PRICE	TOTAL
CO #1	Coachline / Ida Wild LDS Church Depressed Curb Driveway			$	2,573.07

TOTAL CHANGE ORDER REQUEST AMOUNT **$2,573.07**

COMMENTS:
This change order is in regards to a request from the Town of Marana to install depressed curb for a new entrance to the LDS easement. This price includes saw cutting, demo, placement of PAG spec depressed curb and installation of 3 separate runs of schedule 40 PVC pipe.

Days are requested as part of this Change Order Request.

Please contact me should you have any questions or require additional documentation.

Submitted By: _____
Immanuel Martinez, Project Manager

Date: 11/5/2018

3002 S. Priest Dr.
Tempe, AZ 85282

AZ ROC 111922-A

EXHIBIT A TO LDS CHURCH/MARANA COACHLINE BOULEVARD PIPA

SUNLAND ASPHALT

Town of Marana
Coachline Blvd Reconstruction
CO #1

FORCE ACCOUNT/EXTRA WORK DETAILED BREAKDOWN

LABOR

LAST NAME	FIRST NAME	JOB CLASS	HOURS	WAGE RATE	FRINGE RATE	REGULAR PAY	TOTAL RP	OT PREMIUM	TOTAL OT
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
						$ -	$ -	$ -	
SUB TOTAL							$ -		$ -

LABOR SUBSISTENCE

DESCRIPTION	QUANTITY	RATE	TOTAL
			$ -
			$ -
SUB TOTAL			$ -

MATERIALS

DESCRIPTION	QUANTITY	UNIT COST	MTL COST	MARKUP (15%)	TOTAL
BUY (3) 6" SCHEDULE 40 PIPE (LF)	120	$ 9.00	$ 1,080.00	$ 162.00	$ 1,242.00
			$ -	$ -	$ -
			$ -	$ -	$ -
SUB TOTAL			$ 1,080.00	$ 162.00	$ 1,242.00

EQUIPMENT

Factor = 0.933

DESCRIPTION	HOURS WORKED	STAND BY HRS	RRBB	HOC	HERR	SBR	TOTAL OPERATED	TOTAL STAND BY
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	$ -
			$ -	$ -	$ -	$ -	$ -	
SUB TOTAL							$ -	$ -

OUTSIDE RENTED EQUIPMENT

DESCRIPTION	HOURS WORKED	RENTAL INVOICE	MARKUP (10%)	HOC	TOTAL Rental
			$ -		$ -
			$ -		$ -
SUB TOTAL			$ -		$ -

SUBCONTRACTORS

DESCRIPTION	QUANTITY	UNIT PRICE	SUB COST	MARK UP (5%)	TOTAL SUB COST
SAW CUT	1	$ 75.00	$ 75.00	$ 3.75	$ 78.75
DEMO CURB	1	$ 175.00	$ 175.00	$ 8.75	$ 183.75
INSTALL DEPRESSED CURB (LF)	45	$ 16.00	$ 720.00	$ 36.00	$ 756.00
INSTALL SCHEDULE 40 PIPE	1	$ 200.00	$ 200.00	$ 10.00	$ 210.00
			$ -	$ -	$ -
SUB TOTAL			$ 1,170.00	$ 58.50	$ 1,228.50

LABOR		$	-
LABOR SUBSISTENCE		$	-
MATERIALS		$	1,242.00
EQUIPMENT		$	-
RENTAL EQUIPMENT		$	-
SUBCONTRACTORS		$	1,228.50
SUB TOTAL		$	2,470.50
BOND	0.50%	$	12.35
TAX	5.590%	$	90.21
GRAND TOTAL		$	2,573.07

3002 S. PRIEST DR.
TEMPE, AZ 85282

EXHIBIT A TO LDS CHURCH/MARANA COACHLINE BOULEVARD PIPA

GRAINGERCHOICE

Web Price
$95.00 / each

6" Black Steel Pipe, 12" Overall Pipe Length, Non-Threaded, Welded, Pipe Schedule 40

Brand GRAINGER APPROVED
Item # 1CRA6
Mfr. Model # 21416LSGR

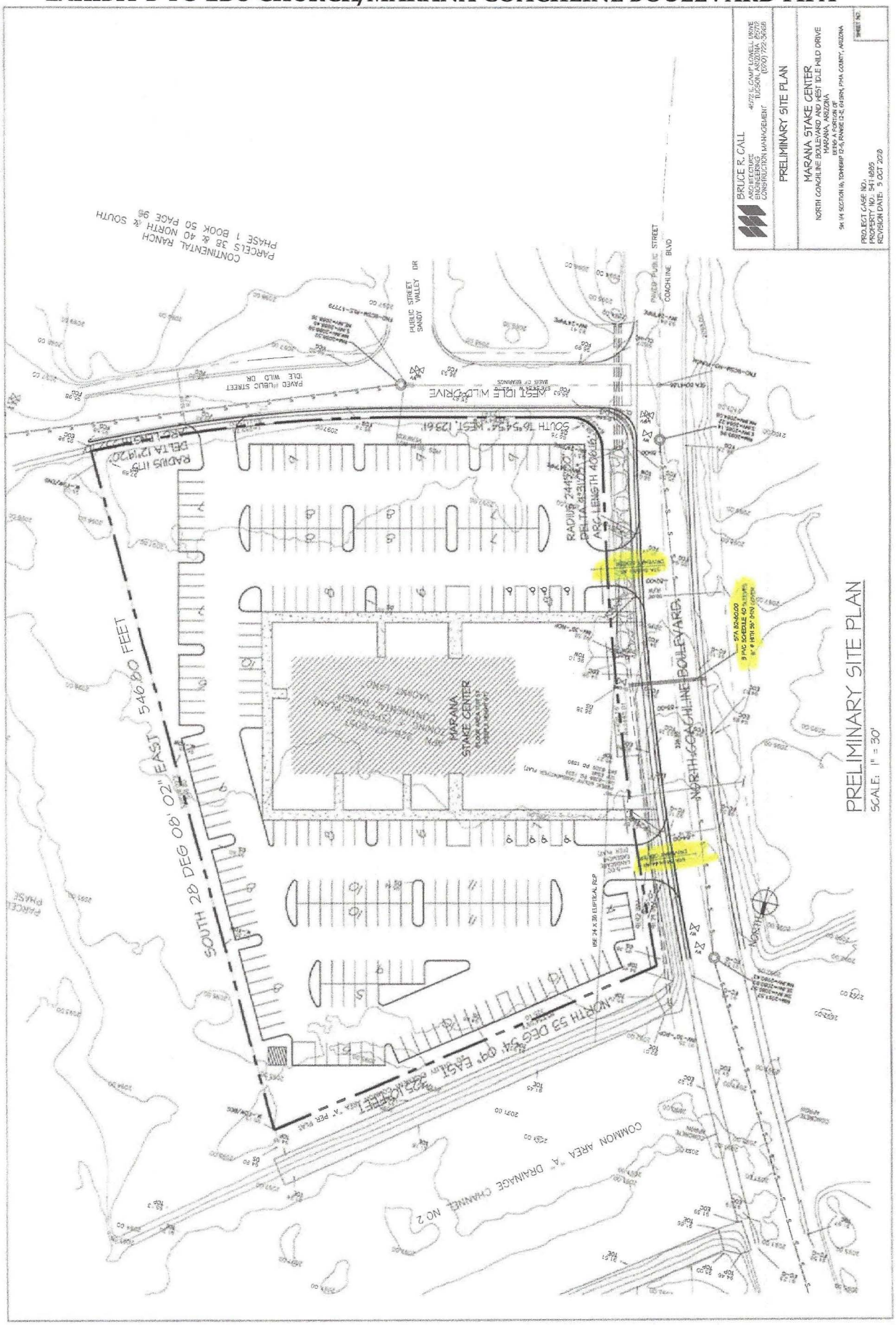
GRAINGERCHOICE

Web Price
$90.00 / each

6" x 10 ft. PVC Pipe, Pipe Schedule 40, White

Brand GRAINGER APPROVED
Item # 22FR48
Mfr. Model # H0400600PW1000

EXHIBIT B TO LDS CHURCH/MARANA COACHLINE BOULEVARD PIPA



Council-Regular Meeting **C5**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2018-109: Relating to Parks and Recreation; authorizing the Town Manager to exercise the Town's right to terminate the Lease Agreement with Saint Christopher Roman Catholic Parish—Marana for the construction and maintenance of a pocket park in Honea Heights; and directing staff to locate the Honea Heights pocket park on Town-owned property in Honea Heights, if feasible (Frank Cassidy)

Discussion:

In 2016, the Town and Saint Christopher's Catholic Church entered into a lease of 33,000 square feet of land for the construction of a Town pocket park for the benefit of the Honea Heights neighborhood and vicinity. The lease commits the Church to a term of at least ten years, but allows the Town to terminate the lease at will at any time.

After clearing and doing some initial work on the proposed park site, Church and Town representatives realized that existing flooding issues on the Saint Christopher's property would require relocation of the pocket park and renegotiation of the lease. Based on further discussions between Church and Town representatives, Town staff believes that all parties' interests will be best served by the Town exercising its right to terminate the lease, and by moving the pocket park to property currently owned by the Town along the southern border of Honea Heights.

If approved, the proposed resolution will authorize the Town Manager to exercise the Town's right to terminate the lease after assuring that the Saint Christopher's property is left in substantially the same condition as it was before work began on the park. The proposed resolution authorizes Town staff to investigate the feasibility of moving the park to the Town's Honea Heights property, and if feasible, allows Town staff to move forward with designing and constructing a pocket park there.

Financial Impact:

Fiscal Year:	2019
Budgeted Y/N:	Y
Amount:	$240,000*

About $300,000 was budgeted for the Honea Heights pocket park, of which about $60,000 has been spent on initial site work and acquisition of playground equipment and other improvements that will be used in the new location. The total eventual cost of the park at the new proposed location on existing Town-owned property is unknown at this time, but is not expected to substantially exceed the existing budget.

Staff Recommendation:

Town staff recommends adoption of Resolution No. 2018-109, authorizing the Town Manager to exercise the Town's right to terminate the Honea Heights pocket park Lease Agreement with Saint Christopher's, and directing staff to locate the Honea Heights pocket park on Town-owned property in Honea Heights, if feasible.

Suggested Motion:

I move to adopt Resolution No. 2018-109, authorizing the Town Manager to exercise the Town's right to terminate the Honea Heights pocket park Lease Agreement with Saint Christopher's, and directing staff to locate the Honea Heights pocket park on Town-owned property in Honea Heights, if feasible.

Attachments

Resolution 2018-109 Honea Heights Park Lease Termination

RESOLUTION NO. 2018-109

RELATING TO PARKS AND RECREATION; AUTHORIZING THE TOWN MANAGER TO EXERCISE THE TOWN'S RIGHT TO TERMINATE THE LEASE AGREEMENT WITH SAINT CHRISTOPHER ROMAN CATHOLIC PARISH—MARANA FOR THE CONSTRUCTION AND MAINTENANCE OF A POCKET PARK IN HONEA HEIGHTS; AND DIRECTING STAFF TO LOCATE THE HONEA HEIGHTS POCKET PARK ON TOWN-OWNED PROPERTY IN HONEA HEIGHTS, IF FEASIBLE

WHEREAS, by authority of Marana Resolution No. 2017-022, the Town and Saint Christopher Roman Catholic Parish—Marana entered into a Lease Agreement for the construction and maintenance of an approximately 33,000 square foot pocket park on Saint Christopher property; and

WHEREAS drainage issues and other challenges with the Saint Christopher property have led Town staff to recommend that the Honea Heights pocket park be located instead on existing Town-owned property a couple blocks south of the Saint Christopher property; and

WHEREAS the Mayor and Council of the Town of Marana find that this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

Section 1. After determining that the Town has left the Saint Christopher property in a reasonably safe and graded condition, the Town Manager is authorized to exercise the Town's right to terminate the Lease Agreement with Saint Christopher Roman Catholic Parish—Marana for the construction and maintenance of a pocket park in Honea Heights.

Section 2. The Town Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to determine the feasibility of locating the Honea Heights pocket park on Town-owned property in Honea Heights, and if feasible, are hereby directed and authorized to undertake all other and further tasks required or beneficial to design and construct the Honea Heights pocket park on Town-owned property in Honea Heights.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 4th day of December, 2018.

Mayor Ed Honea

ATTEST:

Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

Council-Regular Meeting **C6**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2018-110: Relating to Development; approving and authorizing the Mayor to sign the First Amendment to Development Agreement Regarding Parks and Recreation Development Impact Fee Credits for the Saguaro Bloom Development Project (Frank Cassidy)

Discussion:

The Town's 2017 infrastructure improvement plan supporting the Parks development impact fee (DIF) includes the "Saguaro Bloom Community Park" project at a projected cost of $3,377,800. D.R. Horton, as the developer of Saguaro Bloom, is obligated by development agreement to design and construct public park improvements and amenities for Saguaro Bloom Community Park. Under the development agreement, the developer is not required to contribute more than $2,500,000 toward the design and construction of the park. This amount does not include the value of the land dedicated for the park, which was addressed in a 2013 DIF credit development agreement. D.R. Horton is willing to pay the actual costs to design and construct the currently planned improvements for Saguaro Bloom Community Park, at an estimated cost of $3,200,000, under the terms of the 1st amendment to DIF credit development agreement presented to Council for consideration by this agenda item. A conceptual plan of the currently proposed design of the Saguaro Bloom Community Park is Exhibit A to the agreement, and is included with the backup materials.

This 1st amendment to DIF credit development agreement modifies and reconciles provisions of the 2013 DIF credit development agreement. The 2013 agreement provided credit against the Parks DIF to Saguaro Bloom Blocks 4, 8A, and 8B. This 1st amendment provides Parks DIF credit to the balance of Saguaro Bloom (except Block 3, which has already been developed and is actively being sold), until the full design and construction costs have been reimbursed.

Financial Impact:

Although this agreement has financial implications, it is ultimately cost-neutral to the Town. Without this agreement and in the absence of the developer's prior commitment to design and build the park, the Town's Parks DIF program obligates the Town to design and build the park improvements using Parks DIF payments from Saguaro Bloom and other benefited development. Under this agreement, the improvements will be advanced by the developer, who will receive credits against those same Parks DIF payments.

Staff Recommendation:

Staff recommends adoption of Resolution 2018-110, approving and authorizing the Mayor to sign the First Amendment to Development Agreement Regarding Parks and Recreation Development Impact Fee Credits for the Saguaro Bloom Development Project.

Suggested Motion:

I move to adopt Resolution 2018-110, approving and authorizing the Mayor to sign the First Amendment to Development Agreement Regarding Parks and Recreation Development Impact Fee Credits for the Saguaro Bloom Development Project.

Attachments

Resolution 2018-110 Saguaro Bloom DIF credit AD 1st Amendment

SB 1st DIF DA amendment

ExhA SB Park Concept Plan

MARANA RESOLUTION NO. 2018-110

RELATING TO DEVELOPMENT; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE FIRST AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING PARKS AND RECREATION DEVELOPMENT IMPACT FEE CREDITS FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT

WHEREAS the Town has adopted a Parks and Recreation Facilities Development Impact Fee ("Parks DIF"), currently set at $2,461 per equivalent demand unit, pursuant to A.R.S. § 9-463.05 and Marana Ordinance Nos. 2014.012 and 2017.029; and

WHEREAS the Town's 2017 infrastructure improvement plan supporting the Parks DIF includes the "Saguaro Bloom Community Park" project at a projected cost of $3,377,800; and

WHEREAS D.R. Horton, the developer of Saguaro Bloom, is obligated by development agreement to contribute up to $2,500,000 toward the design and construction of public park improvements and amenities for Saguaro Bloom Community Park; and

WHEREAS D.R. Horton is willing to pay the actual costs to design and construct the currently planned improvements for Saguaro Bloom Community Park, at an estimated cost of $3,200,000, under the terms of the 1st amendment to DIF credit development agreement presented to Council for consideration by this agenda item; and

WHEREAS the Mayor and Council find that the terms and conditions of the amendment are in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the "First Amendment to Development Agreement Regarding Parks and Recreation Development Impact Fee Credits for the Saguaro Bloom Development Project" included with the agenda materials accompanying this resolution is hereby approved and the Mayor is hereby authorized and directed to sign it for and on behalf of the Town of Marana, and the Town's Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out its terms, obligations, and objectives.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 4th day of December, 2018.

Mayor Ed Honea

ATTEST:

Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING PARKS AND RECREATION DEVELOPMENT IMPACT FEE CREDITS FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT

Town of Marana, Arizona

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING PARK DEVELOPMENT IMPACT FEE CREDITS FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT (this "First Amendment") is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town"), and D.R. HORTON, INC., a Delaware corporation (the "Developer"). The Town and the Developer are sometimes collectively referred to as the "Parties," each of which is sometimes individually referred to as a "Party."

RECITALS

A. The Developer is the current master developer of the lands described and depicted on the subdivision plats recorded in the Pima County Recorder's office at Book 58 of Maps and Plats, Page 23 ("Saguaro Springs"); Sequence 20180540069 ("Saguaro Bloom Block 1"); Sequence 20181100149 ("Saguaro Bloom Block 2"); Sequence 20171210044 ("Saguaro Bloom Block 3"); Book 62 of Maps and Plats, Page 6 as modified by the partial replat at Sequence 20151910194 (collectively "Saguaro Springs Block 4"); Book 62 of Maps and Plats, Page 7 ("Saguaro Springs Block 8A"); Book 62 of Maps and Plats, Page 8 as modified by the partial replat at Sequence 20123610307 (collectively "Saguaro Springs Block 8B"), all of which are collectively known as "Saguaro Bloom."

B. Pursuant to A.R.S. § 9-463.05 and Marana Ordinance Nos. 2014.012 and 2017.029, the Town has adopted a Parks and Recreation Facilities Development Impact Fee ("Parks DIF") of $2,461 per equivalent demand unit (EDU). A typical single family residence is equivalent to one EDU.

C. The Town's 2017 infrastructure improvement plan supporting the Parks DIF includes the "Saguaro Bloom Community Park" project at a projected cost of $3,377,800.

D. The Town and the Developer's predecessor in interest entered into a "DEVELOPMENT AGREEMENT FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT," recorded in the Pima County Recorder's office on July 22, 2011, at Sequence 20112030004 (the "Saguaro Bloom DA").

E. Recital Q of the Saguaro Bloom DA acknowledges the previous dedication of approximately 29.26 acres for Saguaro Bloom Community Park.

F. Paragraph 2.6 of the Saguaro Bloom DA requires the Developer to design and construct public park improvements and amenities for Saguaro Bloom Community Park,

and subparagraph 2.6.1.1 provides that the Developer shall not be required to contribute more than $2,500,000 toward the design and construction of the park, not including the value of the land dedicated for the park.

G. Based on the current plans prepared cooperatively by and for the Parties, the Parties' good faith estimate of the probable cost of the Saguaro Bloom Community Park design and construction costs is $3,200,000, which the Developer is willing to pay subject to the terms of this First Amendment.

H. The Town and the Developer's predecessor in interest entered into a DEVELOPMENT AGREEMENT REGARDING PARK DEVELOPMENT IMPACT FEE CREDITS FOR THE SAGUARO BLOOM DEVELOPMENT PROJECT (the "Original SB Parks DIF Agreement"), recorded in the Pima County Recorder's office on March 1, 2013, at Sequence 20130600072.

I. The Original SB Parks DIF Agreement dealt with credits against the Parks DIF associated with the value of about 29 acres of park land dedicated to the Town for the Saguaro Bloom Community Park, 26.1 acres of which were then considered appropriate and useable for active recreation and suitable for credit against the Parks DIF.

J. Design plans for the Saguaro Bloom Community Park now contemplate actual park development on about 20 acres of the original 29 acres of land dedicated to the Town for Saguaro Bloom Community Park, but the Parties acknowledge that future park development could utilize more of the dedicated land.

K. The Parks DIF credits provided under the Original SB Parks DIF Agreement have been and are being applied only to development within Saguaro Springs Block 4, Saguaro Springs Block 8A, and Saguaro Springs Block 8B (collectively, "Saguaro Bloom Phase One").

L. At the time of the Original SB Parks DIF Agreement, Saguaro Bloom Phase One was anticipated to consist of 607 residential lots; however, the 2015 partial replat of Saguaro Springs Block 4 has resulted in the number of residential lots being reduced to 602, and a currently pending partial replat of Saguaro Springs Block 8A will result in the number of residential lots being further reduced to 598.

M. At the time of the Original SB Parks DIF Agreement, the then-developer of Saguaro Bloom was not a home builder, and the Parties anticipated semi-annual reimbursements to the then-developer of a portion of the Park DIF payments made by home builders for homes within Saguaro Bloom; however, the Developer is a home builder who anticipates that the remaining homes within Saguaro Bloom will be constructed by home builder entities associated with the Developer, so the Parties desire to clarify that the Park DIF credits to the Developer for Saguaro Bloom have been and will be accomplished with credits against payment rather than by reimbursement.

N. Paragraph 1.5 of the Original SB Parks DIF Agreement contemplated a future amendment to the Original SB Parks DIF Agreement to address Parks DIF credits to be applied to residential lots in Saguaro Bloom developed after Saguaro Bloom Phase One for the Developer's design and construction costs associated with Saguaro Bloom

Community Park and to adjust for any additional credit for the park dedication based on the final measurement of the active park area of the 29-acre park dedication.

O. This First Amendment is the future amendment contemplated by paragraph 1.5 of the Original SB Parks DIF Agreement, and is entered into and authorized pursuant to A.R.S. § 9-500.05.

P. Title to the lots and blocks in Saguaro Bloom still owned by the Developer are held by TITLE SECURITY AGENCY OF ARIZONA, an Arizona corporation, as trustee under Trust No. 201434-T ("TITLE SECURITY 201434-T").

Q. The Developer is entitled to credit pursuant to A.R.S. § 9-463.05 (B) (10) toward the payment of the Parks DIF based on the Developer's costs to design and construct Saguaro Bloom Community Park.

R. Development impact fee credits are typically only provided after the credited construction is completed, but with the Developer's performance of its obligations under this First Amendment (including in particular its submission of a performance bond to secure completion of the improvements), the Town is willing to begin providing a Parks DIF credit to the Developer on the effective date of this First Amendment.

S. Development of Saguaro Bloom Phase One is nearing completion, and most of Saguaro Bloom Block 3 has been developed and sold, so remaining Parks DIF credits addressed by this First Amendment will be applied only to residential lots in Saguaro Bloom Block 1, Saguaro Bloom Block 2, and future residential lots to be platted in currently undeveloped blocks of Saguaro Bloom (specifically, Blocks 5, 6, 7, 9, and 10 as shown on the Saguaro Springs subdivision plat) (all of which are collectively referred to in this First Amendment as the "Future SB Lots"), until the credits are exhausted as described in this First Amendment.

T. The Parties desire to memorialize their agreement concerning the amount and administration of the development impact fee credit.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants set forth in this First Amendment, the Parties hereby agree as follows:

1. The Developer's representation of ownership. By entering into this First Amendment, D.R. HORTON, INC., the "Developer" under this First Amendment, represents that it is the sole beneficiary of and is entitled to enter into this First Amendment on behalf of TITLE SECURITY 201434-T, and that this First Amendment will be binding upon TITLE SECURITY 201434-T without the need for TITLE SECURITY 201434-T's signature on this First Amendment.

2. Reconciliation of the Original SB Parks DIF Agreement.

a. *No active park area adjustment*. The active park area of the Saguaro Bloom Community Park is currently estimated at 20 acres, which is less than the 26.1 acres anticipated at the time of the Original SB Parks DIF Agreement. As a result, the Developer

is not entitled at this time to any additional credit for the park dedication beyond the $783,000 provided in the Original SB Parks DIF Agreement.

b. *Balance of park dedication credit due to fewer lots in Saguaro Bloom Phase One*. Paragraph 1.3 of the Original SB Parks DIF Agreement established a credit of $1,290 per lot based on an anticipated Saguaro Bloom Phase One lot yield of 607 residential lots ($783,000 total park dedication credit divided by 607 residential lots equals $1,289.95, rounded to $1,290). The Saguaro Bloom Phase One lot yield is now anticipated to be 598 residential lots, leaving a park dedication credit balance of $11,580 (698 lots times $1,290 equals $771,420; $783,000 minus $771,420 equals $11,580).

c. *Carry forward of adjustments*. At this time, the Parties are not making any adjustments to the credits under the Original SB Parks DIF Agreement or under this First Amendment based on the actual active Saguaro Bloom Community Park area and number of lots in Saguaro Bloom Phase One. The Parties agree to defer any final reconciliation of credits for actual active park area and number of lots in Saguaro Bloom Phase One until the currently-contemplated Saguaro Bloom Community Park improvements are completed and the Parties have a better understanding of the actual useable portion of the 29-acre Saguaro Bloom Community Park land dedication. At that time, the Parties may address these issues in a future Parks DIF credit amendment.

d. *Credit instead of reimbursement*. Instead of providing a reimbursement as described in paragraph 1.4 of the Original SB Parks DIF Agreement, the remaining credits provided to the Developer under the Original SB Parks DIF Agreement shall be made by reducing the Developer's Parks DIF payments per lot in Saguaro Bloom Phase One by the $1,290 credit.

3. Developer's design and construction of the Saguaro Bloom Community Park. The Developer shall design and construct the Saguaro Bloom Community Park with substantially the amenities and to substantially the plan set forth in Exhibit A attached to and incorporated by this reference in this First Amendment.

4. Performance bond. To secure the Developer's completion of the design and construction of the Saguaro Bloom Community Park, the Developer shall post a performance bond conforming to A.R.S. § 34-222 in favor of the Town in the penal amount of $3,500,000. The Town, through the Town Engineer, shall release the performance bond upon the Developer's completion and the Town's acceptance of the Saguaro Bloom Community Park improvements.

5. Credit against Parks DIF.

a. *Total value*. The Developer is entitled to credits against Parks DIF payments in the amount of the Developer's actual costs for design and construction of the Saguaro Bloom Community Park improvements, which are currently estimated to be $3,200,000. When construction is completed, the Developer shall provide the Town Engineer with documentation of the final, actual design and construction costs. If the

Town Engineer is reasonably satisfied with the documentation of costs, the Town Engineer shall adjust the total value of the Parks DIF credits under this First Amendment to conform to the actual costs. If the Town Engineer is not satisfied with the documentation of costs, or if for any reason the Developer contends that it is entitled to additional credit, the Parties shall work together in good faith to bring forward an amendment to this First Amendment to establish a final total value of the Parks DIF credits.

b. *Credited lots*. Parks DIF credits will be applied to Future SB Lots.

c. *Credit per lot*. The Developer shall receive a Parks DIF credit in the full amount of the Parks DIF (currently $2,641 per EDU) until the earliest of the following dates:

i. When the cumulative amount of all Parks DIF credits (applied to Future SB Lots) to the Developer under this First Amendment equals the total value of Parks DIF credits under subparagraph 5.a above.

ii. When houses have been constructed and completed on all of the Future SB Lots, as evidenced by the issuance of certificates of occupancy.

iii. The 20th anniversary of the effective date of this First Amendment.

6. Binding effect. This First Amendment shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

7. Cancellation for conflict of interest. This First Amendment is subject to A.R.S. § 38-511, which provides for cancellation in certain instances involving conflict of interest.

8. Counterparts. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

9. Good standing. The Developer represents and warrants to the Town that it is duly formed and validly existing and authorized to do business in the state of Arizona. The Town represents and warrants to the Developer that it is an Arizona municipal corporation with authority to enter into this First Amendment under applicable state laws.

10. Authority. Each Party represents and warrants that the individual executing this First Amendment on its behalf is authorized and empowered to bind the Party on whose behalf each such individual is signing.

11. Governing law. This First Amendment is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona, and the Parties agree that any litigation or arbitration shall take place in Pima County, Arizona.

12. Interpretation. This First Amendment has been negotiated by the Parties, and no Party shall be deemed to have drafted this First Amendment for purposes of construing any portion of this First Amendment for or against any Party.

IN WITNESS WHEREOF, the Parties have executed this First Amendment, effective as of the last date set forth below their respective signatures.

The "Town":

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: _____

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

The "Developer":

D.R. HORTON, INC., a Delaware corporation

By: _____

Its: _____

Date: _____

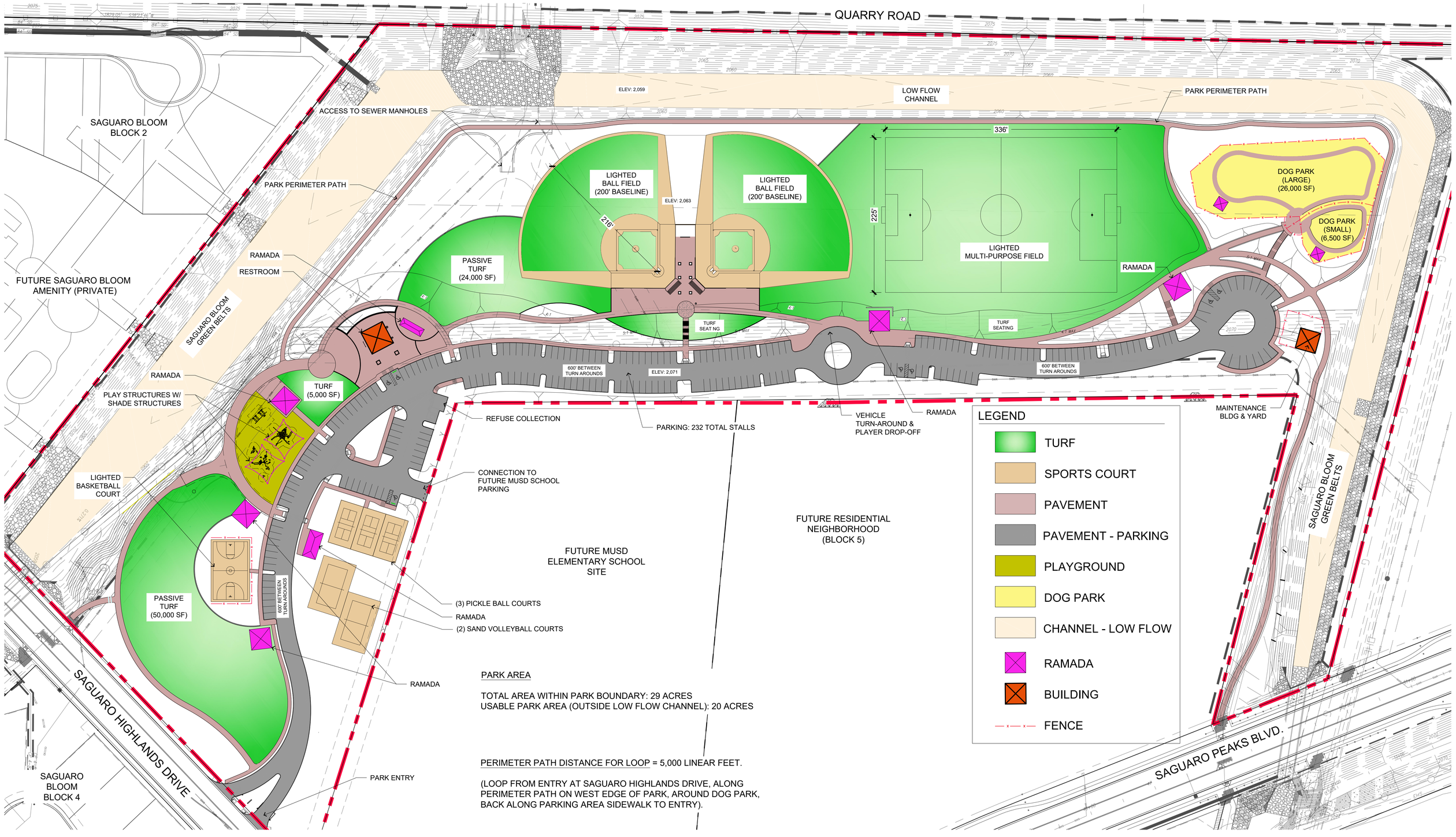
STATE OF ARIZONA)
) ss
County of _____)

The foregoing instrument was acknowledged before me on _____, 2018, by _____, the _____ of D.R. HORTON, INC., a Delaware corporation, on behalf of the corporation.

(Seal)

_____
Notary Public

CONCEPT PLAN



PARK AREA

TOTAL AREA WITHIN PARK BOUNDARY: 29 ACRES
USABLE PARK AREA (OUTSIDE LOW FLOW CHANNEL): 20 ACRES

PERIMETER PATH DISTANCE FOR LOOP = 5,000 LINEAR FEET.

(LOOP FROM ENTRY AT SAGUARO HIGHLANDS DRIVE, ALONG PERIMETER PATH ON WEST EDGE OF PARK, AROUND DOG PARK, BACK ALONG PARKING AREA SIDEWALK TO ENTRY).

SAGUARO BLOOM COMMUNITY PARK

0' 60' 120' NORTH

SCALE: 1"-60'-0"

PROJECT:DRH-20 DATE:05/11/18
FILE NAME: DRH21 SB PARK - MTG CONCEPT A.DWG

THE PLANNING CENTER
a division of TPC Group, Inc.
2 e congress ste 600 tucson az 85701

Council-Regular Meeting **C7**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Yiannis Kalaitzidis, Finance Director

Date: December 4, 2018

Strategic Plan Focus Area:
Community

Strategic Plan Focus Area Additional Info:
Principle Statement 2: We will seek and retain diverse industries and commerce: Invest Town resources to ensure travel ways, public spaces, parks, public facilities, and other community spaces are clean, maintained, and showcase Marana's high standard of excellence.

Subject: Resolution No. 2018-111: Relating to Administration; approving the transfer of up to $265,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2018-2019 budget to a newly assigned project code in the General Fund for the purchase of real property (portions of Assessor's Parcel Numbers 217-34-002M and -002N) and related costs (Yiannis Kalaitzidis)

Discussion:

On October 23, 2018, Council authorized staff to proceed with negotiations to acquire the Stypa property, Assessor's Parcel Numbers, 217-34-002M and -002N. Per Council direction, staff negotiated the terms of the aforementioned real property acquisition at a purchase price of $250,000, plus escrow, title and related costs for a total anticipated cost not to exceed $265,000. A copy of the executed purchase agreement is attached to this item for the Council's information.

The purpose of tonight's item is to request a transfer of up to $265,000 in General Fund contingency expenditure authority. The budget for fiscal year 2018-2019 was adopted on June 19, 2018 which set the legal level of budgetary control at the department level for the General Fund and at the fund level for all other funds. Council approval is required for budgetary transfers between the General Fund and any other fund or from the contingency account. It is important to note that this request is only to move expenditure authority from the General Fund contingency. The

expenditure authority will remain in the General Fund under a newly assigned project code for this acquisition.

Financial Impact:

Fiscal Year:	2019
Budgeted Y/N:	N
Amount:	$265,000

The real property is being acquired at a purchase price of $250,000, plus escrow, title and related costs for a total anticipated costs not to exceed $265,000. The General Fund has adequate cash reserves to pay for the acquisition.

Staff Recommendation:

Staff recommends approval of Resolution No. 2018-111 approving the transfer of up to $265,000 in budgeted expenditure authority from the General Fund contingency line item.

Suggested Motion:

I move to adopt Resolution No. 2018-111, approving the transfer of up to $265,000 in budgeted expenditure authority from the General Fund contingency line item in the fiscal year 2018-2019 budget to a newly assigned project code in the General Fund for the purchase of real property (portions of Assessor's Parcel Numbers 217-34-002M and -002N) and related costs.

Attachments

Resolution 2018-111 Transfer of Contingency funds

Acquistion Agreement

MARANA RESOLUTION NO. 2018-111

RELATING TO ADMINISTRATION; APPROVING THE TRANSFER OF UP TO $265,000 IN BUDGETED EXPENDITURE AUTHORITY FROM THE GENERAL FUND CONTINGENCY LINE ITEM IN THE FISCAL YEAR 2018-2019 BUDGET TO A NEWLY ASSIGNED PROJECT CODE IN THE GENERAL FUND FOR THE PURCHASE OF REAL PROPERTY (PORTIONS OF ASSESSOR'S PARCEL NUMBERS 217-34-002M AND -002N) AND RELATED COSTS

WHEREAS on June 19, 2018, the Town Council adopted the fiscal year 2018-2019 budgetary document and overall financial plan which set the legal level of budgetary control at the department level for the General Fund and at the fund level for all other funds; and

WHEREAS the Town Council desires to transfer budgeted expenditure authority in the fiscal year 2018-2019 budget of up to $265,000 from the General Fund contingency line item to a newly assigned project code in the General Fund for the acquisition of real property and related costs; and

WHEREAS transferring budgeted expenditure authority from the contingency fund of up to $265,000 within fiscal year 2018-2019 will not significantly impact the General Fund; and

WHEREAS reallocations of budgeted expenditure authority between the contingency line item in the General Fund to other line items are necessary from time to time; and

WHEREAS the Council finds that the reallocations addressed by this resolution are in the best interest of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, AS FOLLOWS:

SECTION 1. The transfer of up to $265,000 in budgeted expenditure authority from the General Fund's budgeted contingency line item in the fiscal year 2018-2019 budget to a newly assigned project code in the General Fund for the purchase of real property (portions of Assessor's Parcel Numbers 217-34-002M and -002N) and related costs is hereby approved.

SECTION 2. The Town's Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, and objectives of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 4th day of December, 2018.

_____

Mayor Ed Honea

ATTEST:

_____

Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

_____

Frank Cassidy, Town Attorney

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS

This Agreement for Purchase and Sale of Real Property and Escrow Instructions (this "Agreement") is made and entered into by and between GEORGE STYPA and SHANDA STYPA, husband and wife, (collectively, the "Seller") and the TOWN OF MARANA, an Arizona municipal corporation (the "Purchaser"), this 14th day of November, 2018, (the "Effective Date"). The Seller and the Purchaser are sometimes referred to collectively in this Agreement as the "Parties" and individually as a "Party."

RECITALS

A. The Seller owns certain real property located in Marana, Pima County, Arizona, more particularly described on Exhibit A attached to and incorporated in this Agreement by this reference and referred to in this Agreement as the "Property").

B. The Seller desires to sell and the Purchaser desires to purchase the Property, in accordance with the terms and conditions as set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. Purchase and sale. Except as otherwise provided in this Agreement, the Seller by this Agreement agrees to sell and convey to the Purchaser, and the Purchaser agrees to purchase and take from the Seller, that certain Property situated in Pima County, Arizona, as more particularly described on Exhibit A, including any right, title, and interest of the Seller in and to adjacent streets rights-of-way, all collectively referred to as the Property in this Agreement.

2. Purchase price. The total purchase price for the Property (the "Purchase Price") is Two Hundred Fifty Thousand and No/100 Dollars ($250,000.00), which shall be paid as set forth in paragraph 3 below.

3. Payment of purchase price. The Purchase Price shall be payable at Closing of the sale of the Property, in the following manner:

a. Upon full and final execution of this Agreement, escrow shall be opened with the Escrow Agent by depositing a copy of the fully executed Agreement with Escrow Agent, and a sum of Five Thousand and No/100 Dollars ($5,000.00) (the "Earnest Money") shall be paid by the Purchaser to Escrow Agent in cash, certified funds, or by wire transfer.

b. The balance of the Purchase Price shall be paid by the Purchaser in cash, certified funds, or by wire transfer, by depositing this sum with Escrow Agent on or before the Closing.

4. Joint escrow instructions. Escrow Agent is by this Agreement appointed and designated to act as such and is authorized and instructed to deliver, pursuant to the terms of this Agreement, such documents and monies deposited with Escrow Agent as provided in this Agreement. The provisions of this Agreement shall constitute joint Escrow Instructions to the Escrow Agent; provided however, that the Parties shall execute such additional instructions as requested by the Escrow Agent not inconsistent with the provisions of this Agreement.

5. Closing date. The closing of this transaction (the "Closing", "Closing Date" or "Close of Escrow") shall mean the date of which the Special Warranty Deed is recorded. The Closing shall occur at the office of Stewart Title & Trust of Tucson, Attn: Susan D. Lane, Escrow Officer ("Escrow Agent"), located at 6400 N. Oracle Road, Suite 102, Tucson, Arizona 85704, or at such other place as may be mutually agreed upon by the Parties. The Closing Date shall be five days following the expiration of the Title Review Period, or as mutually agreed by the Seller and the Purchaser, but in no event shall Closing occur later than December 21, 2018.

6. Title review, title insurance, and feasibility period.

a. Title policy order. Within five days of the Effective Date, the Purchaser shall order from Stewart Title & Trust of Tucson (the "Title Company") a commitment for a standard owner's title insurance policy for the Property.

b. Title review. The Purchaser shall have ten days from the delivery of the preliminary title commitment (the "Title Review Period") in which to review and to provide written objection to the Escrow Agent and the Seller (the "Purchaser's Notice") to the condition of title to the Property (the "Title Exceptions"). If the Purchaser fails to notify the Seller and the Escrow Agent in writing of the Purchaser's approval or disapproval of the Title Exceptions within the Title Review Period, the Title Exceptions as shown in the preliminary title commitment shall be deemed approved by the Purchaser. Any Title Exception objected to by the Purchaser in the Purchaser's Notice shall be an "Unpermitted Exception."

i. If the Purchaser gives notice of disapproval to the Seller and the Escrow Agent, on or before the Closing, the Seller shall be required to cure the Unpermitted Exceptions by removing or correcting any Unpermitted Exceptions or by causing the Title Company to waive or commit to insure over the Unpermitted Exceptions at the Seller's cost. If the Seller, after using commercially reasonable efforts, is unable to cure any one or more of the Unpermitted Exceptions prior to the scheduled Closing Date, the Purchaser at its sole discretion may exercise any of the following options:

(A) postpone the Closing for an additional period of time to be determined by the Parties to allow for the removal of the Unpermitted Exceptions; or

(B) waive the removal of any such Unpermitted Exception as a condition to Closing, in which event such Unpermitted Exception shall be deemed an additional Permitted Exception under this Agreement.

ii. If the Title Company amends the Title Commitment to provide for exceptions in addition to those approved by the Purchaser, the Purchaser shall have three days after the Purchaser's receipt of any such amendment together with good and legible copies all documents referenced tin this Agreement to give notice to Escrow Agent and the Seller whether it shall accept the additional exceptions or elect to terminate this Agreement unless such are cured to its reasonable satisfaction by the Seller. The Closing Date shall be extended, if necessary, to accommodate this procedure.

c. Title policies. The Escrow Agent shall issue to the Purchaser at Closing the Owner's Policy (or the Title Company's irrevocable commitment to issue such Owner's Title Policy within 30 days after Closing). The Owner's Policy shall be issued by the Title Company in the full amount of the Purchase Price, effective as of the Closing and shall insure the Purchaser that fee simple title to the Property is vested in the Purchaser subject only to the "Permitted Exceptions," which term is defined to mean only such title matters as are approved and accepted by the Purchaser in accordance with the provisions of subparagraph 6.b above. Except for the cost to insure over Unpermitted Exceptions as provided in subparagraph 6.b.i above, the Purchaser shall pay the full cost of a Standard Owner's Policy and any additional charges arising out of the title policy.

d. Inspection period. The Purchaser shall have until December 7, 2018 to inspect or investigate to the Purchaser's sole and absolute satisfaction the Property (the "Inspection Period"). During the Inspection Period, at the Purchaser's expense, the Purchaser may cause to be prepared or performed an appraisal and environmental reports and studies and any other reports, surveys or studies which are deemed necessary by the Purchaser in order to perform its due diligence investigation and analysis of the Property. Prior to the expiration of the Inspection Period, the Purchaser shall notify the Seller if the Purchaser determines, in its sole discretion, to terminate this Agreement. Should the Purchaser terminate the Agreement in accordance with this subparagraph, the Purchaser shall be entitled to the return of its Earnest Money.

7. Representations and warranties of the Seller and the Purchaser.

a. The Seller's representations and warranties. The Seller represents and warrants, as of the date of this Agreement, as follows:

i. The Seller is the owner of the Property and the Seller shall convey title to the Property to the Purchaser at Closing by Special Warranty Deed, free of all liens, claims or encumbrances, subject only to the Permitted Exceptions;

ii. At the Close of Escrow, the Seller shall be ready, willing, and able to perform in accordance with the terms of this Agreement and all Exhibits to this Agreement.

iii. The execution and delivery of this Agreement and the consummation of the transaction contemplated by this Agreement have been duly authorized on the part of the Seller.

iv. The Seller will perform, observe, and comply with all of the covenants, agreements, and conditions required by this Agreement to be performed, observed and complied with by the Seller on or before the Closing and will execute and deliver all documents required to be executed and delivered by the Seller in order to consummate the transaction contemplated by this Agreement on or before the Closing (if such shall close in accordance with the terms of this Agreement) and of the time periods set forth in this Agreement.

v. Except with respect to the lagoons (as described in the last sentence of this paragraph), the Seller has not been notified that the Property is not in compliance (both as to condition and use) with all applicable federal, state and local laws, statutes, ordinances, codes and administrative rules or regulations and with any applicable orders of any court or other judicial body having jurisdiction over the Property, including, but not limited to, building, subdivision, pollution, environmental protection, water disposal, health, fire and safety engineering codes, rules or regulations, and as of Closing the Seller shall have taken no action to knowingly cause the Property to violate any of the foregoing as the same existed upon the Opening of Escrow. The sewer lagoons located on the Property are excluded and exempted from the representations and warranties of this paragraph; Purchaser has knowledge of the existence and history of the sewer lagoons, is currently operating them, and has knowledge of the sewer lagoons' previous operation by the Adonis Mobile Home Subdivision Association.

vi. The Seller has no actual notice of any issues relating to access to the Property or utility service to the Property.

vii. Other than the representations and warranties expressly stated in this Agreement, the Seller makes no further representations and/or warranties of any sort whatsoever. Except as expressly provided in this Agreement, the Purchaser is relying entirely on the Purchaser's own investigations and examinations as to the physical condition and every other aspect of the Property, including without limitation, conformity to past, current or future zoning or building code requirements, the existence of soil instability, soil repairs, and any other soil conditions, sufficiency of undershoring and drainage, the existence of any flood plains or flood hazards or similar conditions, every other matter affecting the

stability or integrity of the Property and any improvements or buildings located on the Property, the environmental condition of the Property and the income and expenses generated by the Property. The Purchaser acknowledges that it has performed the investigation, that any information provided or made available or to be provided or made available to the Purchaser by the Seller, or its agents, brokers, members, managers, partners, representatives, or others was provided or made available or will be provided or made available solely as a courtesy, and that the Purchaser has the sole responsibility for determining the existence or nonexistence of any fact material to the Purchaser's decision to purchase the Property. The Purchaser acknowledges that the Purchaser is purchasing the Property on an "AS-IS, WHERE-IS" basis WITH ALL FAULTS, except as specifically represented and warranted in this subparagraph 7.a of this Agreement, without any implied warranties, and the Purchaser is completely at risk with respect to all attributes and conditions, latent or otherwise, of the Property. The Seller does not warrant the Property to be free from defects and the Purchaser expressly accepts the possibility of such defects. By executing this Agreement, the Purchaser by this Agreement gives the Seller, as a material inducement for the Seller to enter into this Agreement, a full release of any and all claims or causes of action arising at common law, under statute or otherwise, whether sounding in contract or in tort, arising out of or related to the condition of the Property and any equipment remaining on the Property. Notwithstanding the foregoing or anything else in this Agreement to the contrary, the Purchaser does not releases the Seller from any claims or causes of action the Purchaser may have now or in the future based upon fraudulent misrepresentation by the Seller.

b. The Purchaser's representations and warranties. The Purchaser represents and warrants, as of the date of this Agreement, as follows:

i. At the Close of Escrow, the Purchaser shall be ready, willing, and able to perform in accordance with the terms of this Agreement and all Exhibits to this Agreement.

ii. The execution and delivery of this Agreement and the consummation of the transaction contemplated by this Agreement have been duly authorized on the part of the Purchaser.

iii. The Purchaser warrants to the Seller that the Purchaser understands that this is a binding contract, that there are no oral or verbal representations about the Property which have been made by the Seller which will survive the execution of this Agreement including, but not limited to, statements as to size, acreage, boundaries, location, zoning, suitability or any other representation, unless said statement is in expressly made in writing in this Agreement or related documents and signed by the Seller.

iv. The Purchaser will, prior to Closing, fully inspect the Property, in accordance with subparagraph 6.d above, and at Closing, will accept the Property in an "AS-IS, WHERE-IS" condition, WITH ALL FAULTS, unless this Agreement has been canceled in accordance with its terms and conditions.

v. The Purchaser will perform, observe, and comply with all of the covenants, agreements, and conditions required by this Agreement to be performed, observed and complied with by the Purchaser on or before the Closing and will execute and deliver all documents required to be executed and delivered by the Purchaser in order to consummate the transaction contemplated by this Agreement on or before the Closing (if such shall close in accordance with the terms of this Agreement) and of the time periods set forth in this Agreement.

c. Survival of representations and warranties after Closing. The Parties acknowledge that each and every representations and warranty contained in this paragraph 7 shall be true and accurate as of the date of this Agreement and also as of the Closing and shall constitute a material part of the consideration under this Agreement and shall survive the Closing. All obligations to be performed at the Closing will survive the Closing and will not be deemed to merge upon delivery and acceptance of the conveyance instruments at Closing.

8. Closing.

a. The Seller's deliveries. No later than Closing, the Seller shall deliver or cause to be delivered to Escrow Agent each of the following:

i. A Special Warranty Deed executed and acknowledged on behalf of the Seller, in recordable form, conveying good and indefeasible fee simple title to the Property to the Purchaser, free and clear of any liens, encumbrances, easements, or other matters affecting title to the Property, except the Permitted Exceptions;

ii. An Affidavit of Property Value;

iii. Such evidence or other documents that may be reasonably required by the Title Company evidencing the status and capacity of the Seller in connection with the sale of the Property; and

iv. All additional documents and instruments this Agreement requires to be provided by the Seller at Closing and all additional documents and instruments as are reasonably necessary for the proper consummation of this transaction.

b. The Purchaser's deliveries. Not later than Closing, the Purchaser shall deliver or cause to be delivered to Escrow Agent each of the following:

i. An Affidavit of Property Value;

ii. All additional documents and instruments this Agreement requires to be provided by the Purchaser at Closing and all additional documents and

instruments as are reasonably necessary for the proper consummation of this transaction; and

iii. Such evidence or other documents that may be reasonably required by the Title Company evidencing the status and capacity of the Purchaser in connection with the sale of the Property.

c. Possession. At Closing, possession shall be transferred from the Seller to the Purchaser and the Seller shall have removed all of the Seller's property, and shall leave the Property in the same condition as of the date of this Agreement. Any personal property remaining upon the Property at Closing shall be transferred to the Purchaser gratis at Closing. Upon or as soon after Closing as is practical, the Escrow Agent shall issue and deliver the Owner's Policy to the Purchaser as provided in this Agreement.

d. Prorations. Ad valorem taxes for the then-current period shall be prorated at the Closing, effective as of the date of Closing. If the Closing shall occur before the tax rate is fixed for the then-current period, the apportionment of the taxes shall be upon the basis of the tax rate for the preceding period applied to the latest assessed valuation, but any difference in actual and ad valorem taxes for the period of sale actually paid by the Purchaser shall be adjusted between the Parties upon receipt of written evidence of their payment. Special assessments which are or will become a lien on the Property will be assumed by the Purchaser and treated as a Permitted Exception.

e. Closing costs. At Closing, the Purchaser shall be responsible for the full cost of the Owner's Policy, except for the cost to insure over any Unpermitted Exception, which the Seller shall pay in accordance with subparagraph 6.b.i above. Payment of all other closing costs, including but not limited to, the recording fees, sales, intangible and documentary transfer taxes, and escrow fees, shall be paid by the Purchaser.

f. Escrow Agent obligations. Without limitation, it shall be the obligation of Escrow Agent at Closing:

i. To record with the Pima County Recorder the Special Warranty Deed delivered under this Agreement;

ii. To deliver to the Pima County Recorder the Affidavit of Property Value; and

iii. To cause the issuance and delivery to the Purchaser of the Owner's Policy.

9. Indemnification.

a. The Purchaser's indemnity. The Purchaser agrees to indemnify, defend, protect and hold the Seller harmless of and from any and all liabilities, claims, demands, and expenses, of any kind or nature (except those items, which by the terms of this Agreement specifically remain the obligation of the Seller) arising or accruing after the Closing Date and which are in any way related to the ownership, maintenance, or

operation of the Property, or from the Purchaser's use of the Property prior to Closing including during the Inspection Period, or from any activity, work or things done, permitted or suffered by the Purchaser in or about the Property prior to Closing including during the Inspection Period, including, but not limited to, court costs and attorney's fees.

b. The Seller's indemnity. The Seller agrees to indemnify, defend, protect and hold the Purchaser harmless of and from any and all liabilities, claims, demands, and expenses, of any kind or nature (except those items, which by the terms of this Agreement specifically remain the obligation of the Purchaser) arising or accruing prior to the Closing Date and which are in any way related to the ownership, maintenance, or operation of the Property, including, but not limited to, court costs and attorney's fees.

c. Notice of claim. If either Party receives notice of a claim or demand which results or may result in indemnification pursuant subparagraphs 9.a or 9.b of this Agreement, the Party receiving notice of the claim shall as soon as practicable give notice of request for indemnity to the other Party. The Party receiving the notice of request for indemnity shall immediately take such measures as may be reasonably required to properly and effectively defend the claim, and may defend same with counsel of its own choosing. If the Party receiving notice of request for indemnity fails to properly and effectively defend the claim, the Party giving notice of request for indemnity may defend the claim and seek reimbursement of all expenses and of any final judgment that should have been covered by the indemnifying Party.

10. Default and remedies.

a. If the Purchaser fails to consummate this Agreement for any reason except: (i) the Seller's default, (ii) termination of this Agreement by the Purchaser pursuant to a right of termination given in this Agreement, or (iii) the failure of a condition to Closing or to the Purchaser's obligations under this Agreement as set forth in this Agreement, the Purchaser shall be in default under this Agreement in which event the Seller, as its sole and exclusive remedy, may terminate this Agreement and Escrow Agent shall transfer to the Seller the Earnest Money, which sum shall constitute the Seller's liquidated damages for the breach of this Agreement and not a penalty, it being the agreement and understanding of the Parties that the Seller's damages would otherwise be difficult if not impossible to determine.

b. If default by the Seller causes the Seller not to close, the Purchaser shall have all remedies available at law against the Seller, including but not limited to, return of its Earnest Money and specific performance.

c. Except at otherwise provided in this Agreement, any Party who wishes to cancel this Agreement because of any breach by the other Party, or because escrow fails to close by the agreed date, and who is not himself in breach of this Agreement, except as occasioned by a breach by the other Party, may cancel this Agreement by delivering

a notice to either the breaching party and to the Escrow Agent stating the nature of the breach and that this Agreement shall be cancelled unless the breach is cured within 15 calendar days following the delivery of the notice. Any notice delivered to any Party must be delivered to the Escrow Agent. Within three calendar days after receipt of such notice, the Escrow Agent shall send the notice by mail to the Party in breach at the address contained in the notice. No further notice shall be required. If the breach is not cured within 15 calendar days following the delivery of the notice, this Agreement shall be cancelled.

11. Brokers. The Parties represent that they have not retained the services of a real estate broker or agent with respect to the sale of the Property. The Seller will indemnify, defend, and hold harmless the Purchaser from and against any and all claims from any real estate broker or agent arising from or related to this Agreement. **The terms and provisions of this paragraph shall survive Closing.**

12. Miscellaneous provisions.

a. Date of this Agreement. The terms "date of this Agreement" or "effective date of this Agreement" as used in this Agreement, shall mean the later of the following dates: (i) the date of the Seller's signature on this Agreement or (ii) the date of the Purchaser's signature on this Agreement.

b. Notices. Any notice or communication required or permitted under this Agreement shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, registered or certified mail, addressed to the intended recipient at the address on the signature page of this Agreement or when received if delivered personally. Notices delivered by email shall also be allowed and shall be effective upon transmission provided electronic confirmation of the transmission is kept by the Party giving notice. Any address for notice may be changed by five days prior written notice so given. Any notice to a Party required or permitted under this Agreement shall be delivered to the following:

If to the Seller:

GEORGE & SHANDA STYPA
Attn: Evan Thompson, Esq.
THOMPSON • KRONE, P.L.C.
4601 East Ft. Lowell Rd. Suite 109
Tucson, Arizona 85712
evan@thomsonkrone.com

If to the Purchaser:

TOWN OF MARANA
Attn: Town Attorney
11555 W. Civic Center Drive, Bldg. A3
Marana, Arizona 85653-7006
fcassidy@maranaaz.gov

If to the Escrow Agent:

Susan D. Lane, Escrow Officer
STEWART TITLE & TRUST OF TUCSON
6400 N. Oracle Road, Suite 102
Tucson, Arizona 85704
susan.lane@stewart.com

c. Interpretation. The Parties acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions of this Agreement. The Parties have equal bargaining power, and intend the plain meaning of the provisions in this Agreement. In the event of an ambiguity in, or dispute regarding, the interpretation of same, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the draftsman.

d. Risk of loss. The risk of loss or damage to the Property and all liability to third persons until the Closing shall be borne by the Seller and thereafter shall be borne by the Purchaser.

e. Counterpart and electronic signatures. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signature page of each of the Parties to one of such counterpart signature pages and all such counterpart signature pages shall be attached to one Agreement, and read having the same force and effect as though all of the signatories had signed a single page. Further, the execution and delivery of this Agreement may be effectuated by the use of electronic transmission and the electronic signature shall be considered an original signature.

f. Attorneys' fees. If either Party shall be required to employ an attorney to enforce or defend its rights under this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, all such fees to be set by the Court and not by the jury.

g. Integration. This Agreement contains the complete agreement between the Parties and cannot be varied except by the written agreement of the Parties. The Parties agree that there are no oral agreements, understandings, representations, or warranties which are not expressly set forth in this Agreement.

h. Binding effect. This Agreement shall inure to the benefit of and bind the Parties and their respective heirs, representatives, successors, and permitted assigns.

i. Dates and time periods. Should the date for the giving of any notice, the performance of any act, or the beginning or end of any period provided for in this Agreement fall on a Saturday, Sunday or other legal holiday, such date shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

j. Non-waiver. No delay or failure by either Party to exercise any right under this Agreement and no partial or single exercise of such right will constitute a waiver of that or any other right, unless expressly provided in this Agreement.

k. Assignment. The Purchaser shall have no right, without the prior written approval of the Seller, which approval shall not be unreasonably withheld, to sell, assign, or transfer this Agreement or any rights or responsibilities of the Purchaser under this Agreement.

l. Exhibits. All exhibits referenced in this Agreement and attached to this Agreement are by this Agreement incorporated in this Agreement.

m. Not a partnership/no third party beneficiaries. Nothing in this Agreement shall be deemed to create a partnership or joint venture among the Parties. This Agreement is not intended to benefit and shall not be construed as conveying any rights upon any parties other than the Parties to this Agreement.

n. Choice of law/venue. This Agreement shall be governed by Arizona law. Venue for any action brought under this Agreement shall be Pima County.

o. Time is of the essence. Time is of the essence in the performance of this Agreement.

p. Severability. If any one or more of the provisions of this Agreement or the applicability of any provisions to a specific situation is held to be invalid or unenforceable, the provision will be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all of such provisions of this Agreement and all other application of such provisions will not be affected by any such invalidity or unenforceability.

q. Independent counsel. The Seller and the Purchaser each represent and acknowledge that it has had the benefit and advice of independent legal counsel in connection with the preparation and execution of this Agreement or has been advised to seek such counsel and has voluntarily or knowingly chosen not to do so.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

THE SELLER:

GEORGE STYPA and SHANDA STYPA, husband and wife

George Stypa

Date: 11/15/2018

Shanda Stypa

Date: 11/15/2018

THE PURCHASER:

TOWN OF MARANA, an Arizona municipal corporation

By: _____

Jamsheed Mehta, Town Manager

Date: November 14, 2018

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A

Pima County Assessor's Parcel Numbers 217-34-002M & 217-34-002N. Specifically, that portion of the Northwest quarter of the Northwest quarter of Section 26, Township 11 South, Range 11 East, Gila and Salt River Base and Meridian, Pima County, Arizona, lying North and East of the Southern Pacific Railroad.

EXCEPT the West 30 feet;

AND EXCEPT any portion thereof lying within ADONIS MOBILE HOME SUBDIVISION, a subdivision of Pima County, Arizona, according to the map or plat of record in the office of the County Recorder in Book 24 of Maps and Plats at page 40.

AND FURTHER EXCEPT that certain Drainageway lying North and East of the Southern Pacific Railroad and South and West of Adonis Road.

AND FURTHER EXCEPT any portion thereof deeded to Pima County, Arizona in Deeds recorded in Docket 4410, Page 904 and in Docket 4418, Page 375, records of Pima County, Arizona.

Council-Regular Meeting **C8**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: December 4, 2018

Strategic Plan Focus Area:
Not Applicable

Subject: Ordinance No. 2018.022: Relating to Utilities; amending Marana Town Code Title 14 (Utilities), Chapter 14-4 (construction and financing of utility facilities) to modify section 14-4-3 (capacity requirements) and to add new sections 14-4-4 (refund of cost of facilities funded and installed by the town) and 14-4-5 (notice of protected facility and associated charge), establishing protected facilities provisions for privately-constructed and town-constructed water and wastewater facilities; and designating an effective date (Frank Cassidy)

Discussion:

The Town has for many years had an "oversizing recovery charge" provision in the Town Code, to reimburse developers for water and sewer facility oversizing by requiring other property owners who use the oversized, privately-constructed facility to reimburse the fair-share cost of the facility. With the Town's recent completion of the Tangerine-Downtown Sewer Conveyance System (Town of Marana Project No. WR010), Town staff desires to extend this same reimbursement provision to Town-constructed projects.

The proposed ordinance would now identify as a "protected facility" any privately-constructed facility or Town-constructed facility for whose use other property owners will be required to pay a fair-share charge. The City of Tucson has similar code provisions (see Tucson City Code Sections 27-38 and 27-38.1). The proposed ordinance presented for consideration by this agenda item includes notice provisions that are not found in the comparable Tucson ordinance. Town legal staff believes that making an effort to notify owners of properties likely to benefit from the protected facilities (and therefore likely to be responsible for the oversizing recovery charge or protected facility charge) will avoid possible issues and arguments when the associated supplemental

charges are imposed for the protected facilities.

If this text amendment is adopted, staff will bring forward a protected facility charge for the Town's costs associated with the construction of the gravity portion of the Tangerine-Downtown Sewer Conveyance System as soon as this text amendment becomes effective.

Staff Recommendation:

Staff recommends adoption of Ordinance 2018.022, establishing protected facilities provisions for privately-constructed and town-constructed water and wastewater facilities.

Suggested Motion:

I move to adopt Ordinance 2018.022, establishing protected facilities provisions for privately-constructed and town-constructed water and wastewater facilities.

Attachments

Ordinance 2018.022 Amending Town Code Title 14 Protected Main

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MARANA ORDINANCE NO. 2018.022

RELATING TO UTILITIES; AMENDING MARANA TOWN CODE TITLE 14 (UTILITIES), CHAPTER 14-4 (CONSTRUCTION AND FINANCING OF UTILITY FACILITIES) TO MODIFY SECTION 14-4-3 (CAPACITY REQUIREMENTS) AND TO ADD NEW SECTIONS 14-4-4 (REFUND OF COST OF FACILITIES FUNDED AND INSTALLED BY THE TOWN) AND 14-4-5 (NOTICE OF PROTECTED FACILITY AND ASSOCIATED CHARGE), ESTABLISHING PROTECTED FACILITIES PROVISIONS FOR PRIVATELY-CONSTRUCTED AND TOWN-CONSTRUCTED WATER AND WASTEWATER FACILITIES; AND DESIGNATING AN EFFECTIVE DATE

WHEREAS Town Code Chapter 14-4 (construction and financing of utility facilities) has existing provisions for establishment of an oversizing recovery charge to reimburse private parties for the construction of oversized privately-constructed water and wastewater facilities; and

WHEREAS the Town of Marana now desires to establish a similar provision for establishment of a protected facility charge to reimburse the Town for the construction of Town-constructed water and wastewater facilities; and

WHEREAS the Town Council finds that the amendments to the Town Code established by this ordinance are in the best interests of the Town and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

SECTION 1. Marana Town Code Title 14 (Utilities), Chapter 14-4 (construction and financing of utility facilities) is hereby amended to revise section 14-4-3 (capacity requirements) as follows (with additions shown with <u>double underlining</u>):

14-4-3 Capacity requirements

A. [No changes]

B. [No changes]

C. <u>Oversizing recovery charge</u>. The council may, at its sole option, <u>designate the facility as a "protected facility" and</u> establish an "oversizing recovery charge" to be charged proportionately to each subsequent connection by non-participating property owners made to or benefiting from the oversizing.

SECTION 2. Marana Town Code Title 14 (Utilities), Chapter 14-4 (construction and financing of utility facilities) is hereby amended to add new sections 14-4-4 (refund of cost of facilities funded and installed by the town) and 14-4-5 (notice of protected facility and associated charge), as follows:

14-4-4 Refund of cost of facilities funded and installed by the town

If a water or wastewater facility installed and funded by the town to provide water or wastewater service to a property not participating in the construction cost, the water director may request that the council designate the facility as a "protected facility" and establish a "protected facility charge" to be charged proportionately to each subsequent connection by non-participating property owners made to or benefiting from the protected facility.

14-4-5 Notice of protected facility and associated charge

A. Not less than 30 days before the designation of a protected facility and the adoption of an oversizing recovery charge or protected facility charge, the water director shall notify owners of potentially affected property.

B. Potentially affected property consists of lands the water director reasonably believes are likely someday to be served by the protected facility, taking into consideration topography, proximity, and normal water and sewer facility service and extension factors.

C. Notice shall be given by electronic mail whose receipt is acknowledged by the recipient or by first class mail to the owner of the property as listed on the property tax roll.

D. All of the following shall be included with the notice:

1. A description of the protected facility.
2. The amount per equivalent demand unit of the oversizing recovery charge or protected facility charge.
3. An explanation of how the charge was calculated.
4. The date and time of the council meeting where the protected facility designation and charge are expected to be considered for adoption.

E. Failure to give or receive notice as provided in this section shall not affect the validity of the protected facility designation or the charge.

SECTION 3. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 4. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. This ordinance shall become effective on the thirty-first day after its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 4th day of December, 2018.

_____
Mayor Ed Honea

ATTEST:

_____
Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

Council-Regular Meeting **C9**

Meeting Date: 12/04/2018

To: Mayor and Council

Submitted For: Hilary H. Hiser, Interim Town Clerk

From: Suzanne Sutherland, Executive Assistant to the Town Clerk

Date: December 4, 2018

Subject: Approval of the November 13, 2018 Special Council Meeting Minutes for the Council Oath of Office and approval of the November 13, 2018 Special Council Meeting Minutes (Hilary H. Hiser)

Attachments

Draft Special Council Meeting Minutes - Oath of Office 11/13/2018

Draft Special Council Meeting Minutes 11/13/2018

MARANA TOWN COUNCIL
SPECIAL-COUNCIL MEETING

11555 W. Civic Center Drive, Marana, Arizona 85653
Lobby/Atrium, November 13, 2018, at or after 6:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
John Officer, Council Member
Roxanne Ziegler, Council Member

MINUTES

CALL TO ORDER AND ROLL CALL: Mayor Honea called the meeting to order at 6:01 p.m. **Interim Town Clerk Hilary Hiser** called the roll. All council members were present constituting a quorum.

COUNCIL ACTION

1. Relating to Mayor and Council; administration of oath of office for Council Members Patti Comerford, Herb Kai, John Officer, and Jon Post.

Interim Town Clerk Hilary Hiser administered the oath of office to the four elected council members and presented each council member with their certificate of election.

2. Reception -- Light Refreshments and Meet and Greet

ADJOURNMENT: The Council did not formally adjourn the meeting as the council members and guests stayed in the lobby mingling until the start of the scheduled 7:00 p.m. Special Council Meeting held in the Council Chambers.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on November 13, 2018. I further certify that a quorum was present.

_____

Hilary H. Hiser, Interim Town Clerk

MARANA TOWN COUNCIL
SPECIAL-COUNCIL MEETING MINUTES

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers November 13, 2018, at or after 7:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
David Bowen, Council Member
Patti Comerford, Council Member
Herb Kai, Council Member
John Officer, Council Member
Roxanne Ziegler, Council Member

SPECIAL COUNCIL MEETING MINUTES

CALL TO ORDER AND ROLL CALL: Mayor Honea called the meeting to order at 7:00 p.m. **Interim Town Clerk Hilary Hiser** called the roll. All council members were present constituting a quorum.

PLEDGE OF ALLEGIANCE / INVOCATION / MOMENT OF SILENCE: Led ***by* Mayor Honea.**

APPROVAL OF AGENDA: ***Council Member Bowen motioned to approve, with a second provided by Vice Mayor Post. The motion passed unanimously, 7-0.***

COUNCIL ACTION

A1 Relating to Mayor and Council; selection of the Vice Mayor.

Mayor Honea addressed the Chamber explaining that the position of Vice Mayor serves a two year term and the position's main responsibility is assisting the Mayor with the operations of the meeting in the Mayor's absence. He stated that his nomination is for Vice Mayor Post to remain in his current position and serve another two year term. He asked the Council for additional nominations.

Hearing none, ***Mayor Honea motioned to approve Jon Post as Marana Vice Mayor for 2018 through 2020. A second was provided by Council Member Comerford. The motion passed unanimously, 6-0, as Vice Mayor Post did not cast a vote in favor of his own nomination.***

Vice Mayor Post thanked the Council for their vote of confidence and stated he would continue to do his best serving the Council.

CALL TO THE PUBLIC

PROCLAMATIONS

P1 Proclaiming November 24, 2018 as Small Business Saturday by recognizing the importance of supporting small locally owned businesses. Read into the record by **Interim Town Clerk Hilary H. Hiser**.

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

Council Member Comerford stated she is happy that the election season is over. **Council Member Ziegler** welcomed back all three council members re-elected.

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Town Manager Jamsheed Mehta reported that the October Council Executive Report reflects continued positive growth outpacing the pervious year. He also reported that the official ribbon cutting and dedication ceremony for the new Marana Police Facility is November 14, 2018 at 10:00 a.m. in the main courtyard. Marana will be hosting a portion of the El Tour de Tucson bike race on Saturday, November 17, 2018.

Mr. Mehta also announced the first of several Council Connections would occur November 30, 2018 at Savaya Coffee Market in Dove Mountain. This event will give residents and business owners the chance to meet and speak with council members in a more relaxed and informal setting.

Finally, **Mr. Mehta** formally introduced the Town's new **Finance Director Yiannis Kalaitzidis**.

PRESENTATIONS

P1 Relating to Budget; presentation of preliminary year end results for the Town's General Fund and other selected major funds for the 2017-18 fiscal year. Presented by **Starla Anderson**, Deputy Finance Director.

Ms. Anderson presented the preliminary financial results for Fiscal Year 2018. She noted these results are preliminary because the audit is not complete. She stated the auditor's final opinion would be issued at the end of November and the Town's final financial statement issued sometime in December. Ms. Anderson indicated staff does not anticipate any major changes between the numbers reported to Council and the final audited statement. She reminded the Council that all information regarding the

budget revenues and spending is available on the Budget Dashboard tool located on the Town's website.

Ms. Anderson reported that revenues for Fiscal Year 2018 were above projections; however, HURF revenues fell slightly short meeting only 96 percent of the budget forecast. She did note HURF collection was down statewide.

On the expenditure side, **Ms. Anderson** reported all funds except for the Water Reclamation fund and Airport Operation fund were below budgeted estimates. She explained that for enterprise funds certain revenues and expenditures are reported as non-cash, such as depreciation. Specifically for the Airport Operating fund, there was a $430,000 capital asset expenditure correction that is causing the expenses to exceed revenues.

Ms. Anderson transitioned her presentation to a more in-depth review of the specific funds starting with the General Fund. She noted that each budget review has a year over year comparison across several fiscal years. For the General Fund, Ms. Anderson reported that all revenue collections were greater than budget estimates, and expenditures were under budget for the fiscal year. She noted that operating supplies and equipment were slightly over due to an unforeseen water main break at Ora Mae Harn District Park. Also, the General Fund's expenditures do have some carry-over to the next fiscal year for certain projects. Ms. Anderson stated that once the 25 percent reserve is subtracted, there would be $8 million available in the General Fund for allocations in the new fiscal year.

Reviewing the HURF fund, **Ms. Anderson** reported several projects carried forward into the next fiscal year. In the Transportation fund, there are also several major projects carried over, including the Ina Road Interchange project. For the Bed Tax fund, the Town's responsibility to payback a portion of its sales tax to certain resorts, based on a regional formula, has expired. The 1/2 Cent sales tax fund will be eliminated as of January 1, 2019. This fund met projections and any remaining funds will be carried over to cover the final costs of the police facility as those expenditures are finalized in Fiscal Year 2019.

Ms. Anderson noted that enterprise funds are more complicated to review. The Water Operating fund's revenues and expenditures have non-cash amounts included that value the infrastructure used by the operating fund. **Vice Mayor Post** asked what happens to the excess revenue in a fund when it exceeds budgeted expectations. Ms. Anderson responded that if the excess revenue is in an enterprise fund, then those fund dollars would be used for operations specifically allocated to that fund, like the water operations fund.

Ms. Anderson noted that the Water Operating fund's expenses were under budget for the most part, except for the contracted services line-item which had a $300,000 capital asset adjustment. She emphasized that the exceeded line-item was not a cash transaction, but a capital expense correction related to infrastructure. The Water Reclamation Operating fund also had revenues above projections. The expenses in the

fund do not reflect the debt service for the new 2017 debt incurred on the wastewater facility, but those payments will be accounted for in the next fiscal budget cycle.

The Airport Operating fund's lease revenue increased, as well as the fuel related revenues. **Ms. Anderson** also noted transfers from the General fund to the Airport Operating fund as expected. The fund's expenses were on track for personnel and benefits, but there was a $430,000 non-cash adjustment that pushed the expense line item over.

Council Member Ziegler asked Ms. Anderson to clarify the Airport Operating fund $430,000 expenditure. **Ms. Anderson** responded that money was spent in previous budget years and the Town capitalized those dollars as an asset in construction and progress. But, the Town did not construct these projects and the money was not used to purchase a capital asset. She explained that the movement of the capitalized asset to the expense line-item is an accounting method to balance for a project that never came to be.

Council Member Ziegler asked how much the Airport owes the General fund. **Ms. Anderson** stated the Airport Operating fund still owes the General fund $2 million.

Council Member Ziegler asked if the Town is considering using any of the revenue gains from the Airport Operating fund to pay back the General fund. **Town Manager Jamsheed Mehta** interjected that this presentation is informational only for the year-end report. He noted that future meetings regarding the next fiscal year budget adoption would be the better venue for policy recommendations related to inter-fund movements, such as the Airport to the General fund.

Council Member Ziegler stated that she would like to see the Airport Operating fund start operating like an enterprise fund and support itself. **Mr. Mehta** responded that Airport revenues have increased over the years and the fund is making small annual payments reducing its debt to the General Fund.

No Council action was taken.

CONSENT AGENDA: ***Council Member Ziegler motioned to approve, with a second provided by Council Member Bowen. The motion passed unanimously, 7-0.***

C1 Resolution No. 2018-101: Relating to Development; approving a final plat for The Village at Barnett Lots 1 thru 251 and Common Areas "A" - "P" located north of Barnett Road and east of Sanders Road (Brian D. Varney)

C2 Resolution No. 2018-102: Relating to Traffic and Highways; authorizing the Town Manager to sign all documents and do all other things necessary or prudent to obtain emergency public access along the Central Arizona Project canal and elsewhere for the benefit of the San Lucas, Amole Circle, and Adonis neighborhoods and surrounding areas (Frank Cassidy)

C3 Resolution No. 2018-103: Relating to Community Development; approving and authorizing the Town Manager to execute a Memorandum of Understanding with the United Way of Tucson and Southern Arizona establishing the Town as a host site for

the 2019 IRS Volunteer Income Tax Assistance (VITA) Program (Heath Vescovi-Chiordi)

C4 Resolution No. 2018-104: Relating to Administration; approving the transfer of $200,000 in budgeted expenditure authority from the General Fund contingency line item to the restricted budget line items within the Police Department for unanticipated costs in the fiscal year 2017-2018 budget (Starla Anderson)

C5 Relating to Procurement; approving a change order to the Ina Road Pavement Reconstruction project construction contract with Southern Arizona Paving & Construction Co. in the amount of $56,943.00; authorizing the transfer of appropriations if necessary for the change order; and authorizing the Town Manager or designee to execute the necessary documents to effectuate the change order (Keith Brann)

C6 Approval of the Regular Council Meeting Minutes from October 16, 2018 and approval of the Study Session Meeting Minutes from October 23, 2018 (Hilary H. Hiser)

LIQUOR LICENSES

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

ITEMS FOR DISCUSSION/POSSIBLE ACTION

D1 Relating to Legislation and Government Actions; discussion and possible action regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of the other governmental bodies. Presented by **Jamsheed Mehta**, Town Manager.

Mr. Mehta reviewed the results of the State wide election, focusing on the Town's legislative representatives. He noted that staff would continue to work with the elected legislative representatives to advocate for the Town's interests at the State Legislature.

EXECUTIVE SESSIONS: ***Council Member Bowen motioned to transition to executive session, with a second provided by Council Member Ziegler. The motion passed unanimously, 7-0.*** The Council left the dais at 7:28 p.m.

Pursuant to A.R.S. § 38-431.03, the Town Council may vote to go into executive session, which will not be open to the public, to discuss certain matters.

E1 Executive session pursuant to A.R.S. § 38-431.03(A)(3), Council may ask for discussion or consultation for legal advice with the Town Attorney concerning any matter listed on this agenda.

E2 Executive session pursuant to A.R.S. § 38-431.03(A)(7) to consider its position and instruct the Town's representatives regarding negotiations for the possible sale of Town-owned land to Northwest Fire District.

The Council returned to the dais at 8:05 p.m. Regarding item E2, **Town Attorney Frank Cassidy** asked the Council to authorize the Town Manager to negotiate with Northwest Fire consistent with the executive session discussions.

Vice Mayor Post motioned to approve, with a second provided by Council Member Bowen. The motion passed unanimously, 7-0.

FUTURE AGENDA ITEMS

Notwithstanding the mayor's discretion regarding the items to be placed on the agenda, if three or more Council members request that an item be placed on the agenda, it must be placed on the agenda for the second regular Town Council meeting after the date of the request, pursuant to Marana Town Code Section 2-4-2(B).

ADJOURNMENT: ***Vice Mayor Post motioned to adjourn at 8:06 p.m., with a second provided by Council Member Bowen. The motion passed unanimously, 7-0.***

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on November 13, 2018. I further certify that a quorum was present.

_____

Hilary H. Hiser, Interim Town Clerk

Council-Regular Meeting **L1**

Meeting Date: 12/04/2018

To: Mayor and Council

Submitted For: Hilary H. Hiser, Interim Town Clerk

From: Suzanne Sutherland, Executive Assistant to the Town Clerk

Date: December 4, 2018

Subject: Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding a Location/Owner Transfer series #7 Beer and Wine Bar liquor license application submitted by Jeffrey Craig Miller on behalf of Fry's Marketplace #689, located at 12100 N. Thornydale Road, Marana, Arizona 85742 (Hilary H. Hiser)

Discussion:

This application is for a series #7 Beer and Wine Bar liquor license at Fry's Marketplace #689, located at 12100 N. Thornydale Road, Marana, Arizona 85742.

Pursuant to state law, the application was posted at the premises where the business is to be conducted. The posted notice provided that residents within a one mile radius from the premises may file written arguments in favor of or opposed to the issuance of the license with the Town Clerk's Office within 20 days of the posting. Any written arguments received by the Clerk's Office for or against the proposed liquor license are attached to this item and will be submitted to the Department of Liquor Licenses and Control (DLLC).

Town staff has reviewed this application to determine whether the applicant is in compliance with zoning, building and other legal requirements for the business. Additionally, the Marana Police Department has conducted a local background check.

The Town Council must enter an order recommending approval or disapproval of the application within 60 days after filing of the application. Pursuant to state statute, a license will only be issued after a satisfactory showing of the capability, qualifications and reliability of the applicant and "in all proceedings before the town council, the

applicant bears the burden of showing that the public convenience requires and that the best interests of the community will be substantially served by the issuance of a license."

If the Council's recommendation is for disapproval, the order must include an attachment stating the specific reasons for the recommendation of disapproval and including a summary of the testimony or other evidence supporting the recommendation.

If the Council enters an order recommending approval of the application, or makes no recommendation, then no hearing before the Arizona state liquor board will take place, unless the director of the DLLC, the liquor board or a resident within a one mile radius from the premises requests a hearing. If the Council enters an order recommending disapproval of the application, or if the director, board or a resident within a one mile radius from the premises requests a hearing, then the state board will hold a hearing regarding the application.

At the hearing, the state board will consider all evidence and testimony in favor of or opposed to the granting of the license. The decision of the board to either grant or deny an application will normally take place within 105 days after the application has been filed, unless the director of the DLLC deems it necessary to extend the time period.

Staff Recommendation:

Staff recommends that an order recommending approval be submitted to the DLLC for this liquor license application.

Suggested Motion:

OPTION 1: I move to adopt and submit to the DLLC an order recommending approval of a Location/Owner Transfer series #7 Beer and Wine Bar liquor license application submitted by Jeffrey Craig Miller on behalf of Fry's Marketplace #689, located at 12100 N. Thornydale Road, Marana, Arizona 85742.

OPTION 2: I move to adopt and submit to the DLLC an order recommending disapproval of a Location/Owner Transfer series #7 Beer and Wine Bar liquor license application submitted by Jeffrey Craig Miller on behalf of Fry's Marketplace #689, located at 12100 N. Thornydale Road, Marana, Arizona 85742.

Attachments

Application
Affidavit of Posting
Local Governing Body Recommendation
Descriptions of Common Types of Liquor Licenses

RECEIVED
NOV 01 2018
Town of Marana
Clerk's Office
LL2018-30

State of Arizona
Department of Liquor Licenses and Control

Created 10/31/2018 @ 09:18:50 AM

Local Governing Body Report

LICENSE

Number:	07100241	Type:	007 BEER AND WINE BAR
Name:	FRYS MARKETPLACE #689		
State:	Pending		
Issue Date:		Expiration Date:	09/30/2019
Original Issue Date:	12/10/1985		
Location:	12100 N THORNYDALE ROAD MARANA, AZ 85742 USA		
Mailing Address:	PO BOX 305103 NASHVILLE, TN 37230 USA		
Phone:	(520)572-6040		
Alt. Phone:	(480)730-2675		
Email:	RHONDA@AZLIC.COM		

Currently, this license has pending applications.

AGENT

Name:	JEFFREY CRAIG MILLER
Gender:	Male
Correspondence Address:	PO BOX 2502 CHANDLER, AZ 85244 USA
Phone:	(480)730-2675
Alt. Phone:	
Email:	CRAIG@AZLIC.COM

OWNER

Name:	SMITH'S FOOD & DRUG CENTERS INC		
Contact Name:	JEFFREY MILLER		
Type:	CORPORATION		
AZ CC File Number:	F00429543	State of Incorporation:	OH
Incorporation Date:	04/20/1989		
Correspondence Address:	PO BOX 305103 NASHVILLE, TN 37230 USA		
Phone:	(623)907-1934		
Alt. Phone:			
Email:	MIKEH@DOVEVALLEYRANCH.COM		

Officers / Stockholders

Name:	Title:	% Interest:
FRED MEYER JNC	Stockholder	100.00
MONICA JEAN GARNES	VP, Pres	
MARION DANIEL KREKELER	VP	
DAVID RICHARD WEAKLAND	VP. CFO	

SMITH'S FOOD & DRUG CENTERS INC - VP,CFO

Name:	DAVID RICHARD WEAKLAND
Gender:	Male
Correspondence Address:	PO BOX 305103 NASHVILLE, TN 37230 USA
Phone:	(623)907-1907
Alt. Phone:	
Email:	DAVE.WEAKLAND@FRYSFOOD.COM

SMITH'S FOOD & DRUG CENTERS INC - VP,Pres

Name:	MONICA JEAN GARNES
Gender:	Female
Correspondence Address:	PO BOX 305103 NASHVILLE, TN 37230 USA
Phone:	(623)907-1909
Alt. Phone:	
Email:	MONICA.GARNES@FRYSFOOD.COM

FRED MEYER INC - VP
KROGER CO - Treas
SMITH'S FOOD & DRUG CENTERS INC - VP

Name:	MARION DANIEL KREKELER
Gender:	Male
Correspondence Address:	PO BOX 305103 NASHVILLE, TN 37230 USA
Phone:	(615)232-9777
Alt. Phone:	
Email:	DAN.KREKELER@KROGER.COM

KROGER CO - Treasurer

Name:	TODD ALLEN FOLEY
Gender:	Male
Correspondence Address:	PO BOX 305103 NASHVILLE, TN 37230 USA
Phone:	(513)762-4339
Alt. Phone:	
Email:	TODD.FOLEY@KROGER.COM

SMITH'S FOOD & DRUG CENTERS INC - Stockholder

Name:	FRED MEYER INC FRE	State f Incorporation:
Contact Name:	CORPORATION	
Type:		
AZ CC File Number:		
Incorporation Date:		
Correspondence Address:	3800 SE 22ND AVENUE PORTLAND, OR 97202 USA (480) 730-2675	
Phone:		
Alt. Phone:		
Email:		

FRED MEYER INC - Stockholder

Name:	KROGER CO	
Contact Name:	KROGER CO	State of Incorporation: OR
Type:	CORPORATION	
AZ CC File Number:		
Incorporation Date:		
Correspondence Address:	1014 VINE STREET CINCINNATI, OH 45202 USA (480) 730-2675	
Phone:		
Alt. Phone:		
Email:		

MANAGER

****

Name:	MELVIN LYNN RYAN
Gender:	Male
Correspondence Address:	PO BOX 305103 NASHVILLE, TN 37230 USA
Phone:	(520)572-6040
Alt. Phone:	
Email:	MEL.RYAN@FRYSFOOD.COM

APPLICATION INFORMATION

Application Number:	36397
Application Type:	Location / Owner Transfer
Created Date:	10/31/2018

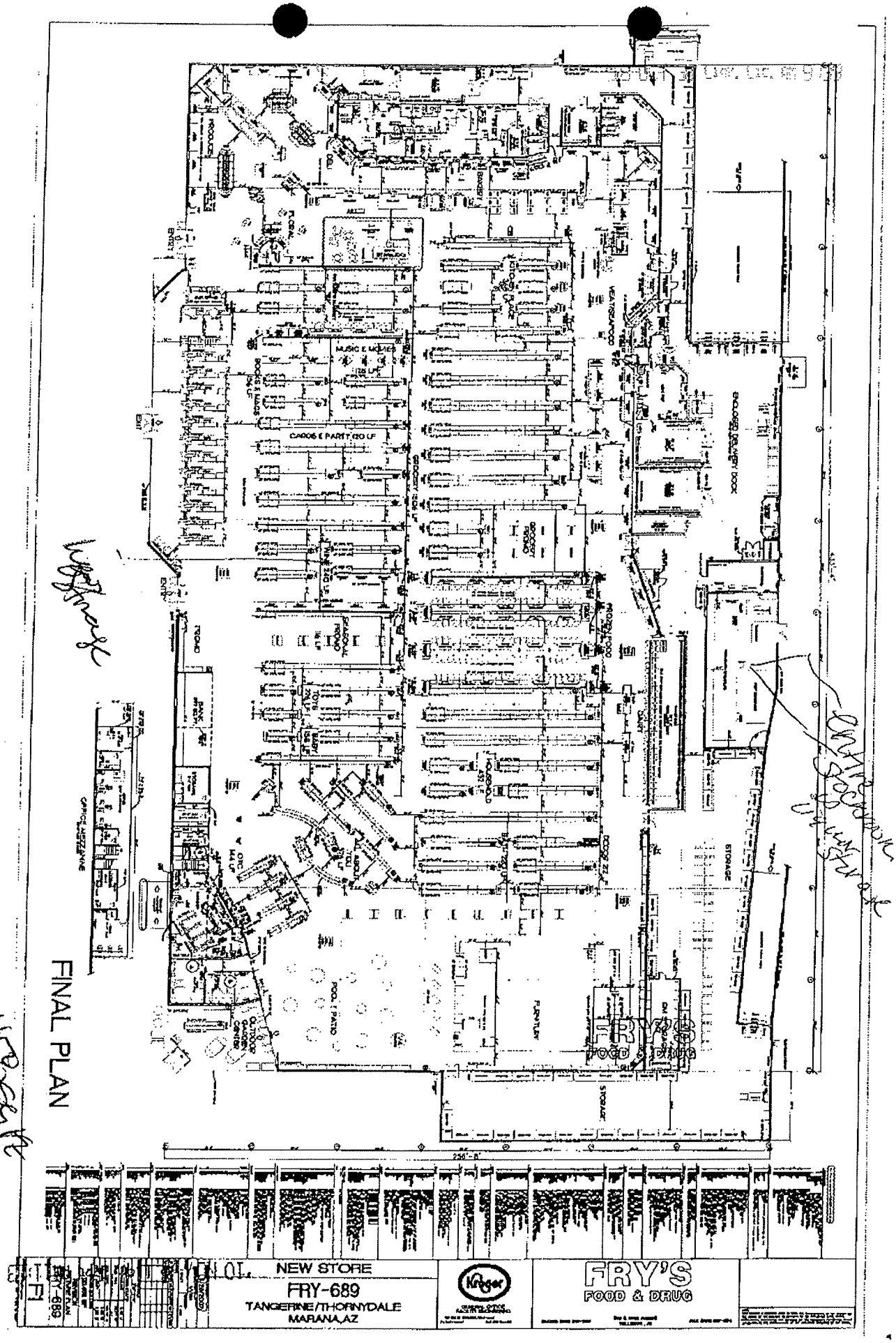
QUESTIONS & ANSWERS

007 Beer and Wine Bar

1) If you intend to operate business while your application is pending you will need an interim permit pursuant to A.R.S.§4-203.01. Would you like to apply for an Interim Permit?

   No

4) Have you submitted a questionnaire? Each person listed must submit a questionnaire and mail in a fingerprint card along with a $22. processing fee per card.
   Yes
5) Is the Business located within the incorporated limits of the city or town of which it is located?
   Yes
6) 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?
   No
17) Please provide name, address, and Distance of nearest school.
   IRONWOOD RIDGE HIGH SCHOOL- 4.6 MILES
   11598 N SHANNON RD MARANA AZ 85742
18) Please provide name, address, and distance of nearest church.
   REGENERATION CHURCH- 1.8 MILES
   3634 W TAILSPIN PL MARANA AZ 85742
19) Are you a tenant? (A person who holds the lease of a property; a lessee)
   No
20) Is there a penalty if lease is not fulfilled?
   No
21) Are you a sub-tenant? (A person who holds a lease which was given to another person (tenant) for all or part of a property)
   No
22) Are you the owner
   Yes
   A Document of type BILL OF SALE is required.
23) Are you a purchaser?
   No
24) Are you a management company?
   No
25) What is the total money borrowed for the business not including the lease?
   Please list lenders/people owed money for the business.
   0
26) Is there a drive through window on the premises?
   No
27) Have you provided a diagram of your premises?
   Yes
28) If there is a patio please indicate contiguous or non-contiguous within 30 feet.
   CONTIGUOUS
29) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?
   No


FINAL PLAN
NEW STORE
FRY-689
TANGERINE/THORNYDALE
MARANA,AZ
Kroger
FRY'S
FOOD & DRUG

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

AFFIDAVIT OF POSTING

Date of Posting: November 2, 2018 Date of Posting Removal: _____

Applicant's Name: Miller (Last) Jeffrey (First) Craig (Middle)

Business Address: 12100 N. Thornydale Road (Street) Marana (City) 85742 (Zip)

License #: 07100241/36397

I hereby certify that pursuant to A.R.S. 4-201, I posted notice in a conspicuous place on the premises proposed to be licensed by the above applicant and said notice was posted for at least twenty (20) days.

Elton Burns JR	Housing Specialist	520-990-2496
Print Name of City/County Official	**Title**	**Phone Number**

_____ _____
Signature **Date Signed**

Return this affidavit with your recommendations (i.e., Minutes of Meeting, Verbatim, etc.) or any other related documents.
If you have any questions please call (602) 542-5141 and ask for the Licensing Division.

Individuals requiring ADA accommodations please call (602)542-9027

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

Local Governing Body Recommendation
A.R.S. § 4-201(C)

1. City or Town of: Town of Marana (Circle one) Liquor License Application #: 07100241/36397 (Arizona application #)

2. County of: Pima City/Town/County #: LL2018-30

3. If licensed establishment will operate within an "entertainment district" as described in A.R.S. §4-207(D)(2),

_____ (Name of entertainment district) _____ (Date of resolution to create the entertainment district)

A boundary map of entertainment district must be attached.

4. The Marana Town Council (Governing body) at a Regular (Regular or special) meeting held on the 4th (Day) of December (Month), 2018 (Year) considered the application of Jeffrey Craig Miller (Name of applicant)

for a license to sell spirituous liquor at the premises described in application 07100241/36397 (Arizona liquor license application #),

for the license series #: type Series #7 Beer and Wine Bar (i.e.: series #10: beer & wine store) as provided by A.R.S §4-201.

ORDER OF APPROVAL/DISAPPROVAL

IT IS THEREFORE ORDERED that the license APPLICATION OF Jeffrey Craig Miller (Name of applicant)

to sell spirituous liquor of the class and in the manner designated in the application, is hereby recommended

for _____. (Approval, disapproval, or no recommendation)

TRANSMISSION OF ORDER TO STATE

IT IS FURTHER ORDERED that a certified copy of this order be immediately transmitted to the State Department of Liquor, License Division, 800 W Washington, 5th Floor, Phoenix, Arizona.

Dated at _____ (Location) on _____ (Day), _____ (Month), _____ (Year).

_____ (Printed name of city, town or county clerk) _____ (Signature of city, town or county clerk)

Individuals requiring ADA accommodations please call (602)542-9027

Series 6 Bar

The bar (series 6) liquor license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows the holder both on- & off-sale retail privileges. This license allows a bar retailer to sell and serve all types of spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises. A retailer with off-sale ("To Go") privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. A.R.S. § 4-206.01.F. states that after January 1, 2011, the off-sale privileges associated with a bar license shall be limited to no more than 30% of the total annual sales receipts of liquor by the licensee at that location. Payment must be made no later than the time of delivery. Off-sale ("To Go") package sales of spirituous liquor can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the ones provided for the bar. A hotel or motel with a Series 6 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and not furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m.

Series 7 Beer and Wine Bar

The beer and wine bar (series 7) liquor license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows the holder both on- & off-sale retail privileges. This license allows a beer and wine bar retailer to sell and serve beer and wine (no other spirituous liquors), primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises. A retailer with off-sale ("To Go") privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. A.R.S. § 4-206.01.F. states that after January 1, 2011, the off-sale privileges associated with a bar license shall be limited to no more than 30% of the total annual sales receipts of liquor by the licensee at that location. Off-sale ("To Go") package sales can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the one provided for the bar. Payment must be made no later than the time of delivery.

Series 9 Liquor Store

The liquor store (series 9) license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows a spirituous liquor store retailer to sell all types of spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of delivery. Series 9 (liquor store) licensees and applicants may apply for unlimited sampling privileges by completing the Sampling Privileges form.

Series 10 Beer and Wine Store

This non-transferable, off-sale retail privileges liquor license allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of delivery. Series 10 (beer and wine store) licensees and applicants may apply for unlimited sampling privileges by completing the Sampling Privileges form.

Series 11 Hotel/Motel

This non-transferable, on-sale retail privileges liquor license allows the holder of a hotel/motel license to sell and serve all types of spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises. The restaurant on the licensed premises must derive at least forty percent (40%) of its gross revenue from the sale of food. The holder of this license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is provided by a key or magnetic card device and may not be furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m.

Series 12 Restaurant

This non-transferable, on-sale retail privileges liquor license allows the holder of a restaurant license to sell and serve all types of spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Failure to meet the 40% food requirement may result in revocation of the license.

Council-Regular Meeting **A1**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: December 4, 2018

Strategic Plan Focus Area:
Recreation

Strategic Plan Focus Area Additional Info:
Recreation Principle Statement 1, Goal 1: Implement the updated Parks and Recreation Master Plan (El Rio Preserve is identified as a Special Purpose Park in the Master Plan)

Subject: Resolution No. 2018-112: Relating to Parks and Recreation; approving and authorizing the Mayor to sign a Real Property Acquisition Agreement with Marana Unified School District for the purchase of land needed for parking and associated purposes near the El Rio Preserve project (Frank Cassidy)

Discussion:

In 2017, the Town purchased an easement for construction of the Santa Cruz Shared Use Path over the north 70 feet of Marana Unified School District's properties located just south of El Rio Preserve (adjacent to Pima County's Continental Ranch wastewater pumping plant). To accommodate a landscape buffer for the Shared Use Path and to address anticipated public parking demand at the Preserve and at the nearby proposed disk golf course, Town staff has negotiated the purchase from MUSD of a total of about 4.65 acres of land, consisting of the north 100 feet of those same MUSD parcels included in the 2017 easement acquisition (including the 70-foot area where the previously-acquired easement is located) and an area sufficient to accommodate two rows of parking along the drainageway adjacent to the El Rio at Continental Ranch subdivision. At MUSD's request, the deal also includes the Town's acquisition of the drainageway adjacent to the El Rio at Continental Ranch subdivision.

Included with the backup materials are a concept plan depicting the proposed parking lot and landscaping and a copy of the acquisition agreement, whose exhibits include depictions of the properties being acquired.

The purchase price was negotiated based on the values established by the appraisal used

to purchase the easement in 2017, taking into consideration the price previously paid for the easement over the same area and including the drainage parcel at no additional cost.

Financial Impact:

Fiscal Year:	FY2019
Budgeted Y/N:	Y
Amount:	$67,862

Staff Recommendation:

Staff recommends adoption of Resolution 2018-112, approving and authorizing the Mayor to sign a Real Property Acquisition Agreement with Marana Unified School District for the purchase of land needed for parking and associated purposes near the El Rio Preserve project.

Suggested Motion:

I move to adopt Resolution 2018-112, approving and authorizing the Mayor to sign a Real Property Acquisition Agreement with Marana Unified School District for the purchase of land needed for parking and associated purposes near the El Rio Preserve project.

Attachments

Resolution 2018-112 El Rio MUSD Parking Lot Purchase

MUSD El Rio Parking Lot Acquistion Agreement

El Rio Parking Concept Plan

MARANA RESOLUTION NO. 2018-112

RELATING TO PARKS AND RECREATION; APPROVING AND AUTHORIZING THE MAYOR TO SIGN A REAL PROPERTY ACQUISITION AGREEMENT WITH MARANA UNIFIED SCHOOL DISTRICT FOR THE PURCHASE OF LAND NEEDED FOR PARKING AND ASSOCIATED PURPOSES NEAR THE EL RÍO PRESERVE PROJECT

WHEREAS Town staff has negotiated the terms of a real property acquisition agreement with Marana Unified School District for the purchase of land needed for parking, landscaping, drainage, and other purposes associated with the nearby proposed El Río Preserve and disk golf uses; and

WHEREAS the Mayor and Council of the Town of Marana find that this resolution is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the Real Property Acquisition Agreement with Marana Unified School District in substantially the form included in the agenda materials accompanying this resolution is hereby approved, and the Mayor is authorized to sign it for and on behalf of the Town of Marana.

IT IS FURTHER RESOLVED that the Town Manager is hereby authorized to sign all other documentation associated with the acquisition of the land, and the Town Manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, conditions and objectives of this resolution and the agreement it approves.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 4th day of December, 2018.

_____
Mayor Ed Honea

ATTEST:

_____
Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney

TOWN OF MARANA/MUSD REAL PROPERTY ACQUISITION AGREEMENT

This Agreement is made by and between MARANA UNIFIED SCHOOL DISTRICT # 6 (the "Owner"), and the TOWN OF MARANA, an Arizona municipal corporation (the "Town"). The Owner and the Town are sometimes referred to collectively in this Agreement as the "Parties" and individually as a "Party."

1. Acquisition Area and Acquisition Amount. The Town needs to acquire fee title to lands owned by the Owner that are referred to in this Agreement as the "Acquisition Area" and more particularly described in Exhibits A, C, and E, and depicted in Exhibits B, D, and F attached to this Agreement. In lieu of court proceedings to acquire the Acquisition Area by eminent domain, the Owner agrees to sell and the Town agrees to acquire the Acquisition Area for the total sum of $67,862 (the "Acquisition Amount"), subject to the terms and conditions set forth in this Agreement.

2. Risk of Loss for Damage to Improvements. The Owner shall be responsible for the risk of loss for any and all damage to the improvements located on the Acquisition Area prior to close of escrow.

3. Warranty Deed. Upon execution of this Agreement the Owner shall deposit with the Town a Warranty Deed conveying to the Town title to the Acquisition Area free and clear of all liens and encumbrances.

4. No Salvage. The Owner shall not salvage or remove any fixtures, improvements, vegetation, located within the Acquisition Area. Personal property may be removed prior to close of escrow.

5. Escrow and Prorations. The Acquisition Amount shall be paid in full at closing.

a. The date of closing shall be used for proration of rents, property taxes and other similar costs.

b. Assessments due for improvement districts shall be paid in full by the Owner prior to closing.

c. Acquisition Area taxes shall be prorated based upon both the date of closing and the proportion of the size of the Acquisition Area to the Owner's larger parcels of which the Acquisition Area is a part.

6. Security Interest. Monies payable under this Agreement may be due holders of notes secured by mortgages or deeds of trusts ("Lienholders"), up to and including the total amount of unpaid principal, interest and penalty. Those sums shall, upon demand, be paid to the Lienholders. The Owner shall obtain from the Lienholders releases for the transfer of the Acquisition Area.

7. Possession and Closing. Possession of the Acquisition Area shall be given to the Town at the date of closing. Closing shall be on or before the later of (a) 45 days after the date this Agreement is approved by the Marana Mayor and Council or (b) 45 days after receipt of all necessary releases or consents from any Lienholder.

8. Environmental Representations. The Town and the Owner agree that neither Party is assuming any obligation of the other Party relating to any potential liability arising from the environmental condition of the Acquisition Area. Each Party shall remain responsible for its obligations as set forth by law. The Owner hereby represents and warrants that, during Owner's ownership of the Acquisition Area, to the best of the Owner's knowledge, no pollutants, contaminants, toxic or hazardous substances, wastes, or materials have been stored, used, or located on the Acquisition Area or within any surface or subsurface waters thereof; that no underground tanks have been located on the Acquisition Area; that the Acquisition Area is in compliance with all Federal, state, and local environmental laws, regulations and ordinances; and that no legal action of any kind has been commenced or threatened with respect to the Acquisition Area.

9. Environmental Inspection Rights. The Owner shall permit the Town to conduct such inspections of the Acquisition Area as the Town deems necessary to determine the environmental condition of the Acquisition Area. If environmental inspections do not specifically identify contamination but indicate a potential for contamination and recommend further testing or inspection, the Parties hereby agree to extend the date of closing to at least 30 days after the report for such additional testing or inspection is completed on behalf of the Town. If any environmental inspection reveals the presence of contamination or the need to conduct environmental clean-up as a result of contamination occurring during Owner's ownership of the Acquisition Area, the Owner shall remediate all contamination within the Acquisition Area adequate to bring it into compliance with all applicable Federal, state, or local environmental regulations prior to Closing or the Town may terminate this Agreement. If contamination is discovered which occurred prior to Owner acquiring title to the Acquisition Area, Owner may decline to conduct a clean-up to bring the Acquisition Area into compliance with applicable law. In such case, Town may terminate this Agreement.

10. No Leases. The Owner warrants that there are no oral or written leases on all or any portion of the Acquisition Area.

11. Broker's Commission. No broker or finder has been used and the Town shall owe no brokerage or finders' fee related to this transaction. The Owner has sole responsibility to pay all brokerage or finders' fees to any agent employed by Owner.

12. Closing Costs. Expenses incidental to transfer of title, including title reports, recording fees, escrow fees, releases and Owner's Title Insurance Policy, shall be paid by the Town.

13. Right of Entry. This Agreement grants the Town, its employees, agents, and consultants, the right to enter the Acquisition Area effective as of the date this Agreement is

signed on behalf of the Owner, which shall terminate when the Town takes title to the Acquisition Area or in 180 days, whichever occurs first.

14. No Sale. The Owner shall not sell or encumber the Acquisition Area prior to close of escrow.

15. Conflict of Interest. This Agreement is subject to A.R.S. § 38-511, which provides for cancellation of contracts by the Town for certain conflicts of interest.

16. Survival of Representation and Warranties. All representations and warranties contained in this Agreement shall survive close of escrow.

17. Entire Agreement. This signed document shall constitute the entire agreement between the Parties. No modification or amendment to this Agreement shall be binding unless in writing and signed by both Parties. The performance of this Agreement constitutes the entire consideration by the Town, including just compensation for the Acquisition Area and severance damages to any remainder property and shall relieve the Town of all further obligation or claims relating to the Acquisition Area and to the larger parcels of which the Acquisition Area is a part.

18. Exhibits. Any exhibit attached to this Agreement shall be deemed to be incorporated by reference with the same force and effect as if fully set forth in the body of this Agreement.

19. Compromise and Settlement. The Parties acknowledge that the Acquisition Amount is not necessarily market value; but that it was agreed to through compromise and settlement to avoid litigation.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last date set forth below their respective signatures.

THE "TOWN":	THE "OWNER":
TOWN OF MARANA, an Arizona municipal corporation	MARANA UNIFIED SCHOOL DISTRICT # 6
By: _____ Ed Honea, Mayor	By: _____ Its: _____
Date: _____	Date: _____

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
MARANA ACQUISITION AREA
OF A PORTION OF APN 22604014B

A PARCEL OF LAND SITUATED IN A PORTION OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 12 SOUTH, RANGE 12 EAST OF THE GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17;

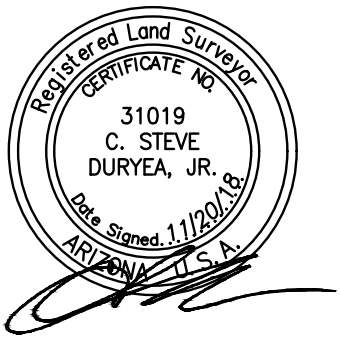
THENCE UPON AND WITH THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17, 587.69 FEET TO THE POINT OF BEGINNING;

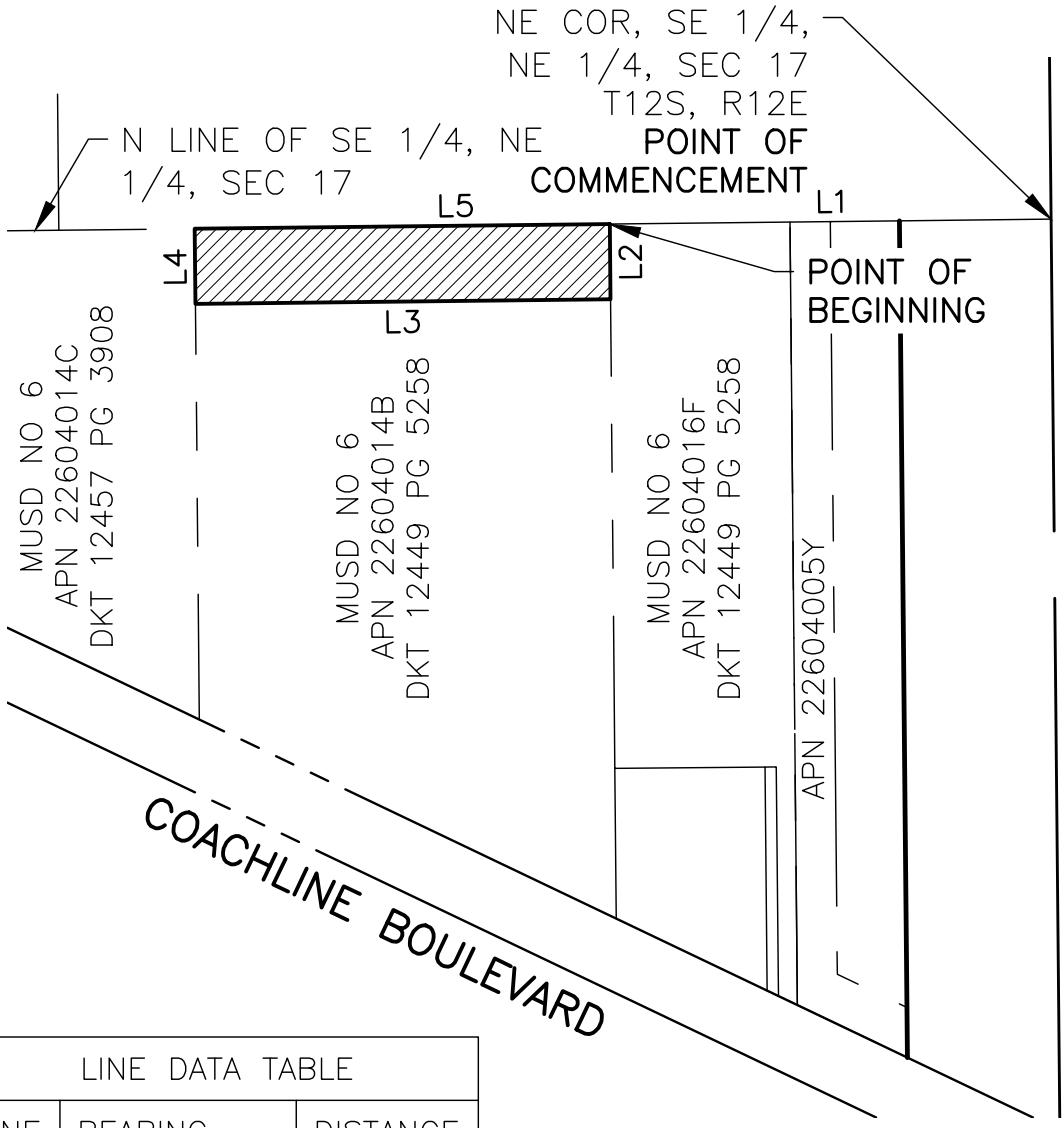
THENCE DEPARTING SAID NORTH LINE, SOUTH 00 DEGREES 32 MINUTES 03 SECONDS EAST, 100.00 FEET;

THENCE 89 DEGREES 21 MINUTES 27 SECONDS WEST, 552.79 FEET TO THE EAST LINE OF APN 22604014C RECORDED IN DKT 12457 PAGE 3908 OFFICIAL RECORDS OF PIMA COUNTY;

THENCE UPON AND WITH SAID EAST LINE NORTH 00 DEGREES 32 MINUTES 26 SECONDS WEST, 100.00 FEET TO THE AFOREMENTIONED NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17;

THENCE UPON AND WITH SAID NORTH LINE NORTH 89 DEGREES 21 MINUTES 27 SECONDS EAST, 552.80 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 55,279 SQUARE FEET OR 1.269 ACRES OF LAND, MORE OF LESS.





LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	S89°21'27"W	587.69'
L2	S00°32'03"E	100.00'
L3	S89°21'27"W	552.79'
L4	N00°32'26"W	100.00'
L5	N89°21'27"E	552.80'

N

NTS

PARCEL AREA:
55,279 SF OR
1.269 ACRES

THIS IS NOT A PROPERTY BOUNDARY SURVEY.

Dibble Engineering

Registered Land Surveyor
CERTIFICATE NO.
31019
C. STEVE
DURYEA, JR.
Date Signed 11/20/18
ARIZONA U.S.A.

EXHIBIT "B"
MARANA ACQUISITION AREA

A PORTION OF THE NE QUARTER SECTION 17, T12S, R12E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Dibble Engineering
Project No 1015052.07

DATE: OCT 2018
DRN: BAR
CHK: JPG

PAGE 2 OF 2

FILE:V:\PROJECTS\2015\1015052.07 El Rio Parking Legals\CAD\EXHIBITS\226-04-014B.dwg DATE:Nov, 20 2018 TIME: 10:34 am

EXHIBIT "C"
LEGAL DESCRIPTION
FOR
MARANA ACQUISITION AREA
OF A PORTION OF APN 22604016F

A PARCEL OF LAND SITUATED IN A PORTION OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 12 SOUTH, RANGE 12 EAST OF THE GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17;

THENCE UPON AND WITH THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17, SAME BEING THE NORTH LINE OF EL RIO AT CONTINENTAL RANCH AS RECORDED IN BOOK 55 ON PAGE 26 OF MAPS, OFFICIAL RECORDS OF PIMA COUNTY, ARIZONA, SOUTH 89 DEGREES 21 MINUTES 27 SECONDS WEST, 347.69 FEET TO THE TRUE POINT OF BEGINNING;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00 DEGREES 32 MINUTES 03 SECONDS EAST, 1042.74 FEET TO THE NORTH RIGHT OF WAY LINE OF COACHLINE BOULEVARD;

THENCE UPON AND WITH SAID NORTH RIGHT OF WAY LINE, NORTH 64 DEGREES 28 MINUTES 34 SECONDS WEST, 27.83 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN SEQUENCE NUMBER 20152260108, OFFICIAL RECORDS OF PIMA COUNTY, ARIZONA;

THENCE DEPARTING SAID NORTH RIGHT OF WAY LINE, UPON AND WITH THE EAST LINE OF SAID PARCEL, NORTH 00 DEGREES 32 MINUTES 03 SECONDS WEST, 305.15 FEET TO THE NORTHEAST CORNER THEREOF;

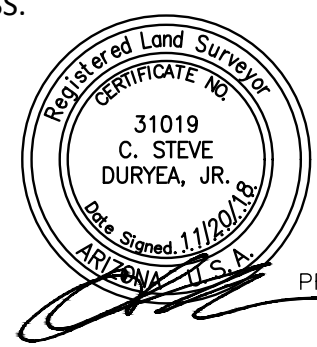
THENCE UPON AND WITH THE NORTH LINE OF SAID PARCEL, SOUTH 89 DEGREES 27 MINUTES 58 SECONDS WEST, 59.00 FEET;

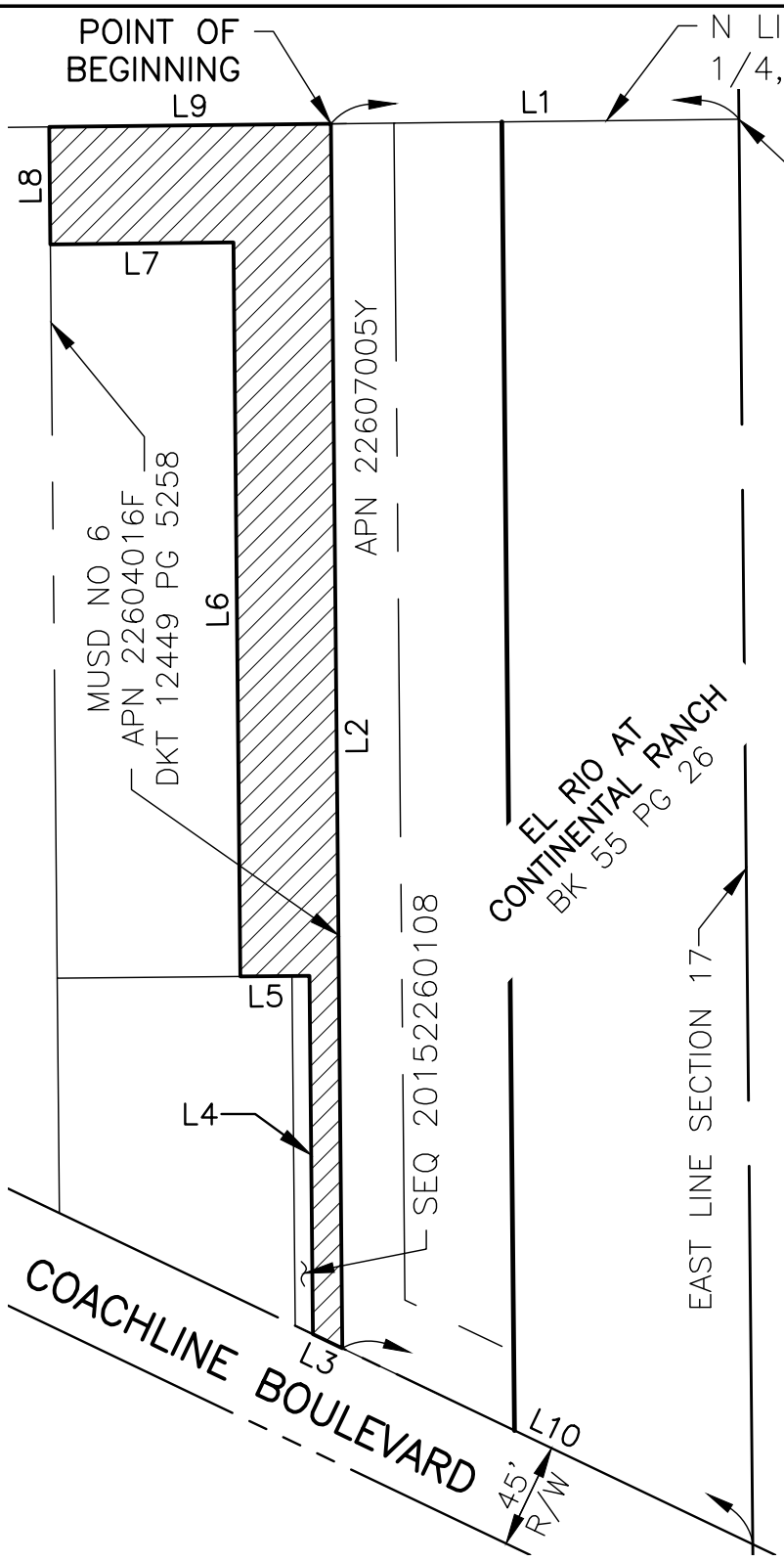
THENCE NORTH 00 DEGREES 32 MINUTES 03 SECONDS WEST, 625.20 FEET;

THENCE SOUTH 89 DEGREES 21 MINUTES 27 SECONDS WEST, 156.00 FEET;

THENCE NORTH 00 DEGREES 32 MINUTES 03 SECONDS WEST, 100.00 FEET TO THE AFORESAID NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17;

THENCE UPON AND WITH SAID NORTH LINE, NORTH 89 DEGREES 21 MINUTES 27 SECONDS EAST, 240.00 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 84,307 SQUARE FEET OR 1.935 ACRES OF LAND, MORE OF LESS.





PARCEL AREA:
84,307 SF OR
1.935 ACRES

LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	S89°21'27"W	347.69'
L2	S00°32'03"E	1042.74'
L3	N64°28'34"W	27.83'
L4	N00°32'03"W	305.15'
L5	S89°27'58"W	59.00'
L6	N00°32'03"W	625.20'
L7	S89°21'27"W	156.00'
L8	N00°32'03"W	100.00'
L9	N89°21'27"E	240.00'
L10	S64°28'34"E	387.53'

THIS IS NOT A PROPERTY BOUNDARY SURVEY.

Dibble Engineering

Registered Land Surveyor
CERTIFICATE NO.
31019
C. STEVE DURYEA, JR.
Date Signed 11/20/18
ARIZONA U.S.A.

EXHIBIT "D"
MARANA ACQUISITION AREA

A PORTION OF THE NE QUARTER SECTION 17, T12S, R12E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Dibble Engineering
Project No 1015052.07

DATE: OCT 2018
DRN: BAR
CHK: JPG

PAGE 2 OF 2

FILE:V:\PROJECTS\2015\1015052.07 El Rio Parking Legals\CAD\EXHIBITS\226-04-016F.dwg DATE:Nov, 20 2018 TIME: 10:38 am

EXHIBIT "E"
LEGAL DESCRIPTION
FOR
MARANA ACQUISITION AREA
OF A PORTION OF APN 22607005Y

A PARCEL OF LAND SITUATED IN A PORTION OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 12 SOUTH, RANGE 12 EAST OF THE GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17;

THENCE UPON AND WITH THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17, SAME BEING THE NORTH LINE OF THAT CERTAIN PLAT, EL RIO AT CONTINENTAL RANCH AS RECORDED IN BOOK 55 ON PAGE 26 OF MAPS, OFFICIAL RECORDS OF PIMA COUNTY (PCR), ARIZONA, SOUTH 89 DEGREES 21 MINUTES 27 SECONDS WEST, 294.02 FEET TO THE TRUE POINT OF BEGINNING;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00 DEGREES 32 MINUTES 03 SECONDS EAST, 1002.29 FEET

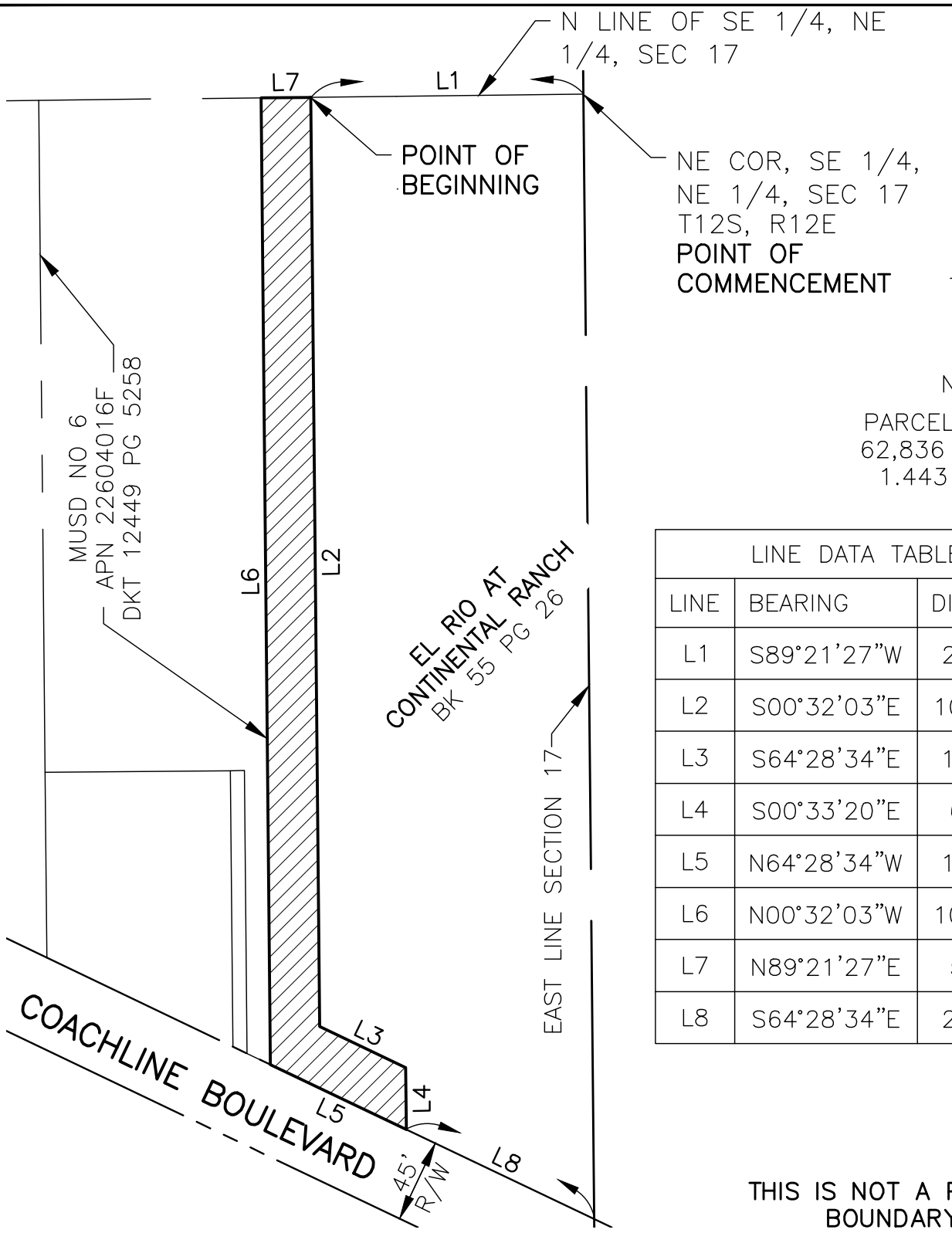
THENCE SOUTH 64 DEGREES 28 MINUTES 34 SECONDS EAST, 102.85 FEET;

THENCE SOUTH 00 DEGREES 33 MINUTES 20 SECONDS, A DISTANCE OF 66.80 FEET TO THE NORTH RIGHT OF WAY LINE OF COACHLINE BOULEVARD, SAID POINT ALSO BEING THE SOUTH LINE OF SAID PLAT;

THENCE UPON AND WITH SAID NORTH RIGHT OF WAY LINE, NORTH 64 DEGREES 28 MINUTES 34 SECONDS WEST, 162.62 FEET TO THE SOUTHWEST CORNER OF SAID PLAT;

THENCE DEPARTING SAID NORTH RIGHT OF WAY LINE, UPON AND WITH THE WEST LINE OF SAID PLAT, NORTH 00 DEGREES 32 MINUTES 03 SECONDS WEST, 1042.74 FEET TO THE NORTHWEST CORNER THEREOF;

THENCE UPON AND WITH THE AFORESAID NORTH LINE, NORTH 89 DEGREES 21 MINUTES 27 SECONDS WEST, 53.67 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 62,836 SQUARE FEET OR 1.443 ACRES OF LAND, MORE OF LESS.



LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	S89°21'27"W	294.02'
L2	S00°32'03"E	1002.29'
L3	S64°28'34"E	102.85'
L4	S00°33'20"E	66.80'
L5	N64°28'34"W	162.62'
L6	N00°32'03"W	1042.74'
L7	N89°21'27"E	53.67'
L8	S64°28'34"E	224.92'

THIS IS NOT A PROPERTY BOUNDARY SURVEY.

Dibble Engineering

Registered Land Surveyor
CERTIFICATE NO.
31019
C. STEVE DURYEA, JR.
Date Signed 11/07/18
ARIZONA U.S.A.

EXHIBIT "F"
MARANA ACQUISITION AREA

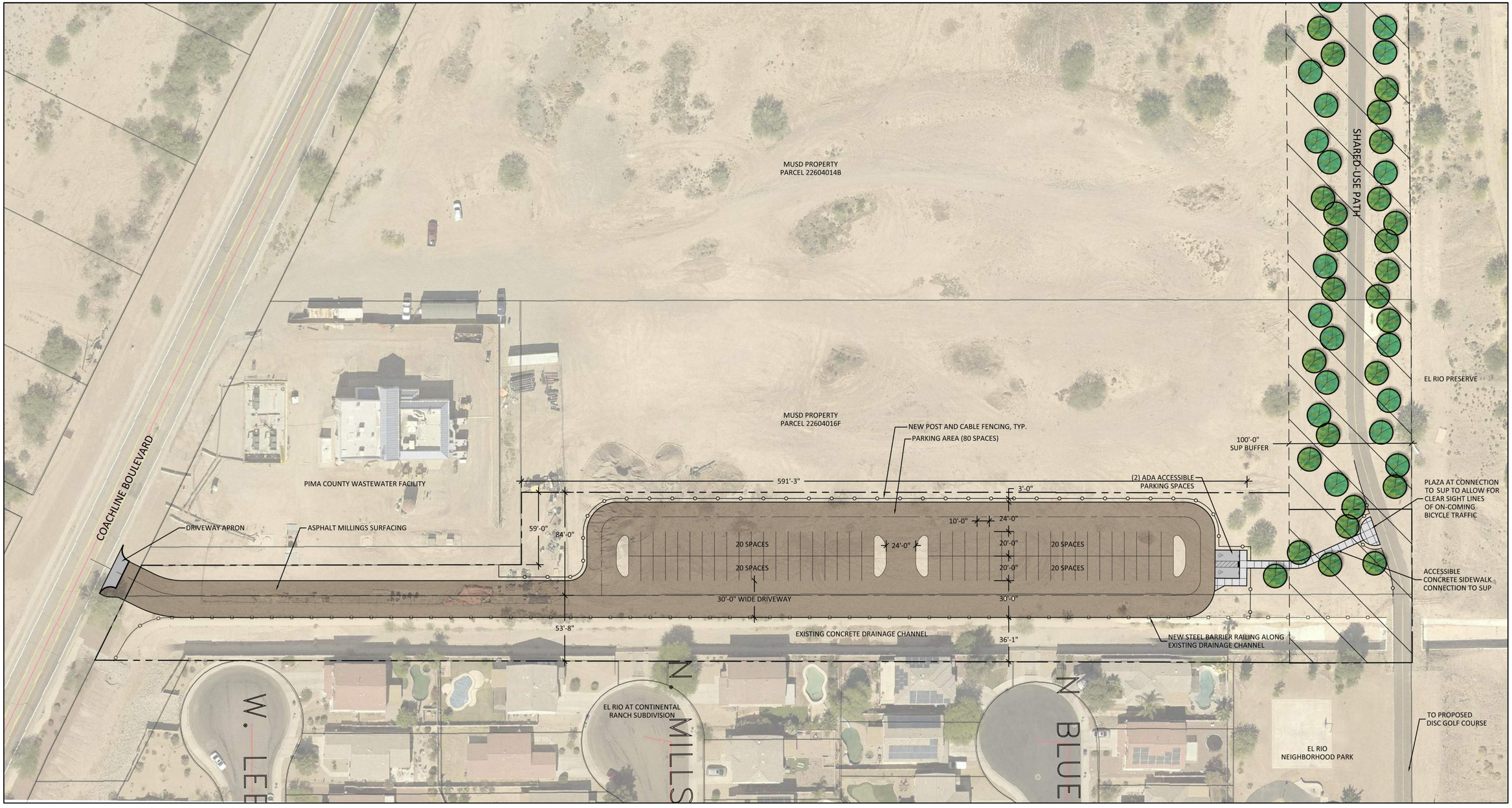
A PORTION OF THE NE QUARTER SECTION 17, T12S, R12E, GILA & SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA

Dibble Engineering
Project No 1015052.07

DATE: NOV 2018
DRN: CSD
CHK: BAR

PAGE 2 OF 2

FILE:C:\Users\beverly.rossi\AppData\Local\Temp\AcPublish_12140\226-07-005Y.dwg DATE:Nov, 07 2018 TIME: 01:23 pm



EL RIO PRESERVE AND RECREATION AREA
DISC GOLF PARKING LOT CONCEPT PLAN

MARANA AZ

0 20' 40' 80'

DATE: 9/07/18

Council-Regular Meeting **A2**

Meeting Date: 12/04/2018

To: Mayor and Council

From: Curry C. Hale, Human Resources Director

Date: December 4, 2018

Strategic Plan Focus Area:
Progress & Innovation

Strategic Plan Focus Area Additional Info:
PRINCIPLE STATEMENT 1: We will explore bold ideas and best practices as a catalyst for forward-thinking and visionary community leadership.
INITIATIVES:
1. Encourage, Reward, and Facilitate Innovative Ideas.

Subject: Resolution No. 2018-113: Relating to Personnel; approving an additional paid holiday on December 31, 2018 for eligible Town of Marana employees (Curry C. Hale)

Discussion:

This item proposes to give all eligible Town employees an additional paid holiday in calendar year 2018 - New Year's Eve, Monday, December 31, 2018. The holiday would be subject to all established Town policies relating to paid holidays. Per Personnel Policy 4-4-1 eligible employees include all regular full- and part-time classified and unclassified employees, including those serving in an initial evaluation period and term-limited employees.

This one-time holiday proposal is sought as a way to demonstrate appreciation for the excellent work provided by the Town of Marana workforce.

Financial Impact:

Fiscal Year:	2019
Budgeted Y/N:	Y
Amount:	$99,567

The average daily cost of Town payroll is approximately $99,567. The cost associated with the additional day off is included in the fiscal year 2018-2019 budget. However, if this item is approved, the Town will likely include additional, unbudgeted costs associated with essential personnel (police, parks, etc.) that may be required to work on the additional day off as they would receive pay for both the additional day off and any hours worked on that day. Any additional costs incurred will be absorbed within the budgets of the respective departments, as appropriate.

Staff Recommendation:

Staff recommends adoption of Resolution No. 2018-113 approving an additional paid holiday of December 31, 2018 as a one-time holiday for eligible Town of Marana employees.

Suggested Motion:

I move to adopt Resolution No 2018-113, approving an additional paid holiday on December 31, 2018 as a one-time holiday for eligible Town of Marana employees.

Attachments

Resolution 2018-113 Approving 12/31/2018 as Additional Holiday

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MARANA RESOLUTION NO. 2018-113

RELATING TO PERSONNEL; APPROVING AN ADDITIONAL PAID HOLIDAY ON DECEMBER 31, 2018 FOR ELIGIBLE TOWN OF MARANA EMPLOYEES

WHEREAS Section 3-3-1 of the Marana Town Code provides that the Town Council may adopt rules, regulations and directives to give effect to the Town's Personnel Policies and Procedures; and

WHEREAS the Town Council adopted Personnel Policies and Procedures via Town of Marana Ordinance 99.12 and Resolution 99-38 on May 18, 1999, which policies have been amended from time to time; and

WHEREAS Section 4-4-2(A) of the Personnel Policies and Procedures designates 11 days as Town-approved holidays; and

WHEREAS Section 4-4-2(B) of the Personnel Policies and Procedures provides that the Council may approve additional holidays in any given calendar year; and

WHEREAS the Council finds that approving an additional paid holiday on December 31, 2018 is in the best interests of the Town and its employees.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, as follows:

SECTION 1. Monday, December 31, 2018 is hereby approved as an additional paid holiday for eligible Town of Marana employees, subject to all established Personnel Policies and Procedures relating to Town-approved paid holidays.

SECTION 2. The Town's manager and staff are hereby directed and authorized to undertake all other and further tasks required or beneficial to carry out the terms, obligations, and objectives of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 4th day of December, 2018.

_____
Mayor Ed Honea

ATTEST:

_____
Hilary H. Hiser, Interim Town Clerk

APPROVED AS TO FORM:

_____
Frank Cassidy, Town Attorney