



MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING
NOTICE AND AGENDA

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, October 6, 2020, 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

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 October 6, 2020, at or after 6:00 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 6:00 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.

Due to concerns related to the COVID-19 pandemic, meetings may be viewed online by clicking the below link: <http://maranaaz.swagit.com/live>

As an alternative to appearing in person, citizens may speak during the Call to the Public or Public Hearings or when called upon by Council by using Zoom. Please click the link below to participate in the Council meeting (refer to the instructions below for how to participate):

<https://us02web.zoom.us/j/83431140733?pwd=K0I1bnM2YTIEZ2d3NDlvODRLS01sdz09>

Passcode: 536715

For instructions on participating virtually in the Town Council Meeting click here: <https://www.maranaaz.gov/virtual-meetings> Please note that by participating virtually, you will not be able to watch video of the Council meeting, you will only be able to hear the meeting and to speak if you are called upon.

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

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. 2020-107: Relating to Police Department; approving and authorizing the Mayor to execute an intergovernmental agreement between the Town of Marana and other public agencies to participate in the Arizona Child Abduction Response Team (Libby Shelton)
- C2 Resolution No. 2020-108: Relating to Technology Services; approving and authorizing the Town Manager to execute Subrecipient Agreement Number 20-AZDOHS-HSGP-200404-01 between the Arizona Department of Homeland Security and the Town of Marana to receive funding for Cybersecurity Enhancement (Kristin Taft)

- C3 Resolution No. 2020-109: Relating to Addressing; renaming “Bamboo Muhly Trail” located in Saguaro Bloom Block 7 as “Sand Sage Trail” (Justin Currie)
- C4 Resolution No. 2020-110: Relating to Capital Improvement Projects; approving and authorizing the Mayor to sign the Intergovernmental Agreement between the Pima County Flood Control District and the Town of Marana for Construction and Maintenance of the Santa Cruz River Path CalPortland Segment (Frank Cassidy)
- C5 Approval of the Regular Council Meeting Summary Minutes of September 15, 2020 (Cherry L. Lawson)

LIQUOR LICENSES

BOARDS, COMMISSIONS AND COMMITTEES

- B1 [Town Council acting as Floodplain Board] Relating to Floodplain Management; staff report to Floodplain Board regarding a floodplain violation on property located at 4801 W. Flying Diamond, as required by Town Code section 17-15-7 (A) and federal regulations, and order from Floodplain Board regarding abatement of the violation (Keith Brann)

COUNCIL ACTION

- A1 Resolution No. 2020-111: Relating to Real Estate; approving and authorizing the Mayor to execute a Lease Agreement with Marana Chamber of Commerce, Inc. for the lease of Town-owned property located at 13250 N. Lon Adams Road (Jane Fairall)
- A2 Resolution No. 2020-112: Relating to Development; approving and authorizing the Mayor to sign the Marana Main Street Development Agreement and Right-of-Way License (Heath Vescovi-Chiordi)
- A3 Resolution No. 2020-113: Relating to Utilities; approving and authorizing the Mayor to sign a Reconciliation Agreement for Construction of Water Facilities under Private Contract for The Preserve at Twin Peaks Subdivision between the Town of Marana and Lennar Arizona, Inc. (David L. Udall)

- A4 Resolution No. 2020-114: Relating to Budget; authorizing the transfer of up to \$420,000 in budgeted expense authority from the Water Capital Fund WT047 Marana Park Well to the Water Capital Fund project number WT037 Tangerine W to X-Zone Booster Station and PRV in the fiscal year 2020-2021 budget for costs related to the construction of the booster station (Scott Schladweiler)

ITEMS FOR DISCUSSION / POSSIBLE ACTION

- D1 Relating to Budget; presentation of monthly financial revenues (July-August) of the Town's General Fund funds for the 2020-2021 fiscal year (Yiannis Kalaitzidis)
- D2 Relating to Special Events; discussion and possible direction regarding options for proceeding with the 2020 Marana Holiday Festival & Christmas Tree Lighting in light of the COVID-19 pandemic (Vic Hathaway)
- D3 Relating to Development and Public Works; update, discussion, and possible direction regarding public and private projects and development applications on the Town's [Marana Current and Proposed Projects](#) internet site (Jason Angell)
- D4 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), Council may ask for discussion or consideration, or consultation with designated Town representatives, or consultation for legal advice with the Town Attorney, concerning any matter listed on this agenda for any of the reasons listed in A.R.S. §38-431.03 (A).

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

C1

Meeting Date: 10/06/2020

To: Mayor and Council

From: Libby Shelton, Senior Assistant Town Attorney

Date: October 6, 2020

Strategic Plan Focus Area:

Not Applicable

Subject: Resolution No. 2020-107: Relating to Police Department; approving and authorizing the Mayor to execute an intergovernmental agreement between the Town of Marana and other public agencies to participate in the Arizona Child Abduction Response Team (Libby Shelton)

Discussion:

On October 4, 2016, Council adopted Resolution 2016-101 authorizing an intergovernmental agreement between the Town of Marana and other public agencies to create an Arizona Child Abduction Response Team (AZCART). The term of the agreement ended on July 1, 2020.

The primary goal of the Arizona Child Abduction Response Team is to provide a pool of specialized investigators, who are available to focus dedicated and intensive investigative, preventative, and general law enforcement efforts, primarily concerning cases involving abducted or at-risk missing children. AZCART and other Arizona law enforcement agencies may request and render law enforcement assistance to/from other AZCART agencies in dealing with serious violations of law including, but not limited to: the investigation, arrest, and prosecution of those involved in criminal child kidnapping, abduction, false imprisonment, and similar or related violations (utilizing state and federal law and prosecutions, as appropriate); the rescue of the abducted child or children; and the seizure and forfeiture of assets of those engaged in child abduction or otherwise supporting such activity, utilizing applicable state and federal forfeiture laws, as may be appropriate.

The agreement addresses the procedures for activation of the CART. Any party to the agreement can request activation of CART, and the party that has jurisdiction over the

incident or investigation will remain as the lead agency with support from other CART agencies. Under the agreement, all parties are responsible for their own costs. If approved, the proposed agreement will become effective upon execution by the Town and filing with the County Recorder and shall remain in effect until June 30, 2025.

Staff Recommendation:

Staff recommends adoption of Resolution No. 2020-107, authorizing the Mayor to execute the Intergovernmental Agreement for Participation in the Arizona Child Abduction Response Team.

Suggested Motion:

I move to adopt Resolution No. 2020-107, authorizing the Mayor to execute the Intergovernmental Agreement for Participation in the Arizona Child Abduction Response Team.

Attachments

Resolution No. 2020-107
Exhibit A

MARANA RESOLUTION NO. 2020-107

RELATING TO POLICE DEPARTMENT; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF MARANA AND OTHER PUBLIC AGENCIES TO PARTICIPATE IN THE ARIZONA CHILD ABDUCTION RESPONSE TEAM.

WHEREAS evidence has shown that criminal child kidnapping, abduction, false imprisonment and similar violations occur in Arizona; and

WHEREAS the goal of the Arizona Child Abduction Response Team is to provide a pool of specialized investigators who are available to focus dedicated and intensive investigative, preventative and general law enforcement efforts primarily with regard to cases involving abducted children; and

WHEREAS the Town of Marana desires to be a participant in the Arizona Child Abduction Response Team; and

WHEREAS the Mayor and Council of the Town of Marana find that it is in the best interests of the citizens of Marana to enter into the intergovernmental agreement addressed by this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the "Intergovernmental Agreement for the Creation and Participation in the Arizona Child Abduction Response Team" attached to this resolution as Exhibit A is hereby approved, and the Mayor is authorized to execute 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 intergovernmental agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Frank Cassidy, Town Attorney

**INTERGOVERNMENTAL AGREEMENT
FOR THE CREATION AND PARTICIPATION IN THE ARIZONA CHILD
ABDUCTION RESPONSE TEAM**

This Agreement is entered into pursuant to A.R.S. §§11-951 *et seq.*, and A.R.S. §13-3872 among the City of Apache Junction, the City of Chandler, the Town of Gilbert, the Town of Maricopa, the City of Mesa, the Town of Paradise Valley, the City of Phoenix and the City of Scottsdale. The aforementioned agencies shall herein after be known collectively as the Arizona Child Abduction Response team agencies (CART) and any other public agencies, as that term is defined in A.R.S. § 11-951, which after invitation by the CART chiefs, comply with the provisions of A.R.S. §§11-951 *et seq.* and files an authorizing document with the County Recorder in the County in which the agency is located in that references this Agreement. A public agency shall become a Party to this Agreement as of the date that agency files with the appropriate County Recorder, notwithstanding that A.R.S. §§11-951 *et seq.*, no longer requires such recording. Each CART agency shall provide a copy of its fully executed agreement to every other member agency. In addition to the above, all members to this Agreement may also be collectively known as or referred to as the Parties.

I. PURPOSE

The purpose of this Agreement is to create an Arizona Child Abduction Response Team (CART). The primary goal of the Arizona Child Abduction Response Team is to provide a pool of specialized investigators which are available to focus dedicated and intensive investigative, preventative, and general law enforcement efforts primarily with regard to cases involving abducted children. CART agencies may request and render law enforcement assistance from other CART agencies in dealing with serious violations of law including, but not limited to, the investigation, arrest and prosecution of those involved in criminal child kidnapping, abduction, false imprisonment and similar or related violations (utilizing state and federal law and prosecutions, as appropriate), the rescue of the abducted child or children and the seizure and forfeiture of assets of those engaged in child abduction or otherwise supporting such activity (utilizing state and federal forfeiture options, as appropriate).

Additionally, the location of each Party's jurisdiction in relation to each other makes it advantageous to enter this particular Agreement in order to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional criminal activity such as that described above.

II. AUTHORITY

A. The Parties are authorized and empowered to enter into this Agreement pursuant to A.R.S. §§11-951 *et seq.*, A.R.S. §13-3872 and the respective provisions of their City Charters, Tribal Constitution or other governing statute or authority.

If any Native American tribe that is a party to this Agreement request CART assistance, all assisting CART team members shall be granted tribal peace officer authority for the duration of the CART activation within the applicable tribal jurisdiction.

III. ACTIVATION, PROCEDURES AND RESOURCES

A. Any Party to the Agreement may request activation of CART. It shall be the responsibility of the Party requesting activation to contact assigned team leaders via the law enforcement communications center of each Party.

B. The Party that has jurisdiction over the incident or investigation will remain as the lead agency during the duration of a particular CART activation with support from CART agencies.

C. Two CART Team Leaders will be selected by the CART Team members subject to final approval of the chief law enforcement officers (chiefs) of the CART agencies on a rotating basis for a term of at least one year, which shall correspond with the effective date of the Agreement. In the event that a Team Leader is unable to complete his or her term due to resignation from his or her agency or for any other reason, the CART members shall name a replacement shall appoint a replacement subject to final approval of the chiefs.

D. The CART Team Leaders or designees will be responsible for coordinating on-going training, meetings or other necessary supporting functions in support of the operational effectiveness of CART. Team Leaders shall be responsible for mediating any jurisdictional disputes between the Parties during a CART activation. In the event such mediation fails, the issue shall be brought to the attention of the CART Chiefs for appropriate resolution.

E. Each Party shall to the best of its ability make at least one sworn law enforcement officer available along with supporting equipment such as vehicles in support of any CART activation. Each Party shall designate a primary CART member to participate in activations, meetings, trainings, etc. Each Party shall immediately inform other CART agencies when such designations change. In the event a primary CART member is not available or as the situation dictates, a CART agency may provide officers not normally designated as CART members in support of a CART activation.

F. Each Party shall have the sole discretion to determine how many or how long any of its personnel or resources shall be assigned in support of a CART activation.

IV. COSTS AND ANY REIMBURSEMENT

The Parties will be responsible for any and all associated costs accrued in implementing this Agreement that are incurred by their respective agencies to include but are not limited to employee salary, shift differential pay, overtime compensation, benefits, vehicles, equipment, etc. If any Party receives grant funds designated for the Arizona Child Abduction Response Team, some or all of these expenses may be reimbursed to the Parties. In no event shall any

Party charge other Parties for any administrative fees for any work performed pursuant to this Agreement.

V. NONDISCRIMINATION

The Parties to this Agreement shall comply with all applicable provisions of state and federal non-discrimination laws and regulations including, but not limited to Executive Order 75-5, as modified by Executive Order 99-4, which mandates that all persons, regardless of race, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities and all other federal and state employment and educational opportunity laws, rules and regulations, including the Americans with Disabilities Act; provided however, an Indian Community is subject to 25 U.S.C. § 450e(c). No Party shall engage in any form of illegal discrimination.

VI. INDEMNIFICATION

To the extent permitted by law, each Party does hereby covenant and agree to indemnify, defend, and hold harmless the other Party, their elected officials, appointees, officers, employees, contractees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature relating to this Agreement which, are the result of any act or omission of the Party, its officers, employees, contractees, agents, and anyone acting under its direction or control, whether intentional or negligent, in connection with or incident to this Agreement. Failure of a Party to comply with the terms of this Agreement shall not provide the basis of any third party action against any of the Parties.

VII. GOVERNING LAW

The laws of the State of Arizona shall govern this Agreement. Venue will be in the Maricopa County Superior Court unless the subject matter of the dispute involves an Indian Community, then venue shall be in the Federal District Court for the State of Arizona. In the event of any litigation or arbitration arising out of this Agreement, the substantially prevailing Party in such litigation or arbitration shall be entitled to recover its reasonable attorney fees, expert witness fees and other costs of litigation.

VIII. DURATION AND CANCELLATION OF AGREEMENT

A. This Agreement shall become effective upon execution by the Parties hereto and filing with the appropriate County Recorder and shall remain in effect until July 1, 2025, unless otherwise terminated by the terms of this Agreement or operation of law. Failure by one or more Parties to execute the Agreement shall not invalidate the Agreement as to those Parties who did so. Any Party may withdraw from this Agreement with or without cause by giving thirty calendar days written notice to the other Parties to the Agreement.

B. This Agreement may be administratively extended by each Party at the direction of the chief law enforcement officer for each Party on or before the Termination date for a period of an additional five years by notifying the other Parties in writing. Any Party which fails to do so by the termination date listed above shall no longer be a Party to the Agreement.

IX. CANCELLATION PROVISIONS PURSUANT TO A.R.S §38-511

The Parties reserve all rights that each may have to cancel this Agreement for possible conflicts of interest under A.R.S. § 38-511, as amended.

X. MULTIPLE COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Neither a signature for every Party nor a signature line shall be required in each counterpart except that on a counterpart being brought forward by a Party to its legislative body or equivalent for approval, that particular counterpart shall have to be signed and executed in accordance with that Party's practice. 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.

XI. WORKER'S COMPENSATION

Pursuant to A.R.S. §23-1022(D), for the purposes of worker's compensation coverage, all employees of each Party covered by this Agreement shall be deemed to be an employee of all Parties. The parent agency shall be solely liable for payment of worker's compensation benefits.

XII. OTHER PROVISIONS

A. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect the validity or enforceability of any other provision hereof.

B. This Agreement contains the entire understanding between the Parties with respect to the subjects hereof and supersedes all prior negotiations and agreements. This Agreement may be amended only by an instrument in writing and signed by all the participating Parties. The waiver of any breach of this Agreement shall not be deemed to amend this Agreement and shall not constitute waiver of any other subsequent breach. Headings are for convenience and shall not affect interpretation.

C. This Agreement shall be recorded with the appropriate County Recorder as described above upon its execution and a copy shall be forwarded to each Party.

D. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation, as defined in A.R.S. §§ 35-391 and 35-393, in either Sudan or Iran.

E. Nothing within this Agreement shall be construed to limit the ability of participating Arizona Child Abduction Response Team members to provide or as otherwise allowed for by law, such assistance in any enforcement action as may be lawfully requested by a law enforcement officer having jurisdiction over an incident, crime or matter under consideration.

XIII. COMPLIANCE WITH E-VERIFY PROGRAM

A. To the extent provisions of A.R.S. §41-4401 are applicable, all Parties warrant to each Party that they will comply with all Federal Immigration laws and regulations that relate to their employees and that each now complies with the E-Verify Program under A.R.S. §23-214(A).

B. A breach of this warranty will be considered a material breach of this Agreement and may subject the breaching party to penalties up to and including termination of this Agreement.

C. All of the Parties retain the legal right to inspect the papers of any employee who works pursuant to this Agreement or any related subcontract to ensure compliance with the warranty given above.

D. Any Party may conduct a random verification of the employment records of any other Party to ensure compliance with this warranty.

E. A Party will not be considered in material breach of this Agreement if it establishes that it has complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A).

F. The provisions of this Article must be included in any contract either Party enters into with any and all of its contractors or subcontractors who provide services under this Agreement.

XIV. NOTICES

Any notice required to be given under this Agreement will be provided to all Parties to this Agreement. The CART leaders shall compile a list of each Party's address, phone number and contact person and distribute said list to each member to this Agreement.

IN WITNESS WHEREOF, the Party named below has executed this Agreement on _____.

Town of Marana, an Arizona municipal corporation

By: _____
Ed Honea
Mayor

ATTEST:

Cherry Lawson
City Clerk

APPROVED AS TO FORM:

Frank Cassidy
City Attorney

Reviewed By: _____
Terry Rozema
Chief of Police

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with A.R.S. §11-952, this Agreement has been reviewed by the undersigned who determined that this Agreement is in appropriate form and is within the powers and authority of the respective parties.

Town of Marana, an Arizona municipal corporation

By: _____

Frank Cassidy, Esq.
City Attorney

Date: _____



Council-Regular Meeting

C2

Meeting Date: 10/06/2020

To: Mayor and Council

From: Kristin Taft, Grants Manager

Date: October 6, 2020

Strategic Plan Focus Area:
Community

Strategic Plan Focus Area Additional Info:
Community: Create a safe community

Subject: Resolution No. 2020-108: Relating to Technology Services; approving and authorizing the Town Manager to execute Subrecipient Agreement Number 20-AZDOHS-HSGP-200404-01 between the Arizona Department of Homeland Security and the Town of Marana to receive funding for Cybersecurity Enhancement (Kristin Taft)

Discussion:

The Town of Marana applied to the Arizona Department of Homeland Security (AZDOHS) for a "Town of Marana Cybersecurity Enhancement" grant. This cybersecurity enhancement project will allow the Town to better plan for, protect against, and respond to cybersecurity threats from terrorists. Security measures have been identified through a comprehensive security gap analysis that aligns with multiple National Institute of Standards and Technology (NIST) frameworks.

The requested hardware and software will significantly enhance our security posture through a multifaceted approach: implementing NextGen firewalls, multi-factor authentication, data discovery tools, identity access management system, and using a Wi-Fi spectrum analyzer. These tools will ensure the confidentiality, integrity and availability of the Town's data both internally and while in transit among various partners in the Southern Arizona region. It will also allow the Town to better recognize compromised data that originates from our regional partners, and allow us to intervene and assist them as well.

Within the original grant application, the Town requested all the aforementioned hardware and software items at an original request of \$114,160. The Town of Marana

received a subrecipient grant agreement in the amount of \$20,000 from the Arizona Department of Homeland Security (AZDOHS) for a "Town of Marana Cybersecurity Enhancement" grant. The awarded \$20,000 will be used to purchase and implement 1 additional NextGen Firewall at our network edge and/or on our internal SCADA network.

The Town is not required to provide match funding under this award. This Grant Agreement will become effective on October 1, 2020, and will terminate on September 30, 2021. This is a federal award passed to the Town through the State's department of Homeland Security.

Financial Impact:

Fiscal Year: 2021
Budgeted Y/N: Y
Amount: \$20,000

Budget appropriation for this grant award is available in the Town's Grants and Contributions Fund (2015-21500000).

Staff Recommendation:

Staff recommends approval of the Grant Agreement with the Arizona Department of Homeland Security (AZDOHS) for the "Town of Marana Cybersecurity Enhancement" project.

Suggested Motion:

I move to adopt Resolution No. 2020-108; approving and authorizing the Town Manager to execute Subrecipient Agreement Number 20-AZDOHS-HSGP-200404-01 between the Arizona Department of Homeland Security and the Town of Marana to receive funding for Cybersecurity Enhancement.

Attachments

Resolution 2020-108
Grant Agreement
Project Administration Page
Award Letter

MARANA RESOLUTION NO. 2020-108

RELATING TO TECHNOLOGY SERVICES; APPROVING AND AUTHORIZING THE TOWN MANAGER TO EXECUTE SUBRECIPIENT AGREEMENT NUMBER 20-AZDOHS-HSGP-200404-01 BETWEEN THE ARIZONA DEPARTMENT OF HOMELAND SECURITY AND THE TOWN OF MARANA TO RECEIVE FUNDING FOR CYBERSECURITY ENHANCEMENT

WHEREAS the Arizona Department of Homeland Security (AZDOHS) has awarded the Town of Marana \$20,000 in grant funding for cybersecurity enhancement as a subrecipient of the U.S. Department of Homeland Security Grant Program; and

WHEREAS the grant award will allow the Town to purchase and implement one additional NextGen Firewall at our network edge and/or on our internal SCADA network.; and

WHEREAS the Town Council finds that it is in the best interests of the community to accept the grant award from AZDOHS.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that Subrecipient Agreement Number 20-AZDOHS-HSGP-200404-01 between the Arizona Department of Homeland Security and the Town of Marana, attached as Exhibit A and incorporated within this resolution by this reference, is hereby approved, the Town Manager is authorized to execute the agreement, 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 the terms, obligations, and objectives of the grant agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Frank Cassidy, Town Attorney

SUBRECIPIENT AGREEMENT

20-AZDOHS-HSGP-200404-01

Between

The Arizona Department of Homeland Security

And

Town of Marana (DUNS# 098034143)

WHEREAS, A.R.S. § 41-4254 charges the Arizona Department of Homeland Security (AZDOHS) with the responsibility of administering funds.

THEREFORE, it is agreed that the AZDOHS shall provide funding to the **Town of Marana** (Subrecipient) for services under the terms of this Agreement (the "Agreement").

I. PURPOSE OF AGREEMENT

The purpose of this Agreement is to specify the rights and responsibilities of AZDOHS in administering the distribution of homeland security grant funds to the Subrecipient, and to specify the rights and responsibilities of the Subrecipient as the recipient of these funds.

II. PERIOD OF PERFORMANCE, TERMINATION AND AMENDMENTS

This Agreement shall become effective on **October 1, 2020** and shall terminate on **September 30, 2021**. The obligations of the Subrecipient as described herein will survive termination of this agreement.

III. DESCRIPTION OF SERVICES

The Subrecipient shall provide the services for AZDOHS as set forth in writing in Subrecipient's grant application titled: "**Town of Marana Cybersecurity Enhancement**" and funded at **\$20,000** (as may have been modified by the award letter).

IV. MANNER OF FINANCING

The AZDOHS shall under the U.S. Department of Homeland Security grant # EMW-2020-SS-00017-S01 and CFDA #97.067:

- a. Provide up to **\$20,000** to the Subrecipient for services provided under Paragraph III.
- b. Payment made by the AZDOHS to the Subrecipient shall be on a reimbursement basis only and is conditioned upon receipt of proof of payment and applicable, accurate and complete reimbursement documents, as deemed necessary by the AZDOHS, to be submitted by the Subrecipient. A listing of acceptable documentation can be found at www.azdohs.gov. Payments will be contingent upon receipt of all reporting requirements of the Subrecipient under this Agreement.

V. FISCAL RESPONSIBILITY

It is understood and agreed that the total amount of the funds used under this Agreement shall be used only for the project as described in the application and award documentation. Therefore, should the project not be completed, the Subrecipient shall reimburse said funds directly to the AZDOHS immediately. If the project is completed at a lower cost than the original budget called for, the amount reimbursed to the Subrecipient shall be for only the amount of dollars actually spent by the Subrecipient in accordance with the approved application. For any funds received under this Agreement for which expenditure is disallowed by an audit exemption or otherwise by the AZDOHS, the State, or Federal government, the Subrecipient shall reimburse said funds directly to the AZDOHS immediately.

VI. FINANCIAL AUDIT/PROGRAMMATIC MONITORING

The Subrecipient agrees to comply with the record-keeping requirements and other requirements of A.R.S. 35-214 and 35-215.

- a) In addition, in compliance with the Federal Single Audit Act (31 USC 7501-7507) as amended by the Single Audit Act Amendments of 1996 (P.L. 104-156) and 2 C.F.R. 200.501, the Subrecipient must have a Single Audit or program specific audit conducted in accordance with 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) if the Subrecipient expends more than \$750,000 from Federal awards in its previous fiscal year. If the Subrecipient has expended more than \$750,000 in Federal dollars, a copy of the Subrecipient's single audit or program specific audit report for the previous fiscal year and subsequent fiscal years that fall within the period of performance is due annually to AZDOHS within nine (9) months of the Subrecipient's fiscal year end.
- b) Failure to comply with any requirements imposed as a result of an audit will suspend reimbursement by AZDOHS to the Subrecipient until the Subrecipient is in compliance with all such requirements. Additionally, the Subrecipient will not be eligible for any new awards until the Subrecipient is in compliance with all such requirements.
- c) Subrecipients who do not expend more than \$750,000 in Federal dollars in the previous fiscal year and subsequent fiscal years that fall within the period of performance must submit to AZDOHS via audits@azdohs.gov, a statement stating they do not meet the threshold and therefore do not have to complete a single audit or program specific audit.
- d) Subrecipient will be monitored periodically by AZDOHS, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and on-site monitoring visits. Monitoring can involve aspects of the work involved under this Agreement including but not limited to the review and analysis of financial, programmatic, equipment, performance, and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. Subrecipient shall participate in and cooperate with all such monitoring by AZDOHS, and shall provide access to all personnel, documents, and other records as may be requested from time to time by AZDOHS. Subrecipient also shall comply with all requests of AZDOHS that AZDOHS deems necessary to assure the parties' compliance with their obligations under this Agreement.
- e) The Subrecipient agrees to cooperate with any assessments, state/national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this Agreement.

VII. APPLICABLE STANDARDS AND REGULATIONS

The Subrecipient must comply with the applicable Notice of Funding Opportunity (NOFO) and Code of Federal Regulations (C.F.R.) 2 C.F.R. 200. The NOFO for this program is hereby incorporated into this Agreement by reference. By accepting this award, the Subrecipient agrees that all allocation and use of funds under this grant will be in accordance with the requirements contained in the NOFO and all other applicable law.

Davis Bacon Act

HSGP Program subrecipients using funds for construction projects must comply with the *Davis-Bacon Act* (40 U.S.C. 3141 *et seq.*). Subrecipients must obtain written approval from AZDOHS prior to use of any HSGP funds for construction or renovation. Subrecipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the *Davis-Bacon Act*, including Department of Labor (DOL) wage determinations, is available from the following website <https://www.dol.gov/whd/govcontracts/dbra.htm>.

Insurance Coverage

The Subrecipient affirms the organization maintain insurance coverage as described in 2 C.F.R. 200.310. The non-Federal (Subrecipient) entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal (Subrecipient) entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

National Incident Management System (NIMS)

The Subrecipient agrees to remain in compliance with National Incident Management System (NIMS) implementation initiatives as outlined in the applicable NOFO.

Environmental Planning and Historic Preservation

The Subrecipient shall comply with Federal, State and Local environmental and historical preservation (EHP) regulations, laws and Executive Orders as applicable. See FEMA publication FP 108-023-1, titled "Environmental Planning and Historic Preservation (EHP) Policy Guidance," available at https://www.fema.gov/media-library-data/1533321728657-592e122ade85743d1760fd4747241776/GPD_EHP_Policy_Final_Amendment_GPD_final_508.pdf. Subrecipients proposing projects that have the potential to impact the environment, including but not limited to construction of communication towers, modification or renovation of existing buildings, structures and facilities, or new construction including replacement of facilities, must participate in the Federal Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) EHP review process. The EHP review process involves the submission of a detailed project description that explains the goals and objectives of the proposed project along with supporting documentation so that DHS/FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties. In some cases, DHS/FEMA is also required to consult with other regulatory agencies and the public in order to complete the review process. The EHP review process must be completed before funds are released to carry out the proposed project. If ground disturbing activities occur during project implementation, the Subrecipient must ensure monitoring of ground disturbance and if any archeological resources are discovered, the Subrecipient shall immediately cease construction in that area and notify FEMA, AZDOHS and the appropriate State Historic Preservation Office. DHS/FEMA will not fund projects that are initiated without the required EHP review. In addition, the following provisions must be adhered to:

Consultants/Trainers/Training Providers

Invoices for consultants/trainers/training providers must include at a minimum: a description of services; dates of services; number of hours for services performed; rate charged for services; and, the total cost of services performed. Consultant/trainer/training provider costs must be within the prevailing rates; must be obtained under consistent treatment with the procurement policies of the Subrecipient and 2 C.F.R. 200; and shall not exceed the maximum of \$450 per day per consultant/trainer/training provider unless prior written approval is granted by the AZDOHS. This includes internal personnel hired on backfill/overtime to deliver training. In addition to the per day \$450 maximum amount, the consultant/trainer/training provider may be reimbursed reasonable travel, lodging, meal and incidental expenses not to exceed the State rate. Itemized receipts are required for lodging and travel reimbursements. The Subrecipient will not be reimbursed costs other than travel, lodging, meals and incidentals on travel days for consultants/trainers/training providers. See Travel Costs below.

Contractors/Subcontractors

The Subrecipient may enter into written subcontract(s) for performance of certain of its functions under the Agreement in accordance with terms established in 2 C.F.R. 200 and the applicable NOFO. The Subrecipient agrees and understands that no subcontract that the Subrecipient enters into with respect to performance under this Agreement shall in any way relieve the Subrecipient of any responsibilities for performance of its duties. The Subrecipient shall give the AZDOHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Subrecipient by any subcontractor or vendor which may result in litigation related in any way to this Agreement.

Travel Costs

All grant funds expended for travel, lodging, meals and incidentals are subject to the standards of the Subrecipient's policies and procedures, as well as the State of Arizona Accounting Manual (SAAM). These policies must be applied uniformly to both federally financed and other activities of the Subrecipient. AZDOHS will reimburse at the most restrictive allowability and rate. At no time will the Subrecipient's reimbursement(s) exceed the State rate established by the Arizona Department of Administration, General Accounting Office Travel Policies: <https://gao.az.gov/travel>.

Procurement

The Subrecipient shall comply with its own procurement rules/policies and must also comply with Federal procurement rules/policies and all Arizona state procurement code provisions and rules. The Federal intent is that all Homeland Security Funds are awarded competitively. The Subrecipient shall not enter into a Noncompetitive (Sole or Single Source) Procurement Agreement, unless prior written approval is granted by the AZDOHS via the Noncompetitive Procurement Request Form. The Noncompetitive Procurement Request Form and instructions are located on the AZDOHS website: <https://azdohs.gov/grant-program-forms>.

Training and Exercise

The Subrecipient agrees that any grant funds used for training and exercise must be in compliance with the applicable NOFO. All training must be included and approved in your application and/or approved through the DEMA/AZDOHS training request process prior to execution of training contract(s). All exercises must utilize and comply with the FEMA Homeland Security Exercise and Evaluation Program (HSEEP) guidance for exercise design, development, conduct, evaluation and reporting. The Subrecipient agrees to:

- a) Submit an exercise summary and attendance/sign-in roster to AZDOHS with all related reimbursement requests.

- b) Email the After Action Report/Improvement Plan (AAR/IP) to the local County Emergency Manager, the AZDOHS Strategic Planner, and the Arizona Department of Military Affairs (DEMA) Exercise Branch within 90 days of completion of an exercise or as prescribed by the most current HSEEP guidance.

Communications Equipment

All Land Mobile Radio equipment purchased with Homeland Security funds is required to comply with the following:

- a) P25 (Project 25) standards;
- b) SAFECOM Guidance (see <https://www.dhs.gov/safecom>);
- c) Land Mobile Radio Minimum Equipment Standards as approved by the Statewide Interoperability Executive Committee (SIEC); and
- d) Arizona's State Interoperable Priority Programming Guide also as approved by the SIEC

Nonsupplanting Agreement

The Subrecipient shall not use funds received under this Agreement to supplant Federal, State, Tribal or Local funds or other resources that would otherwise have been made available for this program/project. The Subrecipient may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds. Further, if a position created by a grant is filled from within, the vacancy created by this action must be filled within thirty (30) days. If the vacancy is not filled within thirty (30) days, the Subrecipient must stop charging the grant for the new position. Upon filling the vacancy, the Subrecipient may resume charging for the grant position.

E-Verify

Compliance requirements for A.R.S. 41-4401—immigration laws and E-Verify requirement.

- a) The Subrecipient warrants its compliance with all State and Federal immigration laws and regulations relating to its employees and to employees of any contractor or subcontractor retained through Subrecipient to provide goods or services related to this Agreement, including but not limited to A.R.S. 23-214, Subsection A (that subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program").
- b) A breach of a warranty by Subrecipient regarding compliance with immigration laws and regulations shall be deemed a material breach of this Agreement and the Subrecipient may be subject to penalties to be determined at AZDOHS's discretion, up to and including termination of this Agreement.
- c) The AZDOHS retains the legal right to inspect the papers of any Subrecipient employee who works on the Agreement, and to those of any employee of any contractor or subcontractor retained through Subrecipient to provide goods or services related to this Agreement, to ensure that the Subrecipient is complying with the warranty under paragraph (a) above.

Property Control

Effective control and accountability must be maintained by Subrecipient for all property/equipment purchased under this Agreement. The Subrecipient must adequately safeguard all such

property/equipment and must assure that it is used for authorized purposes as described in the NOFO, the grant application as approved by AZDOHS, and 2 C.F.R. 200. The Subrecipient shall exercise caution in the use, maintenance, protection and preservation of such property.

- a) Property/equipment shall be used by the Subrecipient in the program or project for which it was acquired as long as needed, whether or not the program or project continues to be supported by federal grant funds. Subrecipient is required to maintain and utilize equipment as outlined in 2 C.F.R. 200.313 - Equipment. Any loss, damage, or theft shall be investigated by Subrecipient and reported by Subrecipient to the AZDOHS. Any equipment lost, damaged or stolen shall be replaced by the Subrecipient at the Subrecipient's expense and an updated Property Control Form shall be submitted to AZDOHS by Subrecipient.
- b) Nonexpendable Property/Equipment and Capital Assets:
 - a. Nonexpendable Property/Equipment is property which has a continuing use, is not consumed in use, is of a durable nature with an expected service life of one or more years, has an acquisition cost of \$5,000 (Five Thousand Dollars) or more, and does not become a fixture or lose its identity as a component of other equipment or systems.
 - b. A Capital Asset is any personal or real property, or fixture that has an acquisition cost of \$5,000 (Five Thousand Dollars) or more per unit and a useful life of more than one year.
- c) A Property Control Form (if applicable) shall be maintained for the entire scope of the program or project for which property was acquired through the end of its useful life and/or disposition. All Nonexpendable Property and Capital Assets must be included on the Property Control Form. The Subrecipient shall provide AZDOHS a copy of the Property Control Form with the final quarterly programmatic report. The Property Control Form can be located at <https://azdohs.gov/grant-program-forms>. The Subrecipient agrees to be subject to equipment monitoring and auditing by state or federal authorized representatives to verify information.
- d) A physical inventory of Nonexpendable Property/Equipment and Capital Assets must be taken and the results reconciled with the Property Control Form at least once every two years.
 - a. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and reported by Subrecipient to AZDOHS immediately.
 - b. Adequate maintenance procedures must be developed to keep the property in good condition.
- e) When Nonexpendable Property/Equipment and/or Capital Assets are no longer in operational use by the Subrecipient, an updated Property Control Form must be submitted by Subrecipient to AZDOHS immediately. The disposition of equipment shall be in compliance with the AZDOHS Disposition Guidance and 2 C.F.R. 200. If the Subrecipient is requesting disposition of Capital Assets for reasons other than theft, destruction, or loss, the Subrecipient must submit an Equipment Disposition Request Form to AZDOHS and receive approval prior to the disposition. The Equipment Disposition Guidance and Request Form can be found at <https://azdohs.gov/grant-program-forms>.
- f) Equipment Record Retention
Pursuant to 2 C.F.R. 200.333(c), records for real property and equipment acquired with Federal funds must be retained for three (3) years after final disposition.

Allowable Costs

The allowability of costs incurred under this Agreement shall be determined in accordance with the general principles of allowability and standards for selected cost items as set forth in the applicable Code of Federal Regulations, authorized equipment lists, and guidance documents referenced above.

- a) The Subrecipient agrees that use of grant funds for any indirect costs that may be incurred must be in accordance with 2 C.F.R. 200 and the applicable NOFO. Indirect costs must be applied for and approved in writing by the AZDOHS prior to expenditure and reimbursement.
- b) The Subrecipient agrees that grant funds are not to be expended for any Management and Administrative (M&A) costs that may be incurred by the Subrecipient for administering these funds unless explicitly applied for and approved in writing by the AZDOHS and shall be in compliance with the applicable NOFO.

VIII. DEBARMENT CERTIFICATION

The Subrecipient is to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

IX. FUNDS MANAGEMENT

The Subrecipient must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with funds from other sources. The Subrecipient must manage funds according to applicable Federal regulations for administrative requirements, costs principles, and audits.

The Subrecipient must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- Financial Management
- Procurement
- Personnel
- Property
- Travel

A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds.

X. REPORTING REQUIREMENTS

Regular reports by the Subrecipient shall include:

- a) Programmatic Reports

The Subrecipient shall provide quarterly programmatic reports to the AZDOHS within fifteen (15) calendar days of the last day of the quarter in which services are provided. The Subrecipient shall use the form provided by the AZDOHS to submit quarterly programmatic reports. The report shall contain such information as deemed necessary by the AZDOHS. The Subrecipient shall use the Quarterly Programmatic Report form, which is posted at <https://azdohs.gov/grant-program-forms>. Quarterly programmatic reports shall be submitted to the AZDOHS until the entire project is completed. If the project has been fully completed and implemented, and there will be no further updates, then the quarterly programmatic report for the quarter in which the project was completed will be sufficient as the final report. The report

should be marked as final and should be inclusive of all necessary and pertinent information regarding the project as deemed necessary by the AZDOHS.

- b) Subrecipients must provide substantial/detailed information as to the status of completion of the milestones included in the application as approved by AZDOHS. Failure to adequately provide complete information will result in the Quarterly Report being rejected and resubmission will be required.
- c) Quarterly Programmatic Reports are due:
January 15 (for the period from October 1– December 31)
April 15 (for the period from January 1 – March 31)
July 15 (for the period from April 1 – June 30)
October 15 (for the period from July 1 – September 30)
- d) Final Quarterly Report:
The final quarterly report is due no more than fifteen (15) calendar days after the end of the performance period. Subrecipient may submit a final quarterly report prior to the end of the performance period if the scope of the project has been fully completed and implemented. The Property Control Form is due with the final quarterly report (if applicable).
- e) Property Control Form – if applicable:
The Subrecipient shall provide the AZDOHS a copy of the Property Control Form with the final quarterly report.
 - a. In case of equipment disposition:
The Property Control Form shall be updated and a copy provided to AZDOHS no more than forty-five (45) calendar days after equipment disposition, if applicable. The Subrecipient's use and disposition of equipment must be in compliance with the AZDOHS Disposition Guidance and 2 C.F.R. 200.313.
- f) Financial Reimbursements
The Subrecipient shall provide AZDOHS with requests for reimbursement as frequently as monthly but not less than quarterly. Reimbursement requests are only required when expenses have been incurred. Reimbursement requests shall be submitted with the Reimbursement Form provided by the AZDOHS staff. The Subrecipient shall submit a final reimbursement request for expenses received and invoiced prior to the end of the period of performance. The final reimbursement must be received by AZDOHS no more than **forty-five (45) calendar days** after the end of the period of performance. Requests for reimbursement received by AZDOHS later than **forty-five (45) calendar** days after the end of the period of performance will not be paid. The final reimbursement request as submitted shall be marked as final.

Subrecipients will only be reimbursed for expenses that have been obligated, expended and received within the authorized Period of Performance as identified in Section II of this Agreement. Subrecipients are not authorized to obligate or expend funds prior to the start date of the Period of Performance. Any expenses obligated or expended prior to the Period of Performance start date will be deemed unallowable and will not be reimbursed. Any expenses/services that occur beyond the Period of Performance (i.e. cell phone service) will be deemed unallowable and will not be reimbursed.

The AZDOHS requires that all requests for reimbursement are submitted via United States Postal Service, FedEx, UPS, etc. or in person. Reimbursement requests submitted via fax or by any electronic means will not be accepted.

The AZDOHS reserves the right to request and/or require any supporting documentation and/or information it feels necessary in order to process reimbursements. Subrecipient shall promptly provide AZDOHS with all such documents and/or information.

All reports shall be submitted to the contact person as described in Paragraph XXXVII, NOTICES, of this Agreement.

XI. ASSIGNMENT AND DELEGATION

The Subrecipient may not assign any rights hereunder without the express, prior written agreement of both parties.

XII. AMENDMENTS

Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal Agreement amendment signed and approved by and between the duly authorized representatives of the Subrecipient and the AZDOHS. In the event of any new legislation, laws, ordinances, or rules affecting this Agreement, the parties agree that the terms of this Agreement shall automatically incorporate the terms of such new legislation, laws, ordinances, or rules.

Any such amendment shall specify: 1) an effective date; 2) any increases or decreases in the amount of the Subrecipient's compensation, if applicable; 3) be titled as an "Amendment," and 4) be signed by the parties identified in the preceding paragraph. The Subrecipient expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

XIII. US DEPARTMENT OF HOMELAND SECURITY AGREEMENT ARTICLES

Article A - Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired in conjunction with this Agreement by the Subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, the Subrecipient must request instructions from DHS/FEMA via AZDOHS by submitting an Equipment Disposition Request Form in order to make proper disposition of the equipment pursuant to 2 C.F.R. 200.313.

Article B – Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to this Agreement after it has been entered into, including changes to period of performance or terms and conditions, the Subrecipient will be notified of the changes in writing. Once notification has been made, any subsequent request for funds by Subrecipient will constitute Subrecipient's acceptance of the changes to this Agreement and the incorporation of such changes into this Agreement.

Article C - Procurement of Recovered Materials

The Subrecipient hereby acknowledges and agrees that it must comply with section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6962) and that the requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article D - Whistleblower Protection Act

The Subrecipient hereby acknowledges and agrees that it must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. section 4304 and 4310.

Article E - Use of DHS Seal, Logo and Flags

Subrecipient hereby acknowledges that it must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article F - USA Patriot Act of 2001

Subrecipient hereby acknowledges and agrees that it must comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act, P.L. 107-56), which amends 18 U.S.C. section 175–175c.

Article G – Universal Identifier and System of Award Management (SAM)

Subrecipient hereby acknowledges and agrees that it must comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A.

Article H - Reporting of Matters Related to Recipient Integrity and Performance

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and, Performance Matters located at 2 C.F.R. Part 200 Appendix XII, the full text of which is incorporated here by reference in the terms and conditions of your award.

Article I - Rehabilitation Act of 1973

The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, P. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. 794), which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Article J - Trafficking Victims Protection Act of 2000

Subrecipient hereby acknowledges and agrees that it must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104). The award term is located at 2 C.F.R. Part 175.15, the full text of which is incorporated here by reference.

Article K - Terrorist Financing

The Subrecipient hereby acknowledges and agrees that it must comply with U.S. Executive Order 13224 and all U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Subrecipient to ensure compliance with all such laws and U.S. Executive Order 13224.

Article L - SAFECOM

The Subrecipient hereby acknowledges and agrees that recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article M - Reporting Subawards and Executive Compensation

All subrecipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the terms and conditions of your award.

Article N – Department and Suspension

The Subrecipient hereby acknowledges and agrees that it is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 C.F.R. Part 180. These regulations restrict Federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Article O - Copyright

The Subrecipient hereby acknowledges and agrees that it must affix the applicable copyright notices of 17 U.S.C. 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards.

Article P - Civil Rights Act of 1964 - Title VI

The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), codified at 6 C.F.R. Part 21 and 44 C.F.R. Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Article Q - Best Practices for Collection and Use of Personally Identifiable Information (PII)

The Subrecipient hereby acknowledges and agrees that if it collects PII, it is required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII it collects. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.

Article R - Americans with Disabilities Act of 1990

The Subrecipient hereby acknowledges and agrees that it shall comply with all State and Federal equal opportunity and non-discrimination requirements and conditions of employment, including but not limited to Arizona Executive Order 2009-9 and the requirements of Titles I, II, and III of the Americans with Disabilities Act, P.L. No. 101-336 (1990) (codified as amended at 42 U.S.C. 12101-12213), which prohibit subrecipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article S - Age Discrimination Act of 1975

The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Article T - Activities Conducted Abroad

The Subrecipient hereby acknowledges and agrees that it must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article U - Acknowledgement of Federal Funding from DHS

The Subrecipient hereby acknowledges and agrees that it must acknowledge its use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article V - DHS Specific Acknowledgements and Assurances

Subrecipient hereby acknowledges and agrees—and agrees to require any contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Subrecipient hereby agrees to cooperate with any compliance review or complaint investigation conducted by DHS and/or AZDOHS.
2. Subrecipient hereby agrees to give DHS access and AZDOHS to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Subrecipient hereby agrees to submit timely, complete, and accurate reports to the appropriate DHS and AZDOHS officials and maintain appropriate backup documentation to support the reports.
4. Subrecipient hereby agrees to comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Article W - Assurances, Administrative Requirements and Cost Principles, and Audit Requirements

The Subrecipient hereby acknowledges and agrees that it must complete OMB Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs as applicable.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at 2 C.F.R. Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article X - Patents and Intellectual Property Rights

Unless otherwise provided by law, the Subrecipient hereby acknowledges and agrees that it is subject to the Bayh-Dole Act, P.L. 96-517, codified in 35 U.S.C. 200 et seq., and that it is subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards that are in 37 C.F.R. Part 401 and the standard patent rights clause in 37 C.F.R. 401.14.

Article Y – Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. All subrecipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article Z – National Environmental Policy Act

All subrecipients must comply with the requirements of the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 et seq., and the Council on Environmental Quality (CEQ) Regulations (40 C.F.R. Parts 1500-1508) for Implementing the Procedural Provisions of NEPA, which requires Subrecipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article AA - Lobbying Prohibitions

The Subrecipient hereby acknowledges and agrees that it must comply with 31 U.S.C. 1352, and acknowledges and agrees that none of the funds provided under this Agreement may be used to pay any person to influence, or attempt to influence an officer or employee of any agency (whether State or Federal), a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action related to a Federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article AB - Limited English Proficiency (Civil Rights Act of 1964, Title VI)

The Subrecipient hereby acknowledges and agrees that it must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with Limited English Proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article AC - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990 and the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. section 2225(a), the Subrecipient hereby acknowledges and agrees that it must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with all applicable fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. section 2225.

Article AD - Fly America Act of 1974

The Subrecipient hereby acknowledges and agrees that it must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article AE - Federal Leadership on Reducing Text Messaging while Driving

All subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in U.S. Executive Order 13513, including conducting initiatives described in Section 3(a) of the Order when on official Government business or when performing any work for or on behalf of the federal government.

Article AF - Federal Debt Status

The Subrecipient hereby acknowledges and agrees that it is required to be non-delinquent in its repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

Article AG - False Claims Act and Program Fraud Civil Remedies

The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of The False Claims Act (31 U.S.C. 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the Federal government. See also 31 U.S.C. 3801-3812 which details the administrative remedies for false claims and statements made.

Article AH - Energy Policy and Conservation Act

The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of The Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. 6201 et. seq.) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article AI - Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

The Subrecipient hereby acknowledges and agrees that it must comply with the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.

Article AJ - Duplication of Benefits

Any cost allocable to a particular Federal award, provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude a subrecipient from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal award.

Article AK - Drug-Free Workplace Regulations

The Subrecipient hereby acknowledges and agrees that it must comply with the drug-free workplace requirements in Subpart B (or Subpart C, if the Subrecipient is an individual) of 2 C.F.R. part 3001, which adopts the Government-wide implementation (2 C.F.R. part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 8101-8106).

Article AL - Civil Rights Act of 1968

The Subrecipient hereby acknowledges and agrees that it must comply with Title VIII of the Civil Rights Act of 1968, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 C.F.R. 100.201).

Article AM - Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services

Per 889(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018):

1. AZDOHS Subrecipients may not use any FEMA funds under open or new awards to:

- a. Procure or obtain any equipment, system, or service that uses “covered telecommunications equipment or services” (as defined in ¶2 of this Article AM) as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
2. For purposes of this Article AM “covered telecommunications equipment or services” means:
 - a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
 - b. Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - c. Telecommunications or video surveillance services provided by such entities or using such equipment; or
 - d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People’s Republic of China.
3. FEMA grant funding may be permitted to procure replacement equipment and services impacted by this Article AM. Subrecipients should refer to applicable program guidance or contact the AZDOHS to determine if replacement equipment or services are eligible under the awarded grant program.

XIV. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, all services under this Agreement shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by the Subrecipient’s contractors and subcontractors at all tiers.

XV. AGREEMENT RENEWAL

This Agreement shall not bind nor purport to bind the AZDOHS for any contractual commitment in excess of the original Agreement period, which may not be changed except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS.

XVI. RIGHT TO ASSURANCE

If the AZDOHS in good faith has reason to believe that the Subrecipient does not intend to, or is unable to perform or continue performing under this Agreement, the AZDOHS may demand in writing that the Subrecipient give a written assurance of intent and ability to perform. If the Subrecipient fails to provide written assurance within the number of days specified in the demand, the AZDOHS at its option may terminate this Agreement.

XVII. CANCELLATION FOR CONFLICT OF INTEREST

The AZDOHS may, by written notice to the Subrecipient, immediately cancel this Agreement without penalty or further obligation pursuant to A.R.S. 38-511 if any person significantly involved

in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of the State or its subdivisions (unit of Local Government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when the parties to the Agreement receive written notice from the AZDOHS, unless the notice specifies a later time.

XVIII. THIRD PARTY ANTITRUST VIOLATIONS

The Subrecipient hereby assigns to the State of Arizona any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to Subrecipient toward fulfillment of this Agreement.

XIX. AVAILABILITY OF FUNDS

Every payment obligation of the AZDOHS under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations under A.R.S. 35-154. If the funds are not allocated and available for the continuance of this Agreement, the AZDOHS may terminate this Agreement at the end of the period for which funds are available. No liability shall accrue to the AZDOHS in the event this provision is exercised, and the AZDOHS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by the Subrecipient in the execution of this Agreement.

XX. FORCE MAJEURE

If either party hereto is delayed or prevented from the performance of any act required in this Agreement by reason of acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of such act will be excused for the period of the delay.

XXI. PARTIAL INVALIDITY

Any term or provision of this Agreement that is hereafter declared contrary to any current or future law, order, regulation, or rule, or which is otherwise invalid, shall be deemed stricken from this Agreement without impairing the validity of the remainder of this Agreement.

XXII. ARBITRATION

In the event of any dispute arising under this Agreement, written notice of the dispute must be provided to the other party within thirty (30) calendar days of the events giving the rise to the dispute. Any claim made by or against the State or any of its political subdivisions (including but not limited to AZDOHS) relating to this Agreement shall be resolved through the administrative claims process. In the event that the parties would otherwise be in court and/or if A.R.S. 12-1518 applies, the parties shall proceed in arbitration through the American Arbitration Association ("AAA"), with the arbitrator to be selected pursuant to AAA rules and the arbitration to be conducted according to the applicable AAA rules, and with the costs of arbitration (including but not limited to the arbitrator's fees and costs) to be divided 50/50 between the parties, subject to reallocation between the parties by the arbitrator. In the event that the parties become involved in litigation with each other relating to this Agreement for any reason in any other forum, both parties agree to have any claim(s) resolved in arbitration on the terms set forth in this part XXII. Any arbitration award may be enforced through the Maricopa County Superior Court or the U.S. District Court located in Phoenix, Arizona.

XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION

- a) This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.
- b) This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms in this document.
- c) Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object.

XXIV. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Paragraph XII, AMENDMENTS. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

XXV. LICENSING

The Subrecipient, unless otherwise exempted by law, shall obtain and maintain all licenses, permits, and authority necessary to perform those acts it is obligated to perform under this Agreement.

XXVI. SECTARIAN REQUESTS

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

XXVII. ADVERTISING AND PROMOTION OF AGREEMENT

The Subrecipient shall not advertise or publish information for commercial benefit concerning this Agreement without the prior written approval of the AZDOHS.

XXVIII. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL

The Subrecipient acknowledges that the DHS and the AZDOHS reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a subrecipient purchases ownership with Federal support. The Subrecipient shall consult with the AZDOHS regarding the allocation of any patent rights that arise from, or are purchased with, this funding

XXIX. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS

Any television public service announcement that is produced or funded in whole or in part by the Subrecipient shall include closed captioning of the verbal content of such announcement.

XXX. INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona (AZDOHS) is self-insured per A.R.S. 41-621.

In addition, should Subrecipient utilize a contractor(s) and subcontractor(s), the indemnification clause between Subrecipient and contractor(s) and subcontractor(s) shall include the following:

Contractor shall defend, indemnify, and hold harmless the (insert name of other governmental entity) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

XXXI. TERMINATION

- a) All parties reserve the right to terminate the Agreement in whole or in part due to the failure of the Subrecipient or AZDOHS to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses, and permits or to make satisfactory progress in performing the Agreement. A party invoking the right to terminate shall provide written thirty (30) day advance notice of the termination and the reasons for it to the other party.
- b) If the Subrecipient chooses to terminate the Agreement before the grant deliverables have been met, then the AZDOHS reserves the right to collect all reimbursements distributed to the Subrecipient.
- c) The AZDOHS may, upon termination of this Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those that otherwise would have been provided by Subrecipient under this Agreement. The Subrecipient shall be liable to the AZDOHS for any excess costs incurred by the AZDOHS in procuring materials or services in substitution for those due from the Subrecipient.

XXXII. CONTINUATION OF PERFORMANCE THROUGH TERMINATION

The Subrecipient shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.

XXXIII. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

XXXIV. COUNTERPARTS

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one Agreement.

XXXV. AUTHORITY TO EXECUTE THIS AGREEMENT

Each individual executing this Agreement on behalf of the Subrecipient represents and warrants that he or she is duly authorized to execute this Agreement on behalf of the Subrecipient.

XXXVI. SPECIAL CONDITIONS

- a) The Subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements.
- b) The Subrecipient is prohibited from transferring funds between programs (e.g., State Homeland Security Program, Urban Area Security Initiative, Operation Stonegarden).
- c) The Subrecipient agrees to comply with the U.S. Department of Homeland Security regulation 6 C.F.R Part 19, which prohibits discrimination based on religion in social service programs

XXXVII. NOTICES

Any and all notices, requests, demands, or communications by either party to this Agreement, pursuant to or in connection with this Agreement shall be in writing, be delivered in person, or shall be sent to the respective parties at the following addresses:

Arizona Department of Homeland Security
1700 West Washington Street, Suite 210
Phoenix, AZ 85007

The Subrecipient shall address all programmatic and reimbursement notices relative to this Agreement to the appropriate AZDOHS staff; contact information at www.azdohs.gov.

The AZDOHS shall address all notices relative to this Agreement to:

Enter Title, First & Last Name Above

Enter Agency Name Above

Enter Street Address Above

Enter City, State, ZIP Above

XXXVIII. IN WITNESS WHEREOF

The parties hereto agree to execute this Agreement.

FOR AND BEHALF OF THE

Enter Agency Name Above

Authorized Signature Above

Print Name & Title Above

Enter Date Above

FOR AND BEHALF OF THE

Arizona Department of Homeland Security

Gilbert M. Orrantia
Director

Date

(Complete and mail two original documents to the Arizona Department of Homeland Security.)

Project Administration Page

Grant #: **200404-01**

Subrecipient: **Town of Marana**

Project Title: **Town of Marana Cybersecurity Enhancement**

Grant Program: **State Homeland Security Grant Program**

1. Unit of Government: **Town of Marana**

Point of Contact: **Isaac Abbs**

Subrecipient Address:

Street: **11555 W. Civic Center Dr.**

City/State/Zip: **Marana, AZ 85653-7090**

Head of Agency: **Town Manager Jamsheed Mehta**

Authorized individual has delegated authority to make application on behalf of the agency.

Phone #: **(520) 382-1906**

E-mail Address: jmehta@maranaaz.gov

2. Organizational Type: **Local Government / Municipality**

3. Region or Entity: **South Region**

4. Initiative Title: **Strengthen Cybersecurity Capabilities**

5. Total Dollar Amount Requested: **\$114,160** Total Dollar Amount Awarded: **\$20,000**

This form is to be signed and returned.

Project Administration Page

Grant #: **200404-01**

Subrecipient: **Town of Marana**

Project Title: **Town of Marana Cybersecurity Enhancement**

Grant Program: **FFY 2020 Homeland Security Grant Program Award**

APPROVAL PROCESS

The signatures below verify the submission/approval process. All parties signify that all aspects of this project are allowable, reasonable and justifiable in accordance with published federal grant guidelines and the Subrecipient Agreement. The signatures indicate the subrecipient agrees to the additional grant requirements outlined in the award letter. The signatures confirm the acceptance that the funding amounts and quantities are limited to the amounts and quantities approved and awarded on the Application Summary and Budget Narrative page(s) (Equipment, Training, Exercise, Planning, Organization, M&A, if applicable) as provided in the award letter attachments.

Subrecipient Project Point of Contact:

Isaac Abbs

Print Name

Signature

Date

AZDOHS Staff:

Tim Baldwin

Print Name

Signature

Date

Award Funded as Follows:

	Requested Totals	Awarded Totals
Equipment	\$114,160	\$20,000
Training	\$0	\$0
Exercise	\$0	\$0
Planning	\$0	\$0
Organization	\$0	\$0
M & A	\$0	\$0
Award Total	<u>\$114,160</u>	<u>\$20,000</u>

This form is to be signed and returned.



Governor Douglas A. Ducey

State of Arizona Department of Homeland Security



Director Gilbert M. Orrantia

September 18, 2020

Town Manager Jamsheed Mehta
Town of Marana
11555 W. Civic Center Dr.
Marana, AZ 85653-7090

Subject: FFY 2020 Homeland Security Grant Program Award
Subrecipient Agreement Number: **200404-01**
Project Title: **Town of Marana Cybersecurity Enhancement**

Dear Town Manager Jamsheed Mehta,

The application that your agency submitted to the Arizona Department of Homeland Security (AZDOHS) for consideration under the Homeland Security Grant Program has been awarded. The project titled "**Town of Marana Cybersecurity Enhancement**" has been **partially funded** under the 2020 State Homeland Security Grant Program for **\$20,000**. The grant performance period is **October 1, 2020 to September 30, 2021**. Your application will be kept on file and may be considered for additional funding if reallocation funding becomes available. This grant program is part of the U.S. Department of Homeland Security Grant Program and specifically is awarded under CFDA #97.067 (Catalog of Federal Domestic Assistance). The FFY 2020 federal award date as indicated in the U.S. DHS award package is 9/01/2020 with a total amount of funding of \$25,332,352.00. The Federal Award Identification Number is EMW-2020-SS-00017-S01.

To access your award documentation:

Log-in to <https://azdohs.gov/user>. A username and password was provided to you/your staff during the application phase. If you no longer have your username/password, please contact your Strategic Planner for assistance. Be advised all applications submitted on behalf of your organization, as well as associated award information, will be viewable and accessible by all authorized users associated with your organization.

To establish acceptance of the award, please follow these instructions:

The following action items must be downloaded, completed, signed and returned to AZDOHS:

1. Project Administration Page - Print and sign one original Project Administration Page.
2. Two Subrecipient Agreements - Print and sign two original Subrecipient Agreements, completing sections XXXVII and XXXVIII.
3. Environmental and Historic Preservation (EHP) required documentation, if applicable.

These items must be completed and on file at AZDOHS in order for your agency to be eligible for reimbursement. **If all documentation listed in numbers 1, 2, and 3 (if applicable), above is not signed and received by AZDOHS on or before January 31, 2021, this award is rescinded and the funds will be reallocated.**



Governor Douglas A. Ducey

State of Arizona Department of Homeland Security



Director Gilbert M. Orrantia

This letter does **not** serve as authorization to obligate or begin spending funds toward this award. Obligations and expenditures cannot take place until October 1, 2020. If your project requires an Environmental and Historic Preservation (EHP) review, this must be completed, submitted and approved by FEMA/AZDOHS prior to any obligation/expenditure of funds. Additionally, all actions associated with this project must be completed, invoiced and received by the end of the period of performance. Reimbursements are limited to approved quantities and funding thresholds. You will not be reimbursed for quantities in excess of what you have been authorized to purchase. AZDOHS reserves the right to request additional documentation at any time.

If you should have any questions, please do not hesitate to contact your Strategic Planner.

Congratulations on your Homeland Security Grant Program award.

Sincerely,

A handwritten signature in black ink, reading "Gilbert M. Orrantia".

Gilbert M. Orrantia
Director



Council-Regular Meeting

C3

Meeting Date: 10/06/2020

To: Mayor and Council

From: Justin Currie, Planner

Date: October 6, 2020

Strategic Plan Focus Area:

Not Applicable

Subject: Resolution No. 2020-109: Relating to Addressing; renaming “Bamboo Muhly Trail” located in Saguaro Bloom Block 7 as “Sand Sage Trail” (Justin Currie)

Discussion:

D.R. Horton, Inc. has submitted a request to change the street name of Bamboo Muhly Trail located in Saguaro Bloom Block 7A subdivision to Sand Sage Trail. D.R. Horton Inc. believes that Muhly can be thought of as inappropriate due to it being phonetically similar to a derogatory term. Section X.040.6 of the Town's Addressing Manual states: "phonetically unsuitable names shall not be used". In order to comply with the Town's Addressing Manual, Bamboo Muhly Trail needs to be renamed. There are 70 existing properties with addresses affected by the renaming of this street; however, all of these properties are still owned by D.R. Horton, Inc. at this time.

Staff Recommendation:

Staff recommends adoption of Resolution 2020-109, renaming of Bamboo Muhly Trail to Sand Sage Trail.

Suggested Motion:

I move to adopt Resolution 2020-109, renaming Bamboo Muhly Trail to Sand Sage Trail.

Attachments

Resolution 2020-109

Location Map

Application

MARANA RESOLUTION NO. 2020-109

RELATING TO ADDRESSING; RENAMING "BAMBOO MUHLY TRAIL" LOCATED IN SAGUARO BLOOM BLOCK 7 AS "SAND SAGE TRAIL"

WHEREAS the final plat for Saguaro Bloom "7A", Lots 1-202, Blocks "7B" and "7C" (Future Residential) and Common Areas A (Drainage/Open Space) and "B" (Park) (the "Saguaro Bloom Block 7 Plat") was recorded in the Pima County Recorder's Office on September 27, 2019 at Sequence No. 20192700513; and

WHEREAS the Saguaro Bloom Block 7 Plat includes a street named "Bamboo Muhly Trail," located near the southeast corner of Lambert Lane and Saguaro Peaks Boulevard; and

WHEREAS D. R. Horton, Inc., as owner of all the property included within the Saguaro Bloom Block 7 Plat, has applied to rename "Bamboo Muhly Lane" to "Sand Sage Trail" because the word "Muhly" phonetically sounds similar to a derogatory term; and

WHEREAS paragraph X.040(C)(1) of the Town of Marana Addressing Manual adopted by Marana Resolution No. 2007-136 provides for Town Council approval of street names, which are then recorded with the County Recorder of the affected county; and

WHEREAS the Marana Town Council finds that changing the street name is in the best interests of the Town and the public.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Marana, Arizona, that "Bamboo Muhly Trail" located in Saguaro Bloom Block 7 is hereby renamed "Sand Sage Trail."

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

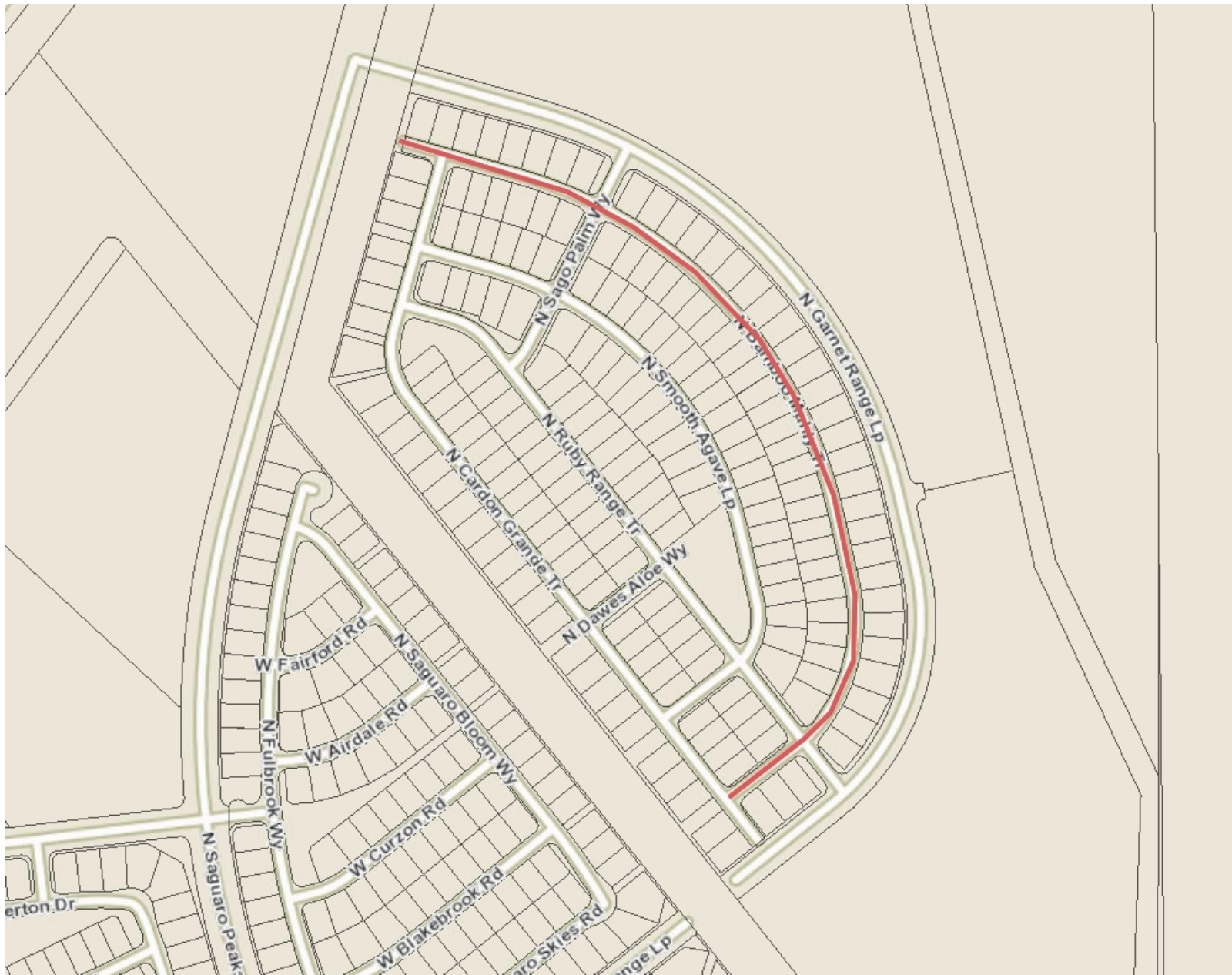
Cherry L. Lawson, Town Clerk

Frank Cassidy, Town Attorney

Saguaro Bloom Block 7A Street Name Change

Legend

☐ Parcels



Proposed street name to be changed highlighted in red.

800.0 0 400.00

Feet Marana Town Council Regular Council Meeting 10/06/2020



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map are subject to Pima County's ITD GIS disclaimer and use restrictions.



September 10, 2020

Town of Marana
Attn: Development Services
11555 W. Civic Center Dr.
Marana, AZ 85653

To whom it may concern:

D.R. Horton, Inc. would like to request a street name change in Saguaro Bloom. Below is the requested information and all requested documents are attached.

Saguaro Bloom Block 7A
Sequence #: 20192700513-1
Current Street Name: Bamboo Muhly Trail
Proposed Street Name: Sand Sage Trail
Location: Roughly 3,000 feet north of Twin Peaks & 1,500 feet east of Saguaro Peaks Blvd.
Township 12S, Range 12E, Section 18

If you have any questions you can contact me at 520-790-6005.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brent Davis', is written over a blue horizontal line.

Brent Davis
D.R. HORTON, INC.

3580 West Ina Rd ■ Suite 100 ■ Tucson ■ Arizona ■ 85741
o: 520/790.6005

ROC 124600

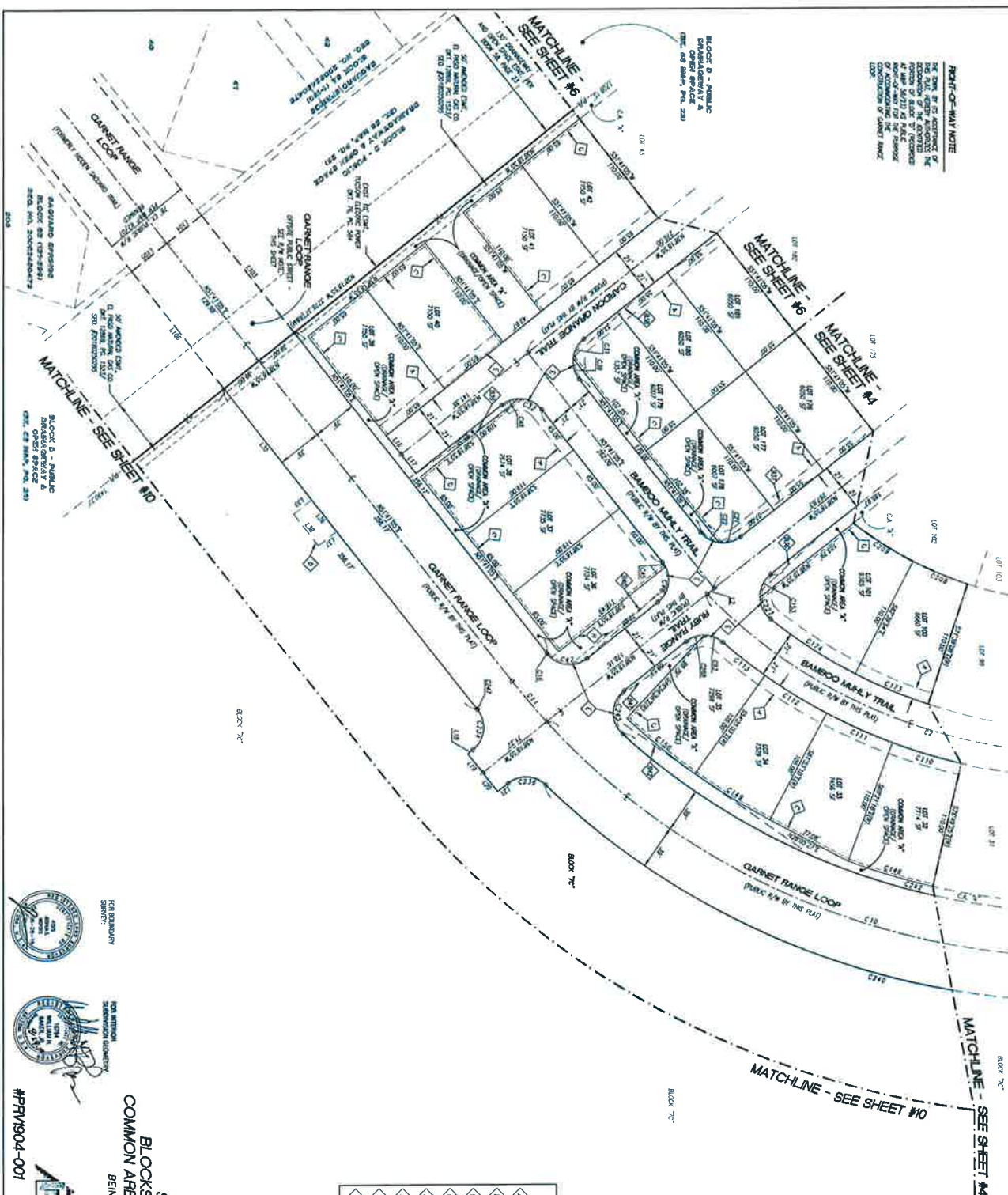
ADDRESS	Parcel Number	Owner	Signature	Phone Number
10204 N BAMBOO MUHLY TRAIL	216-44-0010	TITLE SECURITY AGENCY OF AZ TR 201434-T / D.R. Horton, Inc		520-790-6005
10202 N BAMBOO MUHLY TRAIL	216-44-0020	TITLE SECURITY AGENCY OF AZ TR 201434-T / D.R. Horton, Inc		520-790-6005
10196 N BAMBOO MUHLY TRAIL	216-44-0030	TITLE SECURITY AGENCY OF AZ TR 201434-T / D.R. Horton, Inc		520-790-6005
10190 N BAMBOO MUHLY TRAIL	216-44-0040	TITLE SECURITY AGENCY OF AZ TR 201434-T / D.R. Horton, Inc		520-790-6005
10182 N BAMBOO MUHLY TRAIL	216-44-0050	TITLE SECURITY AGENCY OF AZ TR 201434-T / D.R. Horton, Inc		520-790-6005
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9943 N BAMBOO MUHLY TRAIL	216-44-1010	TITLE SECURITY AGENCY OF AZ TR 201434-T / D.R. Horton, Inc		520-790-6005



SEQUENCE 20192700513-3

FINAL OF-PLAN NOTE
 THE TOWN OF MARANA, ARIZONA, HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE PROPOSED SAGUARO BLUOM 7A, LOTS 1-202, BLOCKS 7B AND 7C, (FUTURE RESIDENTIAL) AND COMMON AREAS 1A (DRAINAGE/OPEN SPACE) AND 1B (PARK) BEING A RESUBDIVISION OF BLOCK 7, AS RECORDED IN SAGUARO SPRINGS, SEQUENCE NO. 2004070045, BEING A PORTION OF SECTION 18, T12S, R12E, GRESERBA, TOWN OF MARANA, ARIZONA.



- EASEMENT KEYNOTES**
- 1 NEW 10' PUBLIC UTILITY EASEMENT MAINTENANCE AND SERVICE EASEMENT OWNED TO THE PUBLIC BY THE TOWN OF MARANA.
 - 2 NEW 50' RESIDENT SERVICE (SIT) EASEMENT OWNED BY THE TOWN OF MARANA (SEE ALSO BLOCK 7B, LOT 171).
 - 3 NEW 10' EASEMENT ACCESS EASEMENT OWNED TO THE TOWN OF MARANA BY THE TOWN OF MARANA.
 - 4 NEW 30' X 30' PUBLIC SERVICE AND WATER EASEMENT OWNED TO THE PUBLIC BY THE TOWN OF MARANA.
 - 5 NEW 10' PUBLIC UTILITY ACCESS AND MAINTENANCE EASEMENT OWNED TO THE PUBLIC BY THE TOWN OF MARANA.
 - 6 NEW 10' X 40' EASEMENT OWNED TO TACSON ELECTRIC POWER BY THE TOWN OF MARANA.
 - 7 NEW 10' EASEMENT OWNED TO TACSON ELECTRIC POWER BY THE TOWN OF MARANA.
 - 8 NEW 10' EASEMENT OWNED TO TACSON ELECTRIC POWER BY THE TOWN OF MARANA.

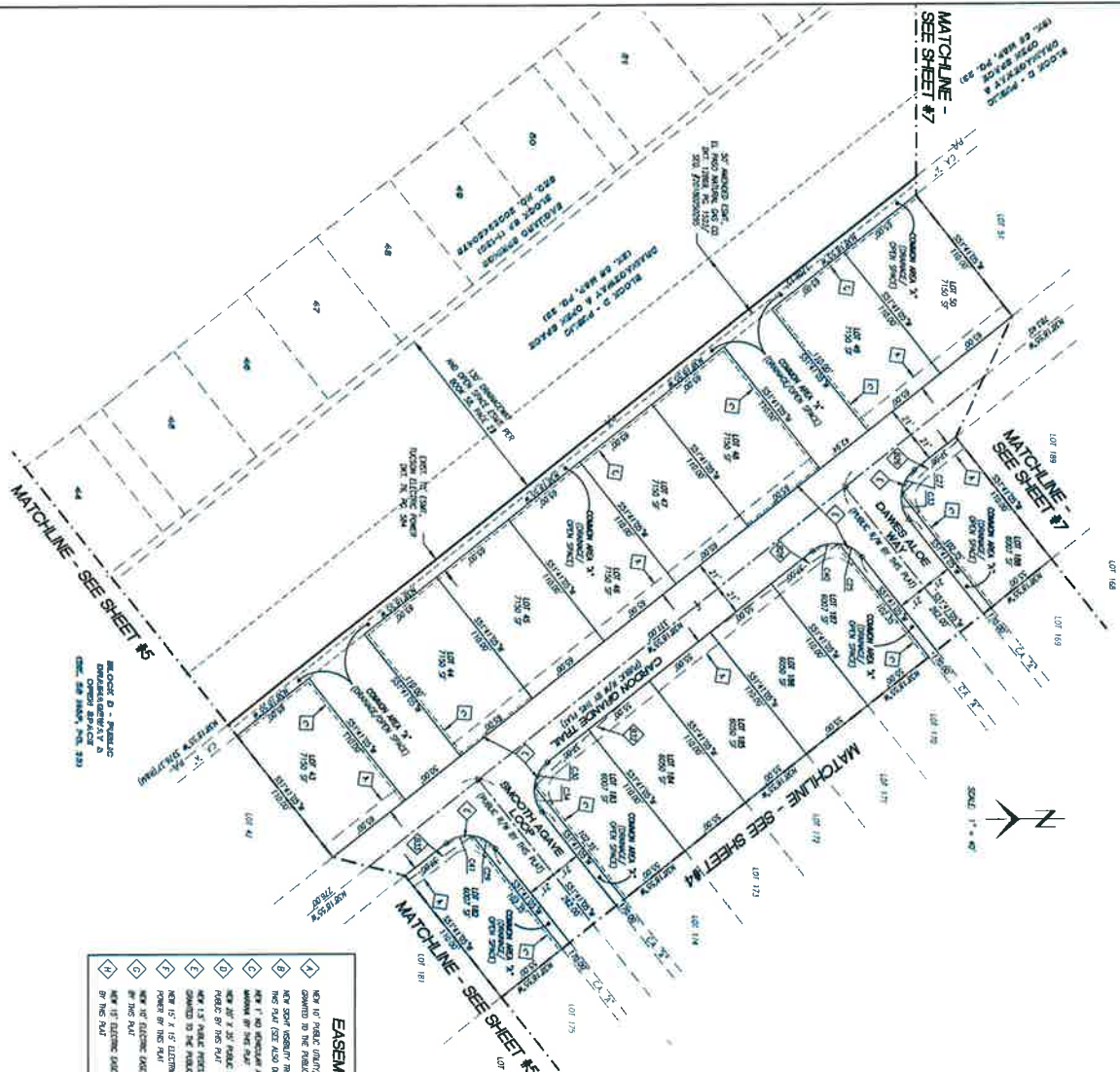


FINAL PLAN for
SAGUARO BLUOM 7A, LOTS 1-202
BLOCKS 7B AND 7C (FUTURE RESIDENTIAL) AND
COMMON AREAS 1A (DRAINAGE/OPEN SPACE) AND 1B (PARK)
 BEING A RESUBDIVISION OF BLOCK 7, AS RECORDED IN
 SAGUARO SPRINGS, SEQUENCE NO. 2004070045,
 BEING A PORTION OF SECTION 18, T12S, R12E,
 GRESERBA, TOWN OF MARANA, ARIZONA.

Baker & Associates Engineering, Inc.
 1001 N. GILBERT AVENUE, SUITE 100
 GILBERT, ARIZONA 85133
 PREPARED BY: JDB/RSB
 DATE: 08/21/2019
 SHEET 1 OF 12

SEQUENCE # 20192700513-5

SEQUENCE # 20192700513-5



EASEMENT KEYNOTES

- [illegible]

GENERAL NOTES

- [illegible]

BUILDING HEIGHT TABLE

- A. BUILDINGS AND STRUCTURES ERECTED IN THIS ZONE SHALL HAVE A HEIGHT NOT GREATER THAN TWO-STORIES OR TWENTY-FIVE (25) FEET, EXCEPT AS OTHERWISE PERMITTED.
- B. BUILDING HEIGHTS MAY BE PERMITTED TO EXCEED A MAXIMUM OF TWENTY PERCENT (20%) TO PROVIDE A MAXIMUM BUILDING HEIGHT OF TWENTY (20) FEET SUBJECT TO THE REQUIREMENTS FOUND IN SECTION 16.03 AND APPROVAL OF THE TOWN COUNCIL.

FINAL PLAY for

SAGUARO BLOOM 7A, LOTS 1-202,
BLOCKS 7B AND 7C (FUTURE RESIDENTIAL) AND
COMMON AREAS 7A (DRAINAGE/OPEN SPACE) AND 7B (

#PFW1904-001

REF.: #PRV-1811-003; JOB #2458
PRV-995517; PC23907-002 AUGUST 28, 2019

SHEET 6 OF 10

Baker & Associates Engineering, Inc.
2041 E. Sunset Drive, Suite 7725, Tucson, Arizona 85714 (520) 318-0950 Fax (520) 318-0951

518-193

PCFV-1611-003,
PCFV-9955b; PC29807-002

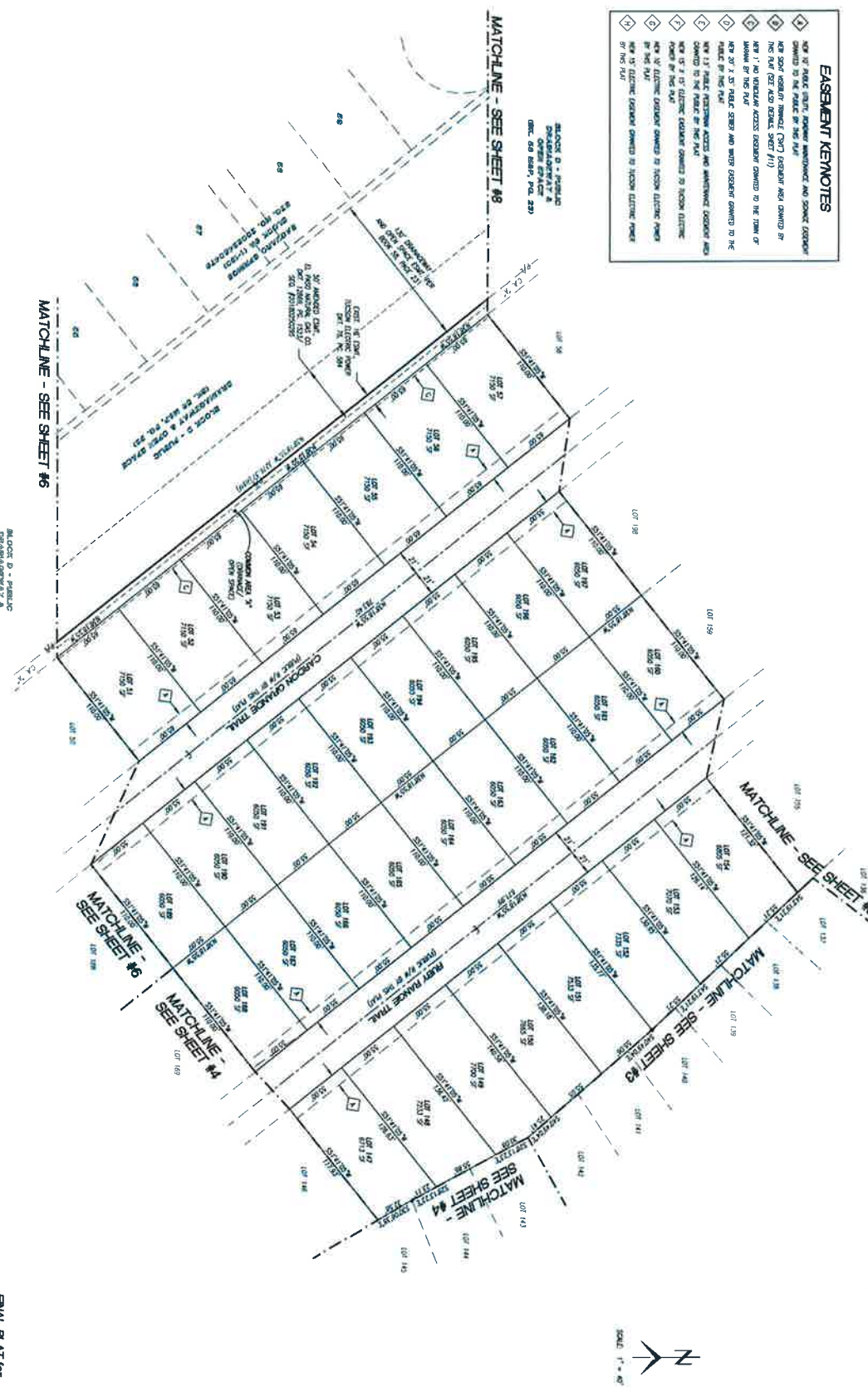
02/24/06

August 28, 2019

CONTACT:

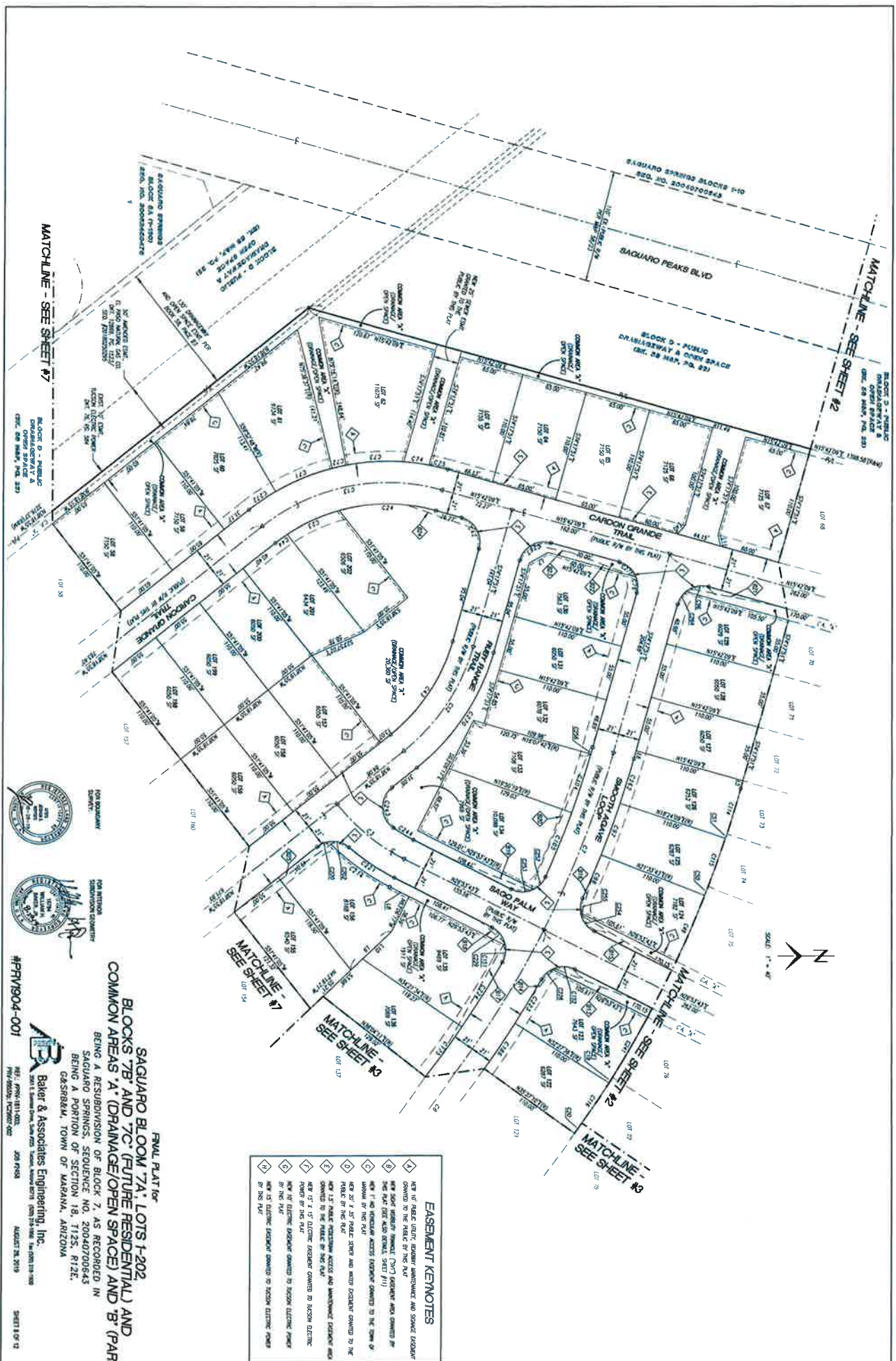
EASEMENT KEYNOTES

1. NEW 10' PUBLIC UTILITY EASEMENT MAINTENANCE AND SERVICE EASEMENT OWNED BY THE PUBLIC BY THE PLAT
2. NEW 10' PUBLIC UTILITY EASEMENT (CITY) EASEMENT AND OWNED BY THE PUBLIC (SEE ALSO SCHEDULE SHEET #11)
3. NEW 1' NO BROADCAST ACCESS EASEMENT OWNED TO THE TOWN OF MARANA BY THE PLAT
4. NEW 20' X 10' PUBLIC STREET AND WATER EASEMENT OWNED TO THE PUBLIC BY THE PLAT
5. NEW 10' PUBLIC UTILITY EASEMENT AND MAINTENANCE EASEMENT OWNED TO THE PUBLIC BY THE PLAT
6. NEW 10' X 10' ELECTRIC EASEMENT OWNED TO INCHON ELECTRIC POWER BY THE PLAT
7. NEW 10' X 10' ELECTRIC EASEMENT OWNED TO INCHON ELECTRIC POWER BY THE PLAT
8. NEW 10' ELECTRIC EASEMENT OWNED TO INCHON ELECTRIC POWER BY THE PLAT



#PPV1904-001
 BAKER & ASSOCIATES ENGINEERING, INC.
 1000 N. GILBERT AVENUE, SUITE 100
 TUCSON, ARIZONA 85711
 (520) 298-1100
 (520) 298-1101
 (520) 298-1102
 (520) 298-1103
 (520) 298-1104
 (520) 298-1105
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 (520) 298-1116
 (520) 298-1117
 (520) 298-1118
 (520) 298-1119
 (520) 298-1120

SEQUENCE 20192700513-7



SEQUENCE #20192700513-8



Council-Regular Meeting

C4

Meeting Date: 10/06/2020

To: Mayor and Council

From: Frank Cassidy, Town Attorney

Date: October 6, 2020

Strategic Plan Focus Area:
Recreation

Strategic Plan Focus Area Additional Info:

Principle Statement 1: We will promote healthy and active lifestyles through dynamic programming, community partnerships, and high-quality recreational amenities for Marana residents and visitors.

Initiative 4. Continue creating path, greenway and trail linkage to parks, recreation facilities, schools, commercial development and other public infrastructure.

Subject: Resolution No. 2020-110; Relating to Capital Improvement Projects; approving and authorizing the Mayor to sign the Intergovernmental Agreement between the Pima County Flood Control District and the Town of Marana for Construction and Maintenance of the Santa Cruz River Path CalPortland Segment (Frank Cassidy)

Discussion:

By letter dated May 15, 2019, the Pima County Manager indicated that the Pima County Flood Control District (PCFCD) would be willing to contribute up to \$500,000 toward the construction of the CalPortland segment of the Santa Cruz River Shared Use Path. A copy of the letter with its enclosures is included in the backup materials to this item.

Town staff has now negotiated the terms of an intergovernmental agreement with the PCFCD for the \$500,000 contribution, which will be payable within 30 days after the notice to proceed is given to the contractor. Subject to completion of pending right-of-way acquisition from CalPortland, Town staff anticipates that construction of the project will begin later this fiscal year.

In addition to the financial contribution, the IGA covers other matters related to the construction of the project, including a right-of-entry over lands owned by PCFCD to

the extent needed for construction of the project, and identification of ownership and maintenance responsibilities among the parties upon completion of the project. The CalPortland segment of The Loop is located in unincorporated Pima County, so the PCFCD will own this segment of the Loop after completion of the project. However, the Town will maintain this portion of The Loop upon completion of the project. Under a separate IGA with PCFCD and Pima County, the Town maintains the portions of The Loop located north of Ina Road.

Financial Impact:

Fiscal Year: 2021
Budgeted Y/N: Y
Amount: \$500,000

Staff Recommendation:

Town staff recommends adoption of Resolution No. 2020-110, approving and authorizing the Mayor to sign the Intergovernmental Agreement between the Pima County Flood Control District and the Town of Marana for Construction and Maintenance of the Santa Cruz River Path CalPortland Segment.

Suggested Motion:

I move to adopt Resolution No. 2020-110, approving and authorizing the Mayor to sign the Intergovernmental Agreement between the Pima County Flood Control District and the Town of Marana for Construction and Maintenance of the Santa Cruz River Path CalPortland Segment.

Attachments

Resolution 2020-110
CalPortland Segment IGA
CHH PCFCD Letter

MARANA RESOLUTION NO. 2020-110

RELATING TO CAPITAL IMPROVEMENT PROJECTS; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE PIMA COUNTY FLOOD CONTROL DISTRICT AND THE TOWN OF MARANA FOR CONSTRUCTION AND MAINTENANCE OF THE SANTA CRUZ RIVER PATH CALPORTLAND SEGMENT

WHEREAS Town and Pima County Flood Control District staffs have negotiated the terms of an intergovernmental agreement facilitating the further extension of the Chuck Huckelberry Loop with the Town's construction of the CalPortland segment of the Santa Cruz River Shared Use Path; and

WHEREAS the Town Council finds that this resolution is in the best interests of the Town and its citizens and businesses.

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

SECTION 1. The "Intergovernmental Agreement between the Pima County Flood Control District and the Town of Marana for Construction and Maintenance of the Santa Cruz River Path CalPortland Segment" in substantially the form included in the agenda materials accompanying this resolution is hereby approved, and the Mayor is hereby authorized to sign it for and on behalf of the Town of Marana.

SECTION 2. The various Town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Frank Cassidy, Town Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE PIMA COUNTY FLOOD CONTROL DISTRICT AND
THE TOWN OF MARANA FOR CONSTRUCTION AND MAINTENANCE OF
THE SANTA CRUZ RIVER PATH CALPORTLAND SEGMENT**

This Intergovernmental Agreement (this “Agreement”) is entered into by and between the Pima County Flood Control District (“District”), a political taxing subdivision of the State of Arizona, and the Town of Marana (“Marana”), an Arizona municipal corporation, pursuant to Arizona Revised Statutes section (A.R.S. §) 11-952. District and Marana are sometimes collectively referred to as the “Parties,” either of which is sometimes individually referred to as a “Party.”

Recitals

- A. District is authorized by A.R.S. § 48-3603 to construct, operate, and maintain flood control works and storm-drainage facilities for the benefit of the District, and to acquire property for those purposes.
- B. Marana is authorized by A.R.S. §§ 9-240, 9-464.01, 9-494, and 9-500.03 to construct, reconstruct, acquire, and maintain drainage ways and channels, parks, and trail systems.
- C. The Parties are parties to an October 16, 2018 “Intergovernmental Agreement between the Town of Marana, Pima County, and the Pima County Flood Control District for the Shared Use and Development of Existing and Future Trail and Trailhead improvements on County and Flood Control District Properties,” Pima County Contract No. CTN-PW-19-046 (the “Trail Improvements IGA”).
- D. Under the Trail Improvements IGA, Marana is responsible for maintenance of all shared user path and trailhead assets along the Santa Cruz River trails system located north of the south right-of-way line of Ina Road.
- E. The Parties wish to cooperate in the design and construction of the Santa Cruz River Path CalPortland Segment, Town of Marana Project PK023 (“the Project”). The purpose for the Project is to extend and link the existing segments of the Chuck Huckelberry Loop (“The Loop”) from its existing termination point at Avra Valley Road northward to its existing termination point southeast of the Beard House on State of Arizona-owned Pima County Assessor’s Parcel No. 215-01-0080.
- F. The Project is on and adjacent to and will provide access for District-owned and maintained flood control improvements along the Santa Cruz River.

- G. After construction of the Project, it will become part of the system of shared user path assets within the geographic area maintained by Marana under the Trail Improvements IGA.
- H. The Parties are authorized to contract for services and enter into agreements with each other for joint or cooperative action pursuant to A.R.S. § 11-952.
- I. The Project is currently in Marana's adopted Capital Improvement Program for design in fiscal year 2020 and construction in fiscal year 2021, and is estimated to cost approximately \$3 million.
- J. Construction of the Project is currently scheduled to commence in fiscal year 2021, subject to the acquisition of all necessary permits, easements, and environmental clearances necessary for the Project, and is estimated to be completed approximately 12 months after the start of construction.

Agreement

NOW THEREFORE, the Parties, pursuant to the above recitals which are incorporated herein, and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

1. **Purpose.** The purpose of this Agreement is to set forth the responsibilities of the Parties for the design, construction, maintenance, and operation of the Project and to address legal and administrative matters among the Parties.
2. **Project.** The Project consists of the design and construction of the Santa Cruz River Path CalPortland Segment, Town of Marana Project PK023, the 90% plans for which, prepared by Psomas, Marana has provided to District.
3. **Design and Construction Responsibilities.** Marana shall design and construct the Project in accordance with the plans and specifications developed by, or on behalf of, Marana ("Project Plans"). Marana will provide District an opportunity to review and comment on the Project Plans as they are developed, but final responsibility for and approval of the Project Plans shall rest with Marana.
 - a. *Environmental Compliance.* Marana shall prepare and incorporate into the planning, design, and construction of the Project, responses to all applicable local, state, and federal environmental requirements, including but not limited to hydrologic and geotechnical investigations, compliance with the Pima County Native Plant Preservation Ordinance, protection of species identified by the Arizona Game & Fish Department and the U.S. Department of Fish and Wildlife Service as being endangered, threatened, or of concern, and compliance with the National Pollutant Discharge Elimination System (including preparation of a Storm Water Pollution Prevention Plan).
 - b. *Cultural Resources.* Marana shall consider potential impacts to cultural and historical resources in the Project planning and design phases through inventory, evaluation, and impact assessment, and seek to avoid impacts to these resources

in accordance with applicable local, state, and federal historic preservation laws and regulations. If impacts are unavoidable, a mitigation treatment plan will be prepared in consultation with Pima County, the State Historic Preservation Office, and other agencies as appropriate, and implemented prior to construction, at Marana's cost.

- c. *Hazardous Substances.* All hazardous substances found on Marana property are the responsibility of Marana. Marana shall remove and remediate any hazardous substances discovered on Marana property as soon as possible to minimize any delay of the Project.
4. **Construction.** Marana shall administer the construction contracts for the Project in accordance with the requirements of Arizona Revised Statutes Title 34, and shall have the usual rights of the owner of a public construction contract.
5. **Utility Relocations.** Marana shall be responsible for coordinating all utility relocations for the Project.
6. **Rights of Way and Easements.**
 - a. District's execution of this Agreement grants Marana a temporary construction easement in favor of Marana over District-owned property as necessary to construct the Project.
 - b. Each Party shall provide the other Parties with any records or documents in its possession that will assist the other Parties in acquiring any property interests or permits necessary for the Project.
7. **Project Permits and Approvals.** Marana shall obtain the Army Corps of Engineering Section 404 permit and Federal Emergency Management Agency conditional letter of map revision and final letter of map revision for the Project. With cooperation and assistance from District, Marana shall obtain all approvals and/or permits necessary to cross the Central Arizona Project siphon, located near the western terminus of the Project. Marana shall comply with all Pima County permitting requirements, including for construction in Pima County rights-of-way under Pima County Code Chapter 10.44 for improvements within the Avra Valley Road right-of-way. District shall provide to Marana, at no cost to Marana, any District clearances or permits necessary for Marana to construct and maintain the Project.
8. **Public Participation.** Marana shall cooperatively manage the public participation processes for the Project. Marana shall coordinate all publicity or public participation activities for the Project.
9. **Project Manager and Representatives.** Marana shall furnish a Project Manager for the Project, and District shall designate a representative (the "District Liaison") to be a liaison with the Project Manager during construction of the Project.
10. **Disputes.** If the Project Manager and District Liaison disagree on any aspect of the Project, the District's Chief Engineer and Marana's Town Engineer, or their designees,

shall meet within ten calendar days to attempt to reach a mutually agreeable resolution, unless another time frame is agreed upon in advance. If the dispute remains unsettled after that meeting, or if that meeting does not occur within the time frame specified above or otherwise agreed upon, the District's General Manager/Pima County Administrator and Marana's Town Manager shall meet within ten calendar days to attempt to reach a mutually agreeable resolution, unless another time frame is agreed upon in advance. If the dispute remains unresolved after that meeting, or if that meeting fails to occur within the time frame specified above or otherwise agreed upon, Marana shall, in its sole discretion, determine how to proceed. Nothing in this paragraph waives or limits District's legal rights or remedies regarding this Agreement.

11. District Contribution toward the Project. Within 30 days after Marana provides District with a copy of Marana's notice to proceed to the contractor procured by Marana to construct the Project, District shall contribute \$500,000 to Marana to be used solely for design and construction of the Project.

12. Financing of the Project. Marana shall be responsible for all Project costs except for (i) the District contribution referenced in the preceding paragraph and (ii) District-requested Project enhancements or changes whose costs are accepted in writing by District.

13. Regulation of the Project during Construction. Marana shall have responsibility for and control over the Project during construction.

14. Inspection. District may inspect any portion of the Project construction located outside the Marana town limits for substantial compliance with drawings and specifications. Marana shall allow official District representatives reasonable access to the Project site during construction. The Project Manager, the District Liaison, and District inspectors will cooperate and consult with each other during Project construction.

15. Term and Termination.

a. *Term.* This Agreement shall be effective on the date of the last signature of a Party, and shall terminate upon final completion and acceptance of the Project by Marana.

b. *Termination.* This Agreement may be earlier terminated under the following circumstances:

i. For Cause. A Party may terminate this Agreement for material breach of this Agreement by the other Party. Prior to any termination under this paragraph, the Party allegedly in default shall be given written notice by the other Party of the nature of the alleged default. The Party said to be in default shall have 45 days to cure the default. If the default is not cured within that time, the other Party may terminate this Agreement. Any such termination shall not relieve either Party from liabilities or costs already incurred under this Agreement.

- ii. Conflict of Interest. This Agreement can be terminated for a conflict of interest as set forth in A.R.S. § 38-511, the relevant portions of which are hereby incorporated by reference.
- iii. Failure to Appropriate Sufficient Funds. This Agreement shall automatically terminate if, for any reason, Marana fails to appropriate sufficient funds to design or construct the Project or District fails to appropriate sufficient funds to contribute funding toward the design and construct the Project.

c. *Effect of termination.*

- i. Extinguishment of Temporary Construction Easements. Upon termination of this Agreement for any reason, the temporary construction easements granted to Marana by District under this Agreement are automatically extinguished.
- ii. Ownership of Improvements. Upon termination of this Agreement for any reason:
 - (1) Ownership of all Project improvements located within the Marana town limits or on property owned by Marana shall automatically vest in Marana.
 - (2) Ownership of all other Project improvements shall vest in District.
- iii. Maintenance of Improvements. Upon termination of this Agreement for any reason, Marana shall be solely responsible for maintaining all improvements constructed by the Project in accordance with the Trail Improvements IGA, and Exhibit A of the Trail Improvements IGA shall thereby automatically be amended to add District lands where the improvements are located.

16. Indemnification. To the fullest extent permitted by law, each Party shall indemnify, defend and hold the other Party, its governing board or bodies, officers, departments, employees and agents, harmless from and against any and all suits, actions, legal or administrative proceedings, claims, demands, liens, losses, fines or penalties, damages, liability, interest, attorney's, consultant's and accountant's fees or costs and expenses of whatsoever kind and nature, resulting from or arising out of any act or omission of the indemnifying Party, its agents, employees or anyone acting under its direction or control, whether intentional, negligent, grossly negligent, or amounting to a breach of contract, in connection with or incident to the performance of this Agreement.

a. *Preexisting conditions.*

- i. *Marana to District.* To the fullest extent permitted by law, Marana shall indemnify, defend and hold District and its boards, officers, departments, employees, and agents, harmless from and against any claims and damages, as fully set out above, resulting from or arising out of the existence of any substance, material, or waste, regulated pursuant to federal, state, or local environmental laws, regulations, or ordinances, that is present on, in, or below, or originated from, property owned or controlled by Marana.

- ii. *District to Marana.* To the fullest extent permitted by law, District shall indemnify, defend and hold Marana, its Town Council, officers, departments, employees, and agents, harmless from and against any claims and damages, as fully set out above, resulting from or arising out of the existence of any substance, material, or waste, regulated pursuant to federal, state, or local environmental laws, regulations, or ordinances, that is present on, in, or below, or originated from, property owned or controlled by District.
 - b. *Notice.* Each Party shall notify the other Party in writing within 30 days of the receipt of any claim, demand, suit or judgment against the receiving Party for which the receiving Party intends to invoke the provisions of this Section. Each Party shall keep the other Party informed on a current basis of its defense of any claims, demands, suits, or judgments under this Section.
 - c. *Negligence of indemnified Party.* The obligations under this Article shall not extend to the negligence of the indemnified Party, its agents or employees.
 - d. *Survival of termination.* This Section shall survive the termination, cancellation, expiration or revocation, whether in whole or in part, of this Agreement.
- 17. Insurance.** When requested, a Party shall provide the other Party with proof of its workers' compensation, automobile, accident, property damage, and liability coverage or program of self- insurance.
- 18. Books and Records.** Marana shall keep and maintain proper and complete books, records and accounts of the Project, which will be maintained in accordance with Marana's records retention policy and made available for inspection by District upon reasonable notice.
- 19. Construction of Agreement.**
- a. *Entire Agreement.* This instrument constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.
 - b. *Amendment.* This Agreement shall not be modified, amended, altered or changed except by written agreement signed by the Parties.
 - c. *Construction and interpretation.* All provisions of this Agreement shall be construed to be consistent with the intention of the Parties as expressed in the recitals hereof.
 - d. *Captions and headings.* The headings used in this Agreement are for convenience only and are not intended to affect the meaning of any provision of this Agreement.
 - e. *Severability.* If any provision of this Agreement or the application thereof is declared invalid or void by statute or judicial decision, such action shall have no effect on other provisions and their application which can be given effect without the invalid or void provision or application, and to this extent the provisions of

this Agreement are severable. If provision of this Agreement is declared invalid or void, the Parties agree to meet promptly upon request of a Party in an attempt to reach an agreement on a substitute provision.

20. Legal Jurisdiction. Nothing in this Agreement shall be construed as either limiting or extending the legal jurisdiction of Marana or District.

21. No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall be construed to, create any partnership, joint venture or employment relationship between the Parties or create any employer-employee relationship between a Party and the other Party's employees, except as expressly provided for in Section 22 (Workers Compensation). No Party shall be liable for any debts, accounts, obligations or other liabilities whatsoever of the other Party, including (without limitation) the other Party's obligation to withhold Social Security and income taxes for itself or any of its employees.

22. Workers Compensation. An employee of a Party shall be deemed to be an employee of both Parties while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers Compensation laws. The primary employer shall be solely liable for any workers compensation benefits that may accrue. Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

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

23. No Third Party Beneficiaries. Nothing in this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement, or affect the legal liability of either Party to this Agreement, by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law.

24. Compliance with Laws. The Parties shall comply with all applicable federal, state and local laws, rules, regulations, standards, and executive orders, without limitation to those designated within this Agreement.

- a. *Anti-Discrimination.* The provisions of A.R.S. § 41-1463 and Executive Order 75-5, as amended by Executive Orders 99-4 and 2009-9, issued by the Governor of the State of Arizona are incorporated by this reference as a part of this Agreement as if set forth in full herein.
- b. *Americans with Disabilities Act.* This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C.

12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

- 25. Waiver.** Waiver by any Party of any breach of any term, covenant or condition herein contained shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 26. Force Majeure.** A Party shall not be in default under this Agreement if it does not fulfill any of its obligations under this Agreement because it is prevented or delayed in doing so by reason of uncontrollable forces. The term “uncontrollable forces” shall mean, for the purpose of this Agreement, any cause beyond the control of the Party affected, including but not limited to failure of facilities, breakage or accident to machinery or transmission facilities, weather conditions, flood, earthquake, lightning, fire, epidemic, war, riot, civil disturbance, sabotage, strike, lockout, labor dispute, boycott, material or energy shortage, casualty loss, acts of God, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the Party affected, order of any government officer or court (excluding orders promulgated by the Party affected), and declared local, state or national emergency, which, by exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid. A Party rendered unable to fulfill any obligations by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.
- 27. Notification.** All notices or demands upon either Party shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

MARANA: TOWN OF MARANA
11555 W. Civic Center Drive
Marana, Arizona 85653

DISTRICT: PIMA COUNTY FLOOD CONTROL DISTRICT
Attn: Chief Engineer
201 N Stone Ave, 8th Floor
Tucson, AZ 85701

Notices shall be deemed delivered and received on the date of delivery, if delivered in person, or on the third business day after mailing, if delivered by any form of mail. A Party may, by written notice to the other Parties, designate another address or person for receipt of notices under this Agreement.

- 28. Remedies.** Any Party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or in equity or by virtue of this Agreement.

IN WITNESS WHEREOF, District has caused this Agreement to be executed by the Chair of its Board of Directors, upon resolution and attested to by the Clerk of the Board; and the Marana has caused this Agreement to be executed by the Mayor upon resolution of the Mayor and Council and attested to by its Clerk.

PIMA COUNTY FLOOD CONTROL DISTRICT TOWN OF MARANA

Chair, Board of Directors

Mayor

Date: _____

Date: _____

ATTEST:

ATTEST:

Clerk of the Board

Town Clerk

Intergovernmental Agreement Determination

The foregoing intergovernmental agreement between the PIMA COUNTY FLOOD CONTROL DISTRICT and the TOWN OF MARANA has been reviewed pursuant to A.R.S. § 11-952 by the undersigned, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Party to this Agreement represented by the undersigned.

PIMA COUNTY FLOOD CONTROL DISTRICT: TOWN OF MARANA:

Deputy County Attorney

Town Attorney

Date: _____

Date: _____



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

May 15, 2019

C.H. HUCKELBERRY
County Administrator

Jamsheed Mehta, Town Manager
Town of Marana
11555 W. Civic Center Drive
Marana, Arizona 85653

Re: **Your April 22, 2019 Letter Regarding Financial Participation for the Santa Cruz River Shared Use Path**

Dear Mr. Mehta:

The Pima County Regional Flood Control District (RFCD) is pleased to partner with the Town of Marana in extending this critical recreational infrastructure to Town and County residents. We will fund up to \$500,000 of actual improvements that have been determined eligible by the RFCD. We are also interested in knowing when the Town will begin this project and ask that it be included in the Town adopted Capital Improvement Program to facilitate our planning of flood control disbursements to reimburse the Town for these improvements.

In addition, the Loop is a regional facility recognized by residents throughout Pima County whether they live in the Towns of Sahuarita, Oro Valley, the City of Tucson or South Tucson. Hence, we ask the signage on the Loop be consistent with our standards. Our RFCD staff has identified certain improvements that would justify expenditure of funds, including those you identified such as the Avra Valley Bridge.

I appreciate your interest in advancing this important regional recreational facility that will benefit the residents of Pima County and Town of Marana. We will financially participate in this project.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Huckelberry", is written over a horizontal line.

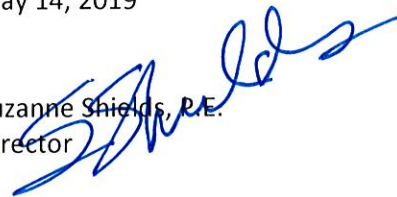
C.H. Huckelberry
County Administrator

c: Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Suzanne Shields, Director, Regional Flood Control District
Andy Dinauer, Deputy Director, Regional Flood Control District

DATE: May 14, 2019

TO: C. H. Huckelberry
County Administrator

FROM: Suzanne Shields, P.E.
Director



SUBJECT: Santa Cruz River Path – Town of Marana’s Request for Financial Participation

This memorandum is in response to your memo of April 29, 2019 (attached), regarding the April 22, 2019 letter from the Town of Marana (Town) requesting financial participation in the Santa Cruz River Path from Avra Valley to the Beard House. As indicated in the April 22, 2019 letter (attached) from the Town Manager, the Town anticipates the construction cost of the project to be approximately \$2M. At present, the responsibility for funding of this project lies entirely with the Town.

The Town has identified this project as a candidate for \$1.5M in funding through their Parks Impact Fee Program for the period of 2021-2028 (see Page 8 of attached the Town’s Impact Fee Study Update, Parks Infrastructure Improvement Plan). It is our understanding that the Town is seeking funding assistance from Pima County to address the difference between the estimated project construction cost and the Impact Fee Study allocation (\$500,000).

The District has engaged with Town staff and their consultant, PSOMAS, on this subject. Staff have identified certain specific improvements for which the expenditure of Pima County dollars could possibly be justified (see attached cost estimate). These improvements were identified as possible cost sharing items due to their proximity to the Avra Valley Road Bridge, a County maintained roadway/bridge (see attached aerial).

Prior to committing any County dollars to this project, it would be prudent to see the project formally identified in the Town’s capital improvement program with specific fiscal years listed. Additionally, the safest way for the County to participate financially in this project as far as dollars changing hands would be for the Town to seek reimbursement from the County upon completion of approved improvements up to a cap of \$500,000.

It is rather unfortunate that the Town Mayor was so adamantly opposed to the County’s 2015 Bond Program and now, just a few short years later, the Town is seeking funding from the County for the very same project. However, with the regional popularity of The Loop, it is understandable, and we can appreciate that the Town has a newfound enthusiasm for a northerly Loop extension. We are also very encouraged that the Town will be providing extensive pathway signage to highlight the Chuck Huckelberry Loop as it threads its way through the heart of the Town.

Please let me know if you have any questions.

SS/AD/tj

Attachments

c: Carmine DeBonis, Deputy County Administrator – Public Works
Andy Dinauer, P.E., Deputy Director – Regional Flood Control District



MEMORANDUM

Date: April 29, 2019

To: Carmine DeBonis, Jr.
Deputy County Administrator
for Public Works

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "CHH", is written over the printed name "C.H. Huckelberry".

Suzanne Shields, Director
Regional Flood Control District

Re: **April 22, 2019 Letter from the Marana Town Manager Requesting Financial Participation in the Santa Cruz River Path**

Please review the attached letter and provide more details regarding the Town of Marana's request. What is the overall cost of the project? Who is responsible for the costs? How do they or we propose to share these costs?

In addition, please determine how Marana is paying their share of costs. Are their funds from park impact fees or is there a General Fund contribution?

CHH/anc

Attachment



3/26/2019 1:27PM

April 22, 2019

Mr. Chuck Huckelberry, Administrator
Pima County
130 W. Congress - 10th Floor
Tucson, AZ 85701

RE: Santa Cruz River Path

Dear Mr. Huckelberry:

The Town of Marana is actively pursuing design plans in collaboration with the Pima County Flood Control District (PCFCD) and Pima County Department of Transportation (Pima Count DOT) to construct an important segment of Shared Use Path (SUP) on the Santa Cruz River System. As there are mutually beneficial aspects of this project to both our organizations, I am writing to request that Pima County contribute to the funding of this project. Additionally, given the importance of the Avra Valley Bridge to this project, I ask that Pima County consider assuming the full cost of the improvement modifications of the bridge.

Scope of Project: The project will connect the southwest corner of the Avra Valley bridge to the east bank, proceeding northwest past CalPortland Cement Plant, and linking with a recently completed segment of new SUP trail in North Marana. Constructing this approximately 1.8 miles segment of SUP will complete 31 miles of continuous Loop trail along the Santa Cruz River from Valencia Road to Sanders Road. This segment will connect North Marana to the entire Pima County Loop trail system.

Pima County Flood Control District (PCFCD): Town staff have been working closely with Pima County Flood Control District (PCFCD) staff during this project planning process. In particular, PCFCD, Deputy Director, Andy Dinauer; and PCFCD, Civil Engineering Manager, John Spiker, have provided significant support as well as attending essential project planning meetings with CalPortland. PCFCD staff have addressed various maintenance issues associated with access to this section of the Santa Cruz channel. This new segment of SUP will be designed to also function as a service access road for PCFCD vehicles and equipment.

April 22, 2019

Page 2

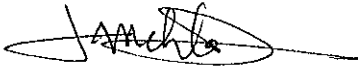
Pima County Department of Transportation (Pima County DOT): Additionally, this project will involve an improvement on the Avra Valley Bridge, connecting the existing path at the southwest corner of the Avra Valley Bridge, to the east bank. Town staff and Project Consultant, Alejandro Angel, (PSOMAS Engineering), met with Pima County DOT personnel in May of 2018 to discuss how best to construct this improvement. It was determined that this connection would be accomplished by reconfiguring the deck of the bridge. A protected 8' wide multi-use path will be constructed across the bridge, then proceed under the bridge using an existing soil cement ramp on the east bank.

The project's construction cost is estimated at approximately \$2 M. Given the mutually beneficial aspects of this project for our organizations and the significant public benefit it will provide, Pima County's financial contribution to this SUP project will help make this critical project a reality.

I understand that you are familiar with the project and the proposed design concept. However, please let me know if I can provide additional project details.

Your consideration of this request is appreciated.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jamsheed Mehta', with a long horizontal line extending to the right.

Jamsheed Mehta
Town Manager

Town of Marana, Arizona



Impact Fee Study Update Parks Infrastructure Improvement Plan

**As adopted by Marana ordinance 2017.029
on December 19, 2017**

Prepared by



Town of Marana Mayor & Council

Mayor Ed Honea
Vice Mayor Jon Post
Dave Bowen
Patti Comerford
Herb Kai
Carol McGorray
Roxanne Ziegler

Key Staff

Gilbert Davidson, Town Manager
Keith Brann, P.E., CFM, Town Engineer and Project Director
Frank Cassidy Esq., Town Attorney
Cynthia Nemeth, Director, Parks and Recreation Department
D. Tyrell McGirt, Deputy Director, Parks and Recreation Department

Project Consultant

Norris Design
418 N. Toole Ave
Tucson, Arizona 85701

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APPENDIX

- Appendix A: List of Preparers
- Appendix B: Table of Paths and Trails Areas



Introduction

The Town of Marana is responsible for collecting development impact fees to supplement the cost of expanding parks and recreation facilities to meet increased demand associated with new development. The collection of impact fees is legislated by Arizona Revised Statute (ARS) §9-463.05. The calculation of impact fees for parks and recreation facilities and the expansion of parks and recreation infrastructure associated with growth are described in the Infrastructure Improvement Plan (IIP) for Parks and Recreation Facilities. The 2014 IIP for the Town's parks and recreation system is now being updated for 2017. In order to continue collecting impact fees, the Town has prepared an updated IIP for 2017 that includes fee schedules and a list of capital improvements that are projected to be constructed over the next ten years.

Arizona's statute that legislates impact fee assessment procedures and programs requires jurisdictions to develop an IIP that is based on land use assumptions that describe existing and new development. As defined in ARS §9-463.05(T)6:

" 'Infrastructure Improvements Plan' means a written plan that identifies each necessary public service or facility expansion that is proposed to be the subject of a development fee and otherwise complies with the requirements of this section, and may be the municipality's capital improvements plan."

This Impact Fee Study Update is a report that identifies infrastructure needs for parks and recreation facilities, and the calculation of impact fees. The Town of Marana's Land Use Assumptions are the basis for projecting infrastructure expansion as a result of new development.

Elements of the Impact Fee Study Update

Service Area

Service areas are defined in ARS §9-463.05 (T)9:

"any specified area within the boundaries of a municipality in which development will be served by necessary public services or facility expansions and within which a substantial nexus exists between the necessary public services of facility expansions and the development being served as prescribed in the infrastructure improvements plan."

Parks and Recreation Facilities IIP

A.R.S. §9-463.05(7)G defines the facilities and assets that can be included in the Parks and Recreation IIP:

"Neighborhood parks and recreational facilities on real property up to thirty acres in area, or parks and recreational facilities larger than thirty acres if the facilities provide a direct benefit to the development. Park and recreational facilities do not include vehicles, equipment or that portion of any facility that is used for amusement parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra

facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, zoo facilities or similar recreational facilities, but may include swimming pools.”

The 2017 Parks and Recreation Facilities IIP identifies assets for community parks, regional parks, recreation facilities, and trails, as well as, the preparation of a future Parks and Recreation Facilities IIP and Parks and Recreation Master Plan Update.

The 2017 Marana Parks, Recreation, Trails and Open Space Master Plan Update guides the Town's efforts to continue to meet the community's need for quality parks and recreation facilities. It is a Master Plan Update that affirms the community's priorities for parks and recreation infrastructure and the level of service that's provided for residents. The Master Plan Update reflects the community's priorities for capital improvements that are included in the IIP.

Methodology

This Impact Fee Study Update employs an incremental expansion method that identifies the Town's existing level of service and projects the level of service assumptions over the next ten years as the community grows. The existing level of service for parks and recreation facilities is assigned a value based on the cost of replacement. The value of the parks and recreation system is adjusted to subtract outstanding debt on existing facilities, the balance collected, unspent impact fees, developer fee credits and the cost of the Impact Fee Study. The adjusted value of the existing parks and recreation facilities is then distributed across the existing level of community development to calculate a value of the existing parks system per dwelling. The adjusted value of the existing parks and recreation facilities relative to current development is then projected onto new development using estimates for future development found in the Town's land use assumptions. Using this methodology, the Town's existing level of parks and recreation service is maintained as the community grows and expansion of parks and recreation facilities necessary to meet the demand of growth has a supplemental funding source in development impact fees.

The advantages of using an incremental expansion method over other methods, e.g. a general standards-based or plan-based methods, include the following metrics.

- The fee is based on the existing level of service provided by the Town instead of a national standard that fails to account for jurisdictional variations.
- The incremental expansion method more accurately identifies the value of existing level of service compared to estimating a general cost per acre of developed parkland. Existing level of service is valued by assigning replacement costs to inventoried park assets.
- The incremental expansion method is flexible because the impact fee is based on existing level of service. Consequently, the Town may fine tune capital improvements identified in the IIP to meet changing community recreation needs. A standards-based approach based on the Parks Recreation Trails and Open Space Master Plan would require an update to the Master Plan and a re-calculation of the impact fees to meet changing community needs.

The Town of Marana Service Area

For this Impact Fee Study Update, there is one service area identified for the Town of Marana. As shown in Exhibit 1, the town limits serve as the boundary for the service area with the exception of a portion of Dove Mountain. The entire Town of Marana is included in the service area except for a section of Dove Mountain in the northwest part of town. The exclusion reflects an area within Dove Mountain that is exempt from impact fees. For the remainder of the Town, the most densely developed areas are where existing parks and recreation facilities are located. These densely developed areas are adequately served by the parks and recreation facilities. It is in areas of new development that park and recreation facility expansion is needed to meet the demand of growth. Consequently, new facilities that expand the parks and recreation system will directly benefit residents in areas of new growth in keeping with the legislative requirements for collecting development impact fees. There is, however, a need for additional trails to serve the developed areas of Marana. Since the Town is committed to providing a uniform level of service across the entire city, a single service area will be used.

Proportionate Share

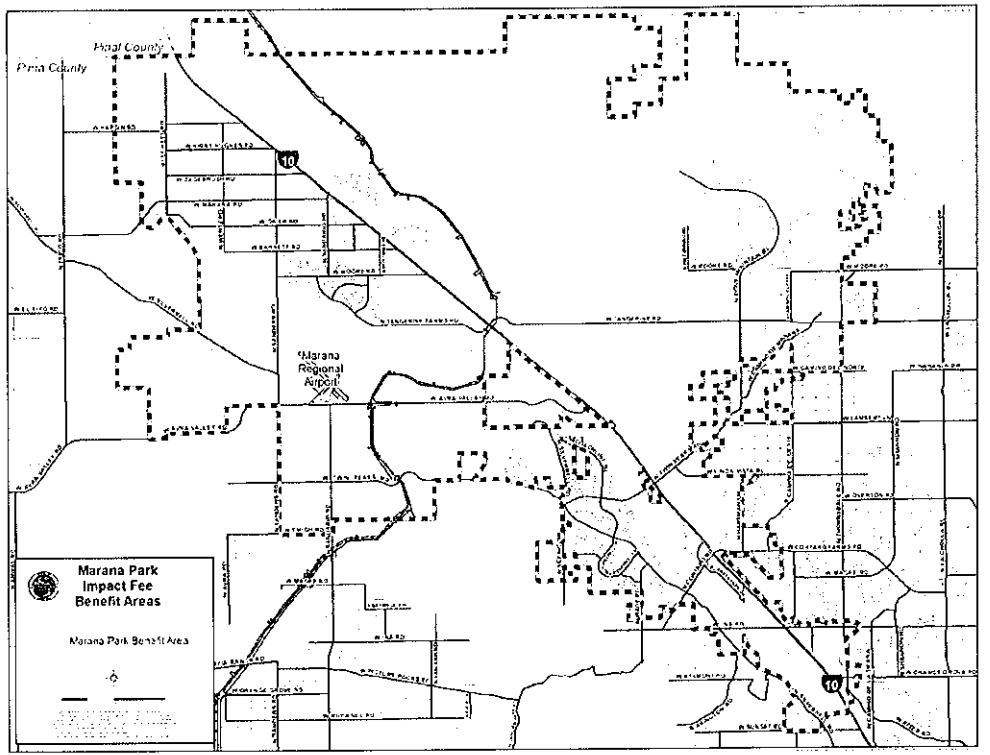
New residential development creates incremental demand for expanded parks and recreation facilities while demand created by non-residential development is relatively low. The proportionate share of the cost of parks and recreation service for non-residential development is low enough that it does not justify collecting development impact fees. Future impact fee studies shall reconsider the non-residential share of the cost of parks and recreation infrastructure as the character of development in the Town changes over time or as future research on the impact of non-residential development is developed.

Service Units as Equivalent Demand Units

ARS §9-463.05 requires that service units be defined in an impact fee study and used as the basis for impact fee collection. The 2017 Impact Fee Study uses an Equivalent Demand Unit (EDU) as the service unit for the park impact fee. To calculate an EDU, housing unit types are weighted in relation to single-family detached housing. The weight of each housing type reflects a park service multiplier derived from the average household size for each housing type based on United States Census Bureau statistics. The average household size for a single-family detached housing unit is 2.7 while the average household size of a multi-family/single-family attached housing unit is 1.8. The park service multiplier for a single-family detached residence is therefore 1.0 while the park service multiplier for a multi-family/single-family attached dwelling unit is 0.67. The sum of these weighted dwelling units by housing type results in total EDUs for the Town.

Unlike impact fee studies for parks improvements, impact fee studies for transportation infrastructure expansion often use land use categories that are identified through analysis of vehicle usage and trip data that is available locally and is part of published transportation planning literature. Because there is no data on visits to existing parks, the Impact Fee Study for Parks and Recreation Facilities makes use of the differentiation between single-family and multi-family residential units and their average household sizes to fine tune the definition of service units for parks impact fees.

Exhibit 1: Parks and Recreation Facilities Service Area



Marana Parks Infrastructure Improvement Plan - DRAFT

| Page 4

Exhibit 2: Service Unit as Equivalent Demand Unit

Housing Type	Average HH Size	EDU
Single Family Detached	2.7	1.00
Multi - Family/ Single Family Attached	1.8	0.67

Reference: US Census Bureau

Necessary Public Services - Existing

As required in ARS §9-463.05(E)1 a "necessary public service" must meet the following criteria:

"A description of the existing necessary public services in the service area and the costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards, which shall be prepared by qualified professionals licensed in this state, as applicable."

In addition, ARS §9-463.05(E)2 requires:

"An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services, which shall be prepared by qualified professionals licensed in this state, as applicable."

In response to the required analysis of existing, necessary public park services, an inventory of parks and recreation assets throughout the Town of Marana has been compiled (Exhibit 3). The inventory is based on data provided by the Town of Marana and lists existing park amenities by facility with an identified replacement cost. The inventory excludes park acreage beyond the 30-acre limit referenced in ARS §9-463.05(T)7(G). Replacement costs are based on current construction costs in the parks and recreation industry. Trail mileage and associated acreage are listed in Appendix B.

The existing level of service provided by the Town's current parks and recreation facilities is quantified by distributing the value of the existing parks and recreation facilities over the total number of existing EDUs in the Town. Exhibit 3 describes the total value of existing parks and recreation infrastructure. The existing number of EDUs is described in Exhibit 4. The existing level of service provided by the Town of Marana's park infrastructure is quantified by dividing the total value of the existing infrastructure (Exhibit 3) by the existing number of EDUs (Exhibit 4).

Exhibit 3: Existing Park Inventory and Replacement Value

Asset	Continental Ranch Community Park	Continental Reserve Neighborhood Park	Crossroads at Silverbell District Park	El Rio Neighborhood Park	Gladden Farms Community Park	Honea Heights Parks	Ora Mae Ham District Park	San Lucas Community Park	Tangerine Sky Community Park	Wade McLean Neighborhood Park	Coachline/De Anza Trailhead	Wild Burro Trailhead	Sanders Road Trailhead	White Avenue Trailhead	TOTAL Facility Units*	Replacement Value/Unit**	Total Replacement Value
Total Acres	12.0	9.2	49.9	1.3	12.5	0.8	33.0	13.5	18.0	4.9	0.8	2.0	0.8	1.0	159.57	\$ 30,000	\$ -
Eligible Acres	12.0	9.2	30.0	1.3	12.5	0.8	30.0	13.5	18.0	4.9	0.8	2.0	0.8	1.0	136.72	\$ 30,000	\$ 4,101,600
Community Center (s.f.)							8300								8300.00		\$ -
Eligible Community Center (s.f.)							3000								3000.00	\$ 350	\$ 1,050,000
Restroom	1	1	3		1		3	1	1	1		1			13.00	\$ 140,000	\$ 1,820,000
Concession	1	1	1				1			1					5.00	\$ 200,000	\$ 1,000,000
Play Area (Shaded)	2	2	2	1		1	2		1						11.00	\$ 165,000	\$ 1,815,000
Basketball	2	1	2	0.5		1	1	1	1						9.50	\$ 50,000	\$ 475,000
Tennis	2	1	1				2								6.00	\$ 50,000	\$ 300,000
Sand Volleyball			2					1							3.00	\$ 13,000	\$ 39,000
Swimming Pool							1								1.00	\$ 4,000,000	\$ 4,000,000
Small Ramada 10'x10'	4			1		1	6	2	4	1	1	1	1	1	23.00	\$ 12,000	\$ 276,000
Large Ramada 30'x30'		1	5		1		1		2						10.00	\$ 70,000	\$ 700,000
Group Ramada 30'x60'			1				1		1						3.00	\$ 110,000	\$ 330,000
Skate Park	1														1.00	\$ 1,000,000	\$ 1,000,000
Off-Leash Dog Park			1				1	1	1						4.00	\$ 200,000	\$ 800,000
Horseshoe Pit	2		2				1								5.00	\$ 2,500	\$ 12,500
Youth Ball Field (Lighted)			2				4								6.00	\$ 180,000	\$ 1,080,000
Youth Ball Field (No Lights)	4	2			2			2		1					11.00	\$ 85,000	\$ 935,000
Adult Ballfield (Lighted)			1				1								2.00	\$ 280,000	\$ 560,000
Multi-Use	2	1		1	1	1		10	1						17.00	\$ 36,000	\$ 612,000
Soccer (No Lights)										1					1.00	\$ 46,000	\$ 46,000
Soccer (Lighted)			2					1							3.00	\$ 240,000	\$ 720,000
Parking Spaces	108	52	323	9	62	9	196	50	61		58	79	8	10	1025.00	\$ 2,000	\$ 2,050,000
Maintenance Building			1						1						2.00	\$ 400,000	\$ 800,000
Storage Building	1	1													2.00	\$ 150,000	\$ 300,000
Drinking Fountains	7	4	8	1	3	3	8	3	1	1				1	40.00	\$ 3,000	\$ 120,000
Benches	10	6	7	1	6	7	22	12	8	4		1		2	86.00	\$ 625	\$ 53,750
Bleachers	8	2	6		2		5			2					25.00	\$ 2,500	\$ 62,500
Trash Receptacles	14	8	43	3	8	4	52	10	10	2				1	160.00	\$ 250	\$ 40,000
Picnic Tables	8	10	32	1	14	2	39	6	13	1				2	128.00	\$ 1,200	\$ 153,600
Bike Racks	1	1	1	1	3	1	1	1	1						11.00	\$ 700	\$ 7,700
Barbeque Grills	2	4	8		3	1	9	5	6					1	39.00	\$ 500	\$ 19,500
Exercise Stations							10	6							16.00	\$ 1,200	\$ 19,200
Signage															136.72	\$ 2,616	\$ 357,660
Fencing															136.72	\$ 6,265	\$ 856,551
Lighting															136.72	\$ 11,765	\$ 1,608,487
Landscape															136.72	\$ 19,445	\$ 2,658,520
Irrigation															136.72	\$ 5,325	\$ 728,034
Park Hardscape															136.72	\$ 18,817	\$ 2,572,660
Paths (Miles)															7.28	\$ 120,000	\$ 873,600
Trails (Miles)															37.4	\$ 80,000	\$ 2,992,000
Electrical Service	1	1	1	1	1		1	1	1	1					9.00	\$ 40,000	\$ 360,000
TOTAL																	\$ 38,305,862

* Source: Asset Inventory Town of Marana

**Source: Replacement values from construction cost estimates within the last year; Marana Parks and Recreation Staff, and consultant recommendations.

Exhibit 4: Existing Equivalent Demand Units

Housing Type	2017 Dwelling Units	Park Service Unit Multiplier	2017 Service Units (EDUs)
Single Family Detached	13,134	1.00	13,134
Multi - Family/ Single Family Attached	1,714	0.67	1,148
TOTAL 2017			14,282

Based on statute, the value of the existing parks and recreation level of service must be increased by the total impact fees collected to date and decreased by 1) outstanding credits given to developers and 2) park-related debt. Credits to developers are generated when developers contribute to the expansion of the parks and recreation infrastructure by building a park in-lieu of paying development impact fees. This calculation of the adjusted value of the existing parks and recreation infrastructure is found in Exhibit 5.

The adjusted value of the existing parks and recreation infrastructure is then distributed among existing EDUs to identify a per EDU value of the existing park and recreation infrastructure. The calculation of the value of the existing parks and recreation infrastructure per EDU is shown in Exhibit 5. This per service unit value represents the standard level of service that must be maintained as the Town grows.

Exhibit 5: Existing Park Value by Equivalent Demand Unit

	Credits	Offsets	Total
Total Replacement Value	\$38,305,862		
Impact Fee Account Balance	\$4,033,000		
Outstanding Impact Fee Credits		\$0	
Outstanding Park Debt		\$0	
	\$42,338,862	\$0	
Adjusted Existing Park Value			\$42,338,862
+ Existing EDU			14,282
Net Value Per EDU			\$2,964

Necessary Public Services - New Development

ARS §9-463.05(E)3 requires:

"A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to development in the service area based on the approved land use assumptions, including a forecast of the costs of infrastructure, improvements, real property, financing, engineering and architectural services, which shall be prepared by qualified professionals licensed in this state, as applicable."

In response to the statutory mandate for a description of parks and recreation facility expansion projects required to meet the demand of new growth, the Town of Marana has developed the Ten-Year Capital Improvement Plan in Exhibit 6. Impact fees that are collected between 2013 and 2023 will be directed to the capital improvements identified in Exhibit 6 with the understanding that A.R.S. §9-463.05 allows that *"...a municipality may amend an infrastructure improvements plan adopted pursuant to this section without a public hearing if the amendment addresses only elements of necessary public services in the existing infrastructure improvements plan and the changes to the plan will not, individually or cumulatively with other amendments adopted pursuant to this subsection, increase the level of service in the service area or cause a development fee increase..."*

Exhibit 6: Parks Capital Improvement Plan 2017-2027

PROJECT	FY 2018-20	FY 2021-28	10-Year Total
North Marana Sports Fields	\$350,000	\$3,000,000	\$3,350,000
Saguaro Bloom Community Park		\$3,377,800	\$3,377,800
Tangerine Sky Community Park Hard Structures	\$500,000		\$500,000
NE District Park Land Acquisition		\$1,500,000	\$1,500,000
CAP Canal Trail Improvements	\$100,000		\$100,000
Santa Cruz SUP Avra Valley Rd. - N. Marana		\$1,500,000	\$1,500,000
Tortolita Trail Extension		\$450,000	\$450,000
Ora Mae Harn Park Improvements	\$250,000	\$2,200,000	\$2,450,000
Heritage River Park Improvements		\$1,000,000	\$1,000,000
Tangerine Rd. Corridor Path		\$900,000	\$900,000
Santa Cruz Shared Use Path, Phase III	\$1,000,000		\$1,000,000
Adult Softball Field Ora Mae Harn Park	\$360,000		\$360,000
Impact Fee Study		\$65,000	\$65,000
Parks, Recreation, Trails & Open Space Master Plan	\$350,000		\$350,000
Total			\$16,902,800

Updated Parks Impact Fee per Service Unit

ARS §9-463.05(E)3 requires:

"A table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial."

Exhibit 7 meets the statutory mandate described above. The updated park impact fee is a projection of existing level of service to new development. Exhibit 7 converts the net value per EDU to cost per housing unit by multiplying it by the Park Service Unit Multiplier. The updated impact fee derived in Exhibit 7 does not reflect any credits or allowable deductions.

Exhibit 7: Updated Parks Impact Fee per Equivalent Demand Unit (Before Credits)

		Single Family	Multi-Family
Net Value Per EDU	\$2,964		
Park Service Unit Multiplier		1.00	0.67
Updated Impact Fee		\$2,964	\$1,986
Current Fee		\$2,986	\$2,001
Percent Change		-0.7%	-0.7%

Projected Service Units for New Development

ARS §9-463.05(E)3 requires:

"The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria."

The Town of Marana has developed Land Use Assumptions that estimate the number of new dwelling units expected over the next ten years. Exhibit 8 presents the existing and future dwelling units in the 10-year window based on the Town's Land Use Assumptions. The final result is the number of new EDUs expected over the next ten years.

Exhibit 8: Park Equivalent Demand Units (2017 - 2027)

Housing Type	2017 Dwelling Units	Park Service Unit Multiplier	2017 Service Units (EDUs)
Single Family Detached	13,134	1.00	13,134
Multi - Family / Single Family Attached	1,714	0.67	1,148
TOTAL EDUs 2017			14,282
Housing Type	2027 Dwelling Units	Park Service Unit Multiplier	2027 Service Units (EDUs)
Single Family Detached	19,806	1.00	19,806
Multi - Family / Single Family Attached	2,015	0.67	1,350
TOTAL EDUs 2027			21,156
New EDUs 2017-2027			6,874

Projected Impact Fee Revenue, 2017 - 2027

ARS §9-463.05(E)3 requires:

"The projected demand for necessary public services or facility expansions required by new service units for a period not to exceed ten years."

Exhibit 9 calculates the total expected revenue from impact fees collected between 2017 and 2027 based on the estimated number of new EDUs (Exhibit 8) and updated impact fee. The total projected revenue does not include development credits.

Exhibit 9: Potential Park Impact Fee Revenue, 2017-2027 (Before Credits)

Service Area	New EDUs	Impact Fee / EDU (Before Credits)	Projected Revenue 2017-2027 (Before Credits)	Planned Costs
Town-wide	6,874	\$2,964	\$20,376,391	\$16,902,800

ARS §9-463.05(E)3 requires:

"A forecast of revenues generated by new service units other than development fees, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions, and a plan to include these contributions in determining the extent of the burden imposed by the development as required in subsection B, paragraph 12 of this section."

The Town of Marana collects no property tax to include in revenue forecasts. However, the Town does collect a 4% construction sales tax and also receives revenue from the state related to gas taxes. It is recommended that \$503 of the sales tax be credited on a per EDU basis, resulting in a fee of \$2,461 per EDU. Exhibit 10 calculates the projected revenue and percent of planned costs covered by this revenue forecast. The remainder of the sales tax credit would be credited against the yet-to-be-calculated Street Facilities fee.

It is recommended that the credits associated with HURF/VLT be applied fully to the street facilities fee. If approved, no additional credits would be applied to the Parks and Recreational Facilities fee.

Exhibit 10: Potential Park Impact Fee Revenue, 2017-2027 (After Credits)

Service Area	New EDU's	Impact Fee / EDU (Less the \$503 Credit)	Projected Revenue 2013-2023	Planned Costs	% of Planned Costs
Town-wide	6,874	\$2,461	16,916,914	16,902,800	100%

In summary, the 2017 Impact Fee Update and Infrastructure Improvement Plan result in a final calculation of the Impact Fee per EDU of \$2,461.

APPENDIX A

List of Preparers

Staff Participants

Keith Brann, P.E., CFM, Town Engineer and Project Director
Frank Cassidy Esq., Town Attorney
D. Tyrell McGirt, Deputy Director, Parks and Recreation Department

Norris Design

Stacey Weaks, RLA, LEED, AP
Julie Parizek, CPRP
Adam Call

APPENDIX B

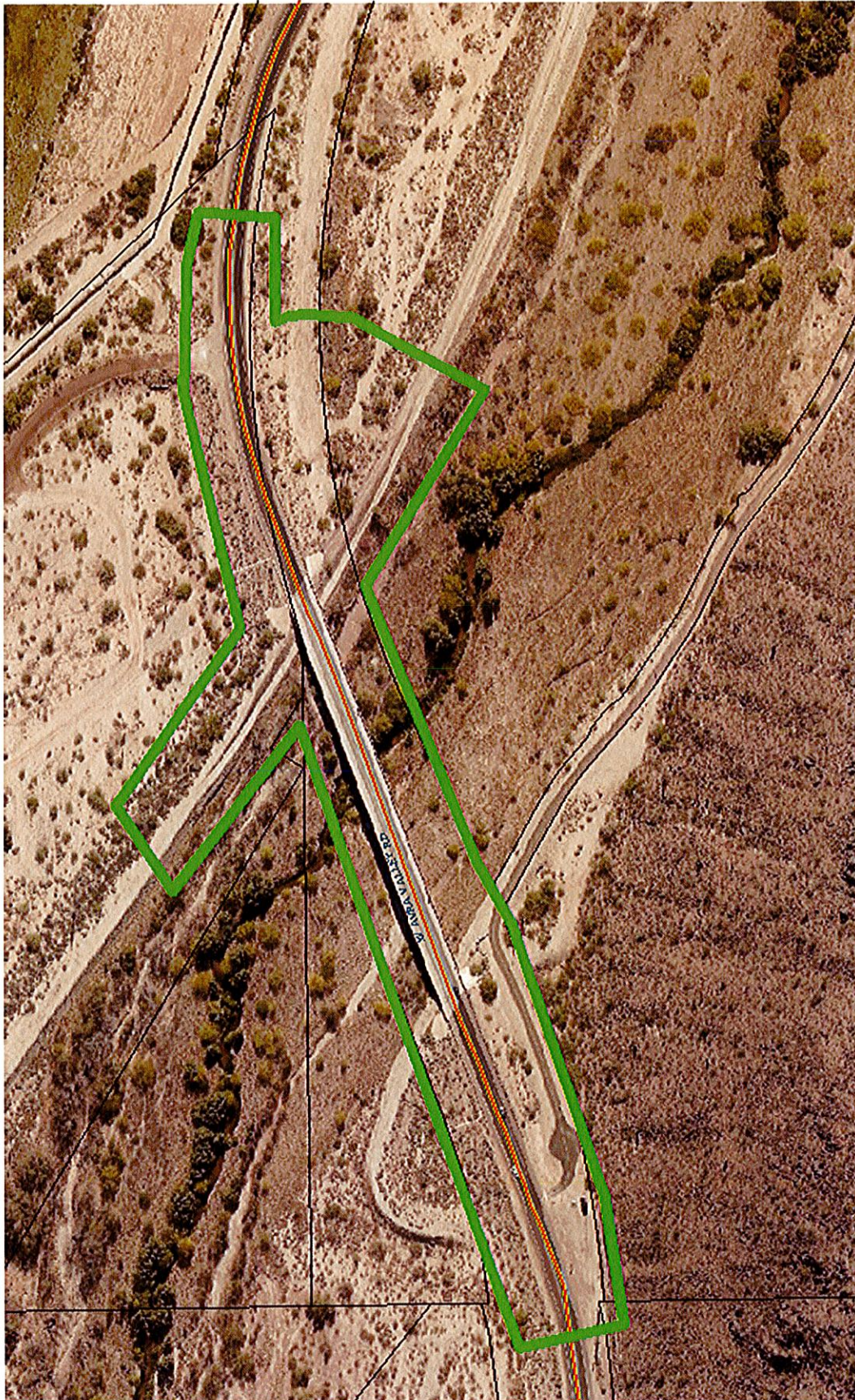
Table of Paths and Trails Area

	Surface	Miles	Width	Acres
Santa Cruz Linear Park S				
El Rio to Ina	Paved	2.4	20	13.09
Santa Cruz Linear Park N				
Pines GC to Tiffany Loop	Paved	2.2	20	5.33
Santa Cruz Linear Park NW				
El Rio Neighborhood Park to Avra Valley Rd.	Paved	1.48	20	3.59
San Lucas				
Cochie Canyon Drive SUP	Paved	1	20	2.42
Riparian Park	Paved	0.2	20	0.48
Total		7.28		24.91
Wild Burro Loop	Dirt	1.7	20	4.12
Lower Javelina	Dirt	1.7	20	4.12
Upper Javelina	Dirt	2.8	20	6.79
Alamo Springs	Dirt	4.1	20	9.94
Alamo Springs Spur	Dirt	1.3	20	3.15
Wild Mustang	Dirt	3.8	20	9.21
Wild Burro	Dirt	6.5	20	15.76
Cochie Springs Trail	Dirt	3.6	20	8.73
Ridgeline Trail	Dirt	3.1	20	7.52
Tortolita Preserve Loop	Dirt	8.8	20	21.33
Total		37.4		90.67

PRELIMINARY COST ESTIMATE

Santa Cruz River
Multi-use Path

	ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	2010001	Clearing and Grubbing	L.SUM	1	\$5,500.00	\$5,500.00
2	2020001	Removal of Structures & Obstructions	L.SUM	1	\$5,000.00	\$5,000.00
3	2030901	Borrow	C.Y.	668	\$20.00	\$13,360.00
4	3030003	Aggregate Base	C.Y.	4	\$75.00	\$300.00
5	4040156	Fog Coat	S.Y.	7,600	\$5.50	\$41,800.00
6	4060002	Asphaltic Concrete (Mix No. 2)	TON	219	\$90.00	\$19,710.00
7	5011043	Pipe, Reinforced Concrete, Class III, 36"	L.F.	40	\$155.00	\$6,200.00
8	6080100	Signage	L.SUM	1	\$5,000.00	\$5,000.00
9	7010001	Maintenance and Protection of Traffic	L.SUM	1	\$30,000.00	\$30,000.00
10	7015052	Obliterate Pavement Marking (Stripe)	L.F.	7,200	\$1.00	\$7,200.00
11	7020002	Impact Attenuation Device (Special)	EACH	1	\$30,000.00	\$30,000.00
12	7040005	Pavement Marking (White Extruded Thermoplastic) (0.090")	L.F.	7,968	\$0.60	\$4,780.80
13	7040006	Pavement Marking (Yellow Extruded Thermoplastic) (0.090")	L.F.	5,020	\$0.60	\$3,011.85
14	7050030	Pavement Marking, Preformed, Type I, Single Arrow	EACH	2	\$180.00	\$360.00
15	7050080	Pavement Legend, Preformed, Type I, Bike Lane Legend and Symbol	EACH	2	\$250.00	\$500.00
16	7060025	Pavement Marker, Reflective, (Type D, Yellow, Two-Way)	EACH	91	\$4.00	\$364.00
17	8100001	AZPDES/NPDES (Original)	L.SUM	1	\$10,000.00	\$10,000.00
18	8100011	AZPDES/NPDES (Modified)	F.A.	1	\$5,000.00	\$5,000.00
19	9010001	Mobilization	L.SUM	1	\$40,000.00	\$40,000.00
20	9020004	Chain Link Fence, Type 1 (72")	L.F.	556	\$40.00	\$22,240.00
21	9100010	Concrete Traffic Barrier w/ 12" Railing	L.F.	1,200	\$150.00	\$180,000.00
22	9130001	Riprap (Dumped)	C.Y.	8	\$100.00	\$750.00
23	9250001	Construction Survey and Layout	L.SUM	1	\$8,000.00	\$8,000.00
24	9340012	Removable Post Barricade (PC/COT Std. Dtl. 107)	EACH	2	\$500.00	\$1,000.00
		CONSTRUCTION SUBTOTAL				\$440,077
		15% ENGINEERING DESIGN				\$66,011
		25% CONTINGENCY				\$110,019.16
		CONSTRUCTION TOTAL				\$616,107.31





Council-Regular Meeting

C5

Meeting Date: 10/06/2020

To: Mayor and Council

From: Cherry L. Lawson, Town Clerk

Date: October 6, 2020

Subject: Approval of the Regular Council Meeting Summary Minutes of September 15, 2020 (Cherry L. Lawson)

Attachments

Draft Regular Council Meeting Summary Minutes



MARANA TOWN COUNCIL

REGULAR COUNCIL MEETING

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, September 15, 2020, 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

ADMINISTRATIVE SUMMARY

CALL TO ORDER AND ROLL CALL

Mayor Honea called the meeting to order at 6:00 PM and directed the Clerk to call the roll. **Mayor Honea, Vice Mayor Post, Council Members: Dave Bowen, Patti Comerford, Roxanne Ziegler, John Officer, and Herb Kai.**

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

APPROVAL OF AGENDA

Council Member Ziegler moved and Vice Mayor Post second the motion to approve the agenda as presented. Motion passes, 7-0.

CALL TO THE PUBLIC

Mayor Honea opened the meeting to receive public comments. No public comments were made.

PROCLAMATIONS

P1 Proclamation honoring Steve Bejarano, Marana Operations Division Patrol Officer (Cherry L. Lawson)

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

Council Member Comerford reported the minutes of September 1, 2020 were amended, and the Town Clerk Cherry Lawson has provided a copy.

Mayor Honea reported an update following the last Mayor's meeting on Thursday, September 10 the COVID-19 Dot Map for Pima County was discussed. As of last week, two cases of COVID-19 were reported in Marana, four cases in Sahuarita and three cases in Oro Valley. Arizona is one of the best cases for COVID-19 as the number of cases have reduced. However, one of the sororities on the University of Arizona campus had a positive test rate of 60% of the members. Additionally, one of the fraternities also tested high among its members.

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Town Manager Jamsheed Mehta reported on the following items:

- Parks and Recreation
 - Marana Parks and Recreation capped off a very successful Swim Season about 10 days ago with their final event, which was a Dive-In Movie. It concluded the summer season.
 - Fall Recreation Programming is now available for online registration. Enrollments are filling up fast. We have 45 diverse programs ranging from yoga and fitness classes, painting, horse camp, and many other fun activities.
- Community Development and Neighborhood Services
 - Animal Services Vaccination Clinic: We are holding a vaccination clinic for dogs on October 3, 2020 from 9:00AM - 11:30AM, here at the MMC. Animal Services Spay and Neuter Clinic: The clinic will be held on Saturday, October 10, 2020 at the Marana Community Center at the Ora Mae Harn Park.
- HR Department: Flu Vaccine Clinic
 - Marana's HR Dept is holding flu vaccination clinics for Town Employees on September 30, 2020 at the MOC and October 1, 2020 at MMC by appointment only. This is a special effort coming from the Governor's Office that this year is an especially unique one. Symptoms associated with

COVID-19 and those symptoms that are associated with influenza have much in common. The vaccination is for employees and Council.

- COVID-19 Update
 - As it pertains to businesses reopening around the state, AZ overall is in the “Moderate” transmission category, as well as Pima County. We have not reached the minimal level at this time. He had previously explained in the difference; however, we could be very shortly in the minimal category as well which would then allow the Town to do a few more things. This will not just be for the private sector (bars, gyms and restaurants); the rules for those types of businesses will be relaxed, as well as some of the Town’s operations. Overall, 12 counties are meeting requirements to open. 10 are in the “Moderate” category and 2 are in the “Minimal” category.
 - The Town is currently in the 2A phase. As we identify in the minimal category, at the state and Pima County level, we will also move into the next phase of our Return-to-work schedule once the County moves into the “minimal” category.

PRESENTATIONS

CONSENT AGENDA

C1 Resolution No. 2020-098: Relating to Personnel; approving and adopting an amendment to the Town's Personnel Policies and Procedures, revising Chapter 6 - Performance Management and Employee Development, Policy 6-2 "Education Assistance" (Curry C. Hale)

C2 Resolution No. 2020-100: Relating to Development; approving a final plat for Twin Peaks and Lambert Lane, Lots 1-62 and Common Areas "A" (Private Streets), "B" (Natural Open Space, Drainage, Landscape, Pedestrian, Public and Private Sewer and Utilities), and "C" (Active Open Space) located east of Twin Peaks Road, west of Blue Bonnet Road, and north of Lambert Lane (Brian D. Varney)

C3 Resolution No. 2020-101: Relating to Development; approving a Final Plat for LaLama, Lots 1-2, located south of Pima Farms Road approximately one-half mile west of Continental Reserve Loop (Brian D. Varney)

C4 Resolution No. 2020-102: Relating to Development; approving a preliminary plat for Gladden Farms Block 42 Lots 1-157, Common Areas A-1 - A-11 (Landscape, Utilities, Drainage and Grading), B-1 - B-4 (Recreation, Landscape, Utilities, Drainage and Grading) and C-1 (Recreation and Landscaping) located approximately a half-mile east of the intersection of Tangerine and Midfield Roads (Steven E. Vasquez)

C5 Resolution No. 2020-103: Relating to Police Department; approving and authorizing the Chief of Police to execute a Task Force Agreement between the United

States Department of Justice, Drug Enforcement Administration and the Marana Police Department for Fiscal Year 2021 (Libby Shelton)

C6 Approval of the Regular Council Meeting Summary Minutes of September 1, 2020 (Cherry L. Lawson)

Council Member Ziegler moved and Council Member Kai second the motion approving the Consent Agenda as presented including the amended set of Minutes for September 1, 2020. Motion passes unanimously, 7-0.

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding an application for Location Transfer of a series #009 Liquor Store liquor license submitted by Kim Kenneth Kwiatkowski on behalf of Circle K Store #9539, located at 11403 W. Tangerine Road, Marana, Arizona 85653 (Cherry L. Lawson)

Town Clerk Cherry Lawson provided an overview of the application for Location Transfer of a series #009 Liquor Store liquor license submitted by Kim Kenneth Kwiatkowski on behalf of Circle K Store #9539, located at 11403 W. Tangerine Road, Marana, Arizona 85653. She stated staff recommends Council approves an order recommending approval of an application for Location Transfer of a series #009 Liquor Store Liquor License submitted by Kim Kenneth Kwiatkowski on behalf of Circle K Store #9539, located at 11403 W. Tangerine Road, Marana, AZ 85653.

Council Member Bowen moved and Vice Mayor Post second the motion approving the application for Location Transfer of a series #009 Liquor Store liquor license submitted by Kim Kenneth Kwiatkowski on behalf of Circle K Store #9539, located at 11403 W. Tangerine Road, Marana, Arizona 85653. She stated staff recommends Council approves an order recommending approval of an application for Location Transfer of a series #009 Liquor Store Liquor License submitted by Kim Kenneth Kwiatkowski on behalf of Circle K Store #9539, located at 11403 W. Tangerine Road, Marana, AZ 85653. Motion passes unanimously, 7-0.

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 PUBLIC HEARING: Ordinance No. 2020.010: Relating to Development; approving an amendment to the Pima Farms North Specific Plan – Villas at Sombrero Peak to add approximately 0.68 acres of land to the specific plan boundary with a land use designation of Village Core – Commercial (C) located at 8861 N. Continental Reserve Loop, approximately 250 feet south of Silverbell Road, on the west side of Continental Reserve Loop (Cynthia Ross)

Resolution No. 2020-104: Relating to Development; declaring as a public record filed with the Town Clerk the amended Pima Farms North Specific Plan – Villas at Sombrero Peak adopted by Ordinance No. 2020.010 (Cynthia Ross)

[6:20 PM Minutes] Mayor Honea opened the public hearing to receive testimony on this item.

Senior Planner Cynthia Ross provided a PowerPoint presentation overview of this item. *(A copy of the presentation is available in the Town Clerk's Office for review.)* She explained this is a rezoning application to amend the Pima Farms North Villas at Sombrero Peak specific plan to include approximately 0.68 acres to the specific plan boundary with a land use designation of Village Core Commercial. The 1.42-acre subject property located at 8861 North Continental Reserve Loop has two different land use designations and two different specific plans. Village Core – Commercial in north 0.74-acre portion of the property located in the Pima Farms North Specific Plan Villas at Sombrero Peak Specific Plan and medium-high density residential in the southern 0.68-acre portion of the property located in the Pima Farms Specific Plan.

The purpose of this amendment is to remove the land use designation in the southern portion of the property currently within the Pima Farms Specific Plan and include with a Pima Farms North Villas at Sombrero Peak Specific Plan, so that the entire parcel has one single land use designation subject to the development regulations and guidance of a single specific plan versus two.

The split land use designation occurred when this acreage was platted in 2016 as Lot 3 of Continental Crossing (Lots 1-4). No other changes are proposed with this amendment. The development standards and zoning conditions outlined in the Pima Farms North Villas at Sombrero Peak Specific Plan will remain. Staff has received the two (2) phone calls one (1) email inquiry and 21 letters of opposition. The concerns expressed are related to the applicant's ultimate proposed use to the property as a self-storage business.

This request is for rezoning specific plan amendment. The development of a self-storage facility at this site will require approval of a conditional use permit by the Planning Commission, and Council. Staff recommends adoption of Ordinance No. 2020.010, approving an amendment to the Pima Farms North Specific Plan Sombrero Peak to add approximately 0.68 acres to the specific plan boundary with the land use designation of Village Core Commercial, and adoption of Resolution 2020.104, declaring the amended Pima Farms North Specific Plan Villas at Sombrero Peak adopted by Ordinance No. 2020.010, as a public record to be filed with the Town Clerk.

Nancy Phillips spoke in opposition to this project stating she is a member of the HOA Board for Sierra Ridge and resident on the Sweet River Road, which is the community and streets in Continental Reserve most affected by this rezoning proposal. While the Planning Commission is recommending rezoning of this portion of the plot on Coachline

just west of Silverbell from medium-high density residential to commercial. We would like to point out several important considerations against us from proposal.

There are other commercial properties at the corner of Silverbell and Coachline. These properties are not within one to two miles of any residential homes. This plot if it is rezoned commercial, there will be only a 100-foot easement separating the commercial property from the back fences of the homeowner's properties on Sweet River Road. If this part is rezoned commercial, it will directly interfere with the school down at Rattlesnake Ridge Elementary, as it is less than two blocks from the school. She commented on the traffic pattern along Coachline, and stated residents were not informed of the rezoning.

[6:23 PM Minutes] Mayor Honea closed the public hearing to testimony.

Council Member Ziegler moved and Vice Mayor Post second the motion approving Ordinance No. 2020.010 Relating to Development; approving an amendment to the Pima Farms North Specific Plan – Villas at Sombrero Peak to add approximately 0.68 acres of land to the specific plan boundary with a land use designation of Village Core – Commercial (C) located at 8861 N. Continental Reserve Loop, approximately 250 feet south of Silverbell Road, on the west side of Continental Reserve Loop. Motion passes unanimously, 7-0.

A2 Ordinance No. 2020.011: Relating to Annexation; annexing into the corporate limits of the Town of Marana that territory known as the La Puerta Del Norte East Annexation, approximately 45.30 acres of land located south of Coachline Boulevard in the east half of Section 17, Township 12 South, Range 12 East; approving a plan to provide the annexed territory with appropriate levels of infrastructure and services to serve anticipated new development; and establishing original Town of Marana zoning (Frank Cassidy)

Town Attorney Frank Cassidy provided a brief overview of this item stating this is the final step in the La Puerta Del Norte East Annexation process. He explained this is the last step in the annexation process for the La Puerta Del Norte East Annexation. He reminded Council of the progress since the last meeting. Pima County Board of Adjustment granted the variance last Thursday, which allows the 150-unit development proposed by KB Home. He acknowledged KB Home representatives present Rory Juneman, (Briana Rader) and Kelly Lee are here in case you have questions about the project.

The County Board of Supervisors approved the IGA related to the open space, which Council had adopted previously. The petitions that the Town received and signed by **Mayor Honea** since we owned property in the area. CMID the contract purchasers and one of the two utility companies they were all recorded at the Pima County Recorder's office. The only signature we did not obtain was CenturyLink. They have some centrally

assessed property in there, and you just cannot get CenturyLink to sign anything. He does not think they have an objection to the annexation.

The Town have completed all the steps necessary for the annexation ordinance to adopt original rezoning for the property. The original zoning that is presented in this ordinance for most of the property is Town of Marana R-3.5. Town of Marana R-3.5 would allow one house per 3,500 square feet. The minimum lot size for these lots is actually 4,800 square feet, and there is a maximum number of units of 150. Pima County Board of Adjustment set the variance since we are just translating over the zoning from the county. We carry those same conditions over it also includes single story restrictions for the homes.

There are a couple of parts of the property being annexed that are zoned differently. The Town's well site in the corner that this southeast 125 square feet of the property is actually zoned in the county RD -- basically the same as our RD-180, 180,000 square foot minimum lot size to work over that zoning for that apiece. A little piece of the right-of-way is zoned in the county what is known as GR, General Rural, which requires one house for 36,000 square feet it is meaningless. To zone right-of-away, there is a small piece of right-of-away zoned R-36 in the Town of Marana under this ordinance.

Mayor Honea opened the meeting to receive public comments on this item and the following individuals provided comments.

Donna Adams submitted email comments in opposition to this item. She cited several examples to her opposition including El Rio Bird Sanctuary Preserve, historical and cultural sites, potential increase of water for the new subdivision, wildlife in the area, and respecting natural and historic sites.

Bill Ohl spoke in opposition to this item. He commented on Linda Vista, and that they lost the fight on the thoroughfare into and out of the property area. His concern is that he does not believe the archaeological park is on the radar of the Marana staff, as well as having Linda Vista moved back 20 to 30 ft. so to provide a buffer into the archaeological park.

Council Member Ziegler responded to **Mr. Ohl** comments thanking him for his input that he had provided in these last couple of months. She has read every bit of it, and almost all of it she agrees with except for his comments this evening. She commented on the drainage stating Mr. Ohl was privy to the meeting. She and **Mayor Honea** had met with the group couple of weeks ago at La Puerta Del Norte. **Joy White** showed us incredible drainage pictures or a lack of built in that area. She referenced the photos of the recent rain event that delivered two to three (2-3) feet of water stating she was shocked over the photos, and believe **Mayor Honea** was as well.

It was coming down Los Monteros and coming across the street through Sunflower and is coming out of that well. There are holes whereby the rainwater goes through and

creates unbelievable flooding on that street. This has nothing to do with the KB Homes. She clarified that KB Homes will install its own retaining wall to meet its own retention requirements for that land.

Council Member Ziegler continued stating this is past flooding. Marana staff and Pima County Flood Control, Rory's Group, KB Homes, all had a meeting and surveyed the area, and noticed how bad it is. To her knowledge based upon receiving weekly updates, they are moving forward to do some drainage mitigation in that area. So we got some good heads together, they have some good ideas on how to stop that. She acknowledged that **Mr. Ohl** may feel as though he is experiencing the first push back from the town and others, as the County Flood Control has indicated that it is not right. She thanked **Mr. Ohl** for his comments.

She stated as personal privilege, she would be voting no on this item as she has in the past.

Vice Mayor Post moved and Council Member Bowen second the motion to adopt Ordinance No. 2020.011 approving the La Puerta Del Norte East Annexation; approving a plan to provide the annexed territory with appropriate levels of infrastructure and services; and adopting original Town of Marana zoning for the annexed property. Motion passes, 6 Yays 1 Nay (Ziegler)

Mayor Honea stated he and **Council Member Ziegler** were reviewing this video on a phone. Those roads in La Puerta Del Norte are set up for drainage. They are lower than the houses. The problem was there was some considerable work done on the north side by the county. It created a blockage where the roads could run all the way through and drain. It just stayed in the road. The roads are set up. The road in front of his house set up for drainage. It just drains slower.

A3 Ordinance No. 2020.012: Relating to Development; adding Marana Standard Detail 100-7 for "Ranchette Street" and accompanying Marana Subdivision Street Standards Manual text; and establishing an effective date (Keith Brann)

Resolution No. 2020-105: Relating to Development; declaring as a public record filed with the Town Clerk the amendments adopted by Ordinance No. 2020.012, Marana Standard Detail 100-7 for "Ranchette Street" and accompanying Marana Subdivision Street Standards Manual text (Keith Brann)

Mr. Cassidy stated **Town Engineer Keith Brann** gave a presentation on this essentially what we are looking at here is a very limited purpose road. It is a situation where if a developer has a 10-lot or fewer subdivision with the lots that are 3.3 acres or larger, and it is a private dead-end street, they can use this lesser standard. It is much less expensive approach to doing a subdivision. It was inspired by the fact that Potter Ranch, which we had approved out on Luckett Road, they had existing roads that had served them well

for many years. They came in with a plat, and we felt that it did not make a lot of sense to have them rebuild asphalt pave very expensive roads for that area. It would completely change the character that development. This allows is in a very limited set of circumstances where you are not expecting more than 100 trips a day on this road. The developer of the subdivision can develop without asphalt paving. It has a special cross section, obviously, once you get to a drainage way it had to be armored on both sides. The Town recommends approval of this item.

Council Member Kai asked **Mr. Cassidy** who would assume responsibility for future maintenance on these substandard roads? Is the Town going to have to come in or the 10-acre who respond for?

Mr. Cassidy responded stating this only applies to private road. It has to be HOA maintain. They would have to create an HOA or a joint maintenance agreement among the lot owners. If they ever had more lots go on to the property or wanted to turn it over to the Town of Marana and they would have to then rebuild the road to the town standards before the town would accept it.

Council Member Kai moved and Council Member Officer second the motion adopting Ordinance No. 2020.012 and Resolution No. 2020-105, adding Marana Standard Detail 100-7 for "Ranchette Street" and accompanying Marana Subdivision Street Standards Manual text, and declaring them a public record. Motion passes unanimously, 7-0.

A4 Resolution No. 2020-106: Relating to Development; approving a development plan for Home 2 Suites by Hilton at Cortaro Ranch located north of Cortaro Farms Road and west of Cerius Stravenue (Brian D. Varney)

Senior Planner Brian Varney provided an overview of Resolution No. 2020-106 related to a development plan for Home 2 Suites by Hilton at Cortaro Ranch located north of Cortaro Farms Road and west of Cerius Stravenue. He stated this is a request for approval of a development plan for Home 2 Suites by Hilton, which is a four-story, 111-room hotel. This propose for the Cortaro Ranch Phase II commercial development. Cortaro Ranch Phase II is located to the south of the Cortaro Ranch residential development. We currently have some development there now with the Micro Hospital. We have the Dutch Brothers and commercial suite located in there. The Home 2 Suites Hotel is proposing the very northwest corner of this project.

The Planning Commission and the Town Council typically would not see development plans, but there is a condition in the rezoning ordinance from 1995-30. There is requirement that the Planning Commission make a recommendation on the Town Council to approve development plans and plats. Therefore, the Town is bringing forward this item for Council consideration.

There was a development plan for this area that was approved on April 2, 2019. However, at the time, the development plan was not considering a four-story hotel. The hotel has been off again, on again project for this area at some one point in time. It was located just west of the Micro Hospital site and then it came off the development plan. When the Town Council approved the development plan, the hotel is not in on the board, it was not in place.

The Town wanted to bring this back to Council, because the land uses are changing out there. Staff did not want the Council to be surprised when they see a four-story hotel being constructed on the site that was not originally approved for that site approve knowing that the site would be coming. The hotel is proposed. It does meet the zoning. The zoning is Village Commercial it does allow for hotels. It also allows for a maximum building height of 50 feet. This is a four-story hotel, which is proposed at 50 feet. It does meet the Town's Development Standards it also means that sounds design requirements.

The Town would go through a process of improvement plans and construction documents between now and the time they actually start constructing. However, the Town is asking for approval for the development plan to solidify this new use. There has been some concern recently about the proximity of the hotel building the structure to the nearby residential. He continued explaining the location of the hotel site (as provided on the PowerPoint slide), and the location of the building is actually will be between 50 and 56 feet from the corner of the nearest residential lot. The house on that lot is an additional 70 feet in, and so the buildings are separated by roughly 125 feet.

Mr. Varney stated the applicant has gone to great length to orient the building on the site so that it does have minimal impact on visibility and decrease intrusiveness to the neighborhood. The building has been positioned in such a way that along the gated parts of the building, the longer parts face of Cortaro and their facing the interstate while the narrow or part of the building is actually facing the residential subdivision. The building has been pulled as far away as they can reasonably from the property line. There is a 40-foot special buffer required for commercial uses such a residential. In these zones, they are meeting as well as exceeding. There is a 40-foot buffer in there actually providing 55 feet.

The elevations for the hotel are provided in the agenda packet. This is a very highly acclaimed product for the Hilton line, and are proud of this product. They equated to equal to or better than the Hampton. The Town believes this is going to be a great addition to the town.

With this product, they will be constructing Joplin Lane. Joplin Lane has a dedicated right-of-away to the Town through the platting process. Joplin will be constructed along with this project, so that the road will open at the same time as the hotel. There is condition in the development agreement in terms of timing of when the road construction needed to begin and when it needed to be completed by. Right now, they are two months

into the six-month process of beginning the construction. Then will have six months to complete it.

Accessibility of the driveway through the center of the project that comes off Cerius Stravenue. In a conversation with the master developer, they could be submitting plans for buildings on Cerius Stravenue in October. The Town should see those coming shortly, as the road will be extended and be closer to Joplin lane.

Building heights 50 feet, which is both VC and allow the VC does those commercial, as it allows for the use. Town staff is in full support of it. He noted that the Legal Department in an adjustment to the Resolution that is provided in the staff report. He inadvertently omitted a paragraph. Therefore, a paragraph was added that pertains to the rezoning that occurred in March of 2019. Those changes provided the Town the opportunity to permit 5.5 acres where half of this project is located. It was LI Light Industrial and R-8 and was tidy up to VC. That paragraph will be added to the resolution, as well as, adding a paragraph that states of this project straddles the line of 2019 zoning clean up and the 1995 rezoning of the original rezoning.

Mayor Honea opened this item to receive public comments, and the following individuals either submitted public comments to the Town or spoke in person regarding this item.

Debbie LeBlanc submitted comments in opposition of this item stating she nor her husband wish to see any hotel built at this location. She expressed concerns for the values of her home as well as a lack of privacy.

Michael Coronado submitted comments in opposition of this item expressing concerns for the lack of privacy if the hotel is there.

Jason Southard submitted comments in opposition of this item. He expressed concerns with the four-story hotel being located in a residential area, reduced privacy, additional noise from traffic during normal business hours, and the possibility of increased crime in the area.

Jovan (*no last name provided*) submitted comments in opposition of this item expressing concerns over lack of notification by the Town, and the possible increase of crime.

Deanie Rodriguez submitted comments in opposition of this item citing concerns with the number of stories of the proposed hotel, increased crime and noise pollution.

Steve Wilson submitted comments in opposition to this item. He expressed concerns with possible increase of traffic and crime.

Manny Eugenio submitted comments in opposition to this item. He expressed concerns with privacy and possible increase in crime.

Mayor Honea closed the public comment on this item.

Council Member Comerford asked who would be paying for the right-of-way on Joplin. **Mr. Varney** deferred to **Mr. Cassidy** and asked that he reply to the Council Member's question. He believes the developer is paying for the entire cost of the road. **Mr. Cassidy** stated it is not the developer of the hotel, rather the developer of the subdivision. The Town has a development agreement with them, and they are required to build the road.

Council Member Kai stated Joplin Lane is the lane that is underneath the big power lines. He asked whether they were able to get those agreements worked out. It is not dedicated road; the neighbors back there are using it. How is the hotel going to handle that?

Mr. Cassidy replied stating the current dirt road for Joplin Lane is on a license that is granted by TEP under the power lines. The current driveway connection of Joplin Road to Cortaro Road was on TEP Land. The developer of the Cortaro Ranch Commercial Development acquired a little triangle at that corner from TEP. The road is going to be shifted a bit eastward. There is a 30-foot area dedicated by the plat for Joplin Lane that goes along Cortaro Ranch Commercial. Once it gets to De Anza, the De Anza plat dedicated a 30-foot right-of-way. There will be a right-of-way, and Joplin Lane will be placed in permanent right-of-way in this area. Further north, the Town or somebody else, is going to have to shift Joplin Lane into De Anza right-of-way and then north of that will need to continue constructing it further north. In this area, it will be a permanent right-of-way.

Council Member Kai asked whether the hotel would use the existing private property where the medical center is and Dutch Boy Coffee coming into Joplin Lane.

Mr. Cassidy replied stating he believed so, as it appears from the layout that there are parking area access lanes that go through the entire development. One can travel from Cerius to that parking area access lane that separates between south of the medical center, the Micro Hospital, and then you can head westward. He would assume that if you exit the freeway, that would be the logical way to go. Although once you get to the west edge, he thinks you are probably going to jump onto Joplin Lane and head to the northwest up to the hotel.

Council Member Kai it seems when ADOT does the upgrade on Cortaro Farms Road, Joplin Lane will probably go away, and will be a tough deal there.

Mr. Varney replied stating Joplin Lane, as stated by **Mr. Cassidy**, Joplin Lane is a straight shot back to the hotel, but they will eventually be connecting to the internal access. We do not know what will happen on the southernmost blocks six there, but if the idea is to bring access in both ways.

Mayor Honea stated his project dates back so far that he and **Council Member Kai** were the only two people involved with the town at that time. **Council Member Comerford** and **Council Member Ziegler** both came within about six months of this project or to the Planning Commission. The biggest complaint in the early days was not the retail or the commercial it was housing. People thought the schools would be over run and that it was going to be horrible. It is a beautiful community. He has walked through there a few times.

Council Member Ziegler referenced the traffic asking how far on Joplin Lane, will they fix the road.

Mr. Varney replied stating they have only dedicated the right-of-way to the north property boundary. They are only responsible for construction the front the road along there frontage. **Council Member Ziegler** stated she understands.

Mr. Varney stated as **Mr. Cassidy** mentioned, we have to get some right-of-way between De Anza that has dedicated right-of-way. There is a small section there in-between the Marana Center, which Camino de Oeste was coming down from Linda Vista to meet up on the middle. We are going to have to come up with some right-of-way and their through various processes.

Council Member Ziegler stated she is okay with that. This is great, and she **liked** the location. She wants to ensure we have a secondary access to the facility when this is built.

Mr. Varney replied stating the Town will ensure that there is. This is a conceptual plan, but the idea is to provide drive all the way to the hotel from down in internal for the site. If it is the Council's pleasure. **Council Member Ziegler** inquired as to the timeframe to build the hotel.

Sam Catanese is with the Thompson Thrift Master Development Group that is developing the hotel. They are currently in the negotiation phases with Thompson Thrift on exactly when we would break ground on this. They wanted to obtain the approval of Council to move forward, so that they can move forward with the actual plans of the project.

Council Member Ziegler asked whether it would be completed within one year. **Mr. Catanese** replied stating yes. Given the state of affairs in the world with COVID-19, lenders are not that happy with lending on anything right now especially hospitality. However, they were expecting that to change towards the end of this year. They would expect to probably be breaking ground at the very first part of 2021.

Mr. Catanese stated this would be a 10 to 12 months construction period. **Council Member Ziegler** stated she likes the project. **Mr. Catanese** stated they developed a number of Hilton projects in Phoenix and in other parts of the country, and Hilton had

asked us if we would be interested in doing this product here. There is only one other Home 2 Suites that is slated for Tucson area right now, and will be in the downtown area.

Mayor Honea stated he agrees with **Council Member Ziegler** on the ingress/egress, as Joplin Lane is a right in and right out roadway. There will not be a left side entry or exit on Joplin Lane. The secondary access is going to be important. **Mr. Catanese** stated he agrees with Council 100%.

Mayor Honea stated unless the Council changes at Cortaro as our number one Highway I-10 interchange to be redone--either similar to Ina or Orange Grove either over or under whatever works better there. There may be some ingress/egress problems with Joplin Lane when that happens and we are going to need a good access to get to the property. **Mr. Catanese** stated he agrees 100%.

Council Member Kai questioned the number of hotel rooms slated for the property. He asked **Mr. Catanese** whether the 111-room hotel was correct. **Mr. Catanese** stated yes. **Council Member Kai** asked whether the number could be scaled down. **Mr. Catanese** replied stating that is their typical prototypes, and it is that way based on economics.

Council Member Bowen commented on some of the emails that Council had received related to this project. Some people have commented that they do not want windows and balconies facing their yards or homes. From reviewing the drawings and listening to **Mr. Catanese** that this is not going to be the case. This is going to be the end of a hotel. The windows and the outlooks are going to be facing parallel to the homes, not at facing the homes. Somebody mentioned that the clientele was going to be bad. This is a very, very nice project and a nice area. He appreciates the developer being as accommodating as possible with the surrounding homeowners. This is further away from the homes than the original site was and it is as good as we are going to get, and it is adequate.

For those who have voiced objections to this project, it is been set up here several times. This project has been on the books here for many, many years. This is not something that was thrown together in the last six months and nobody had any idea was coming. It has been there. When you buy a home, you have to investigate what is going on around you. That is just the way it is. There are no guarantees over vacant space and the vacant land around you. You need to find out what is there if you are concerned about it. This is a very nice project, and he will vote in favor of it.

Council Member Bowen moved and Council Member Ziegler second the motion approving Resolution No. 2020-106, a development plan for Home 2 Suites by Hilton at Cortaro Ranch. Motion passes unanimously, 7-0.

A5 Ordinance No. 2020.013: Relating to Finance; exempting two Habitat for Humanity Tucson, Inc. projects from certain Town of Marana development and building fees in a total amount of up to \$40,000 (Heath Vescovi-Chiordi)

Mayor Honea recused himself from deliberating on this item, as he has a conflict of interest.

Assistant to the Town Manager Heath Vescovi-Chiordi provided before Council to discuss a couple of affordable housing projects here in the Town of Marana specifically in the Honea Heights area and a subsequent request for a waiver on certain permit and review fees for the town.

Just a brief description of the projects, we have two of them. We refer to the Sandy Street Project and the other one is the Whitney Lane Project. Sandy Street is parts of land owned by Habitat for Humanity. They would be splitting that lot into two and building two homes on it. The Whitney Lane Project is currently 12-lots and they would submit a replat to put it to 10 lots and build one new home on each lot between both of the projects. You would have 12 affordable homes built by Habitat in the Honea Heights Colonia.

I believe the project time line for both of the projects is as follows: acquisition of the Whitney Lane Project is happening at this time. He believes they Habitat will acquire the land within 30 days from today. They already own the Sandy Street Project lot. From that particular point on they plan to pull permits beginning in January of 2021 for concrete, for the foundations in March of 2021 and begin construction in earnest immediately thereafter through January of 2022. It is our hope that Habitat will have people in the homes between March and September of 2022.

He noted multiple benefits to this type of project in the area noted. First and foremost, it will increase the inventory of affordable housing that we have within the Town of Marana, which is a benefit overall to the community. During the time of COVID-19 and after, this will help individuals who have had issues in finding affordable housing or who have suffered financial hardship to find a home in the future. Lastly, it will certainly contribute to the increase in quality of the Honea Heights area, which is a direct benefit to the town and aligns with our efforts to improve all of our Colonia throughout the town.

He continued providing examples of past fee waivers that the Town approved stating the most recent one would be in October of 2019. The Town Council passed an ordinance that waived up to \$30,000 worth of permit review fees for the Sol Dog Lodge, which is on the east side of the Interstate 10 on Tangerine Road at the Tangerine Business Park. Before that, similar arrangements were made with MHC Healthcare as well as the Marana Community Food Bank in 2008 and 2016, respectively. Both agreements included either exemption from fees in the Town's Comprehensive Fee Schedule or the Town participated financially to assist in mitigating the financial burden of those fees that they would have had to pay. He believes the food bank was exempted from fees. With MHC, the Town contributed about \$200,000 in the beginning of the development of the project.

These non-profit organizations were considered for a few reasons. Number one, they will be providing invaluable services to the region, to the community specifically to the

residents of the Town of Marana. They contribute considerably to increasing economic diversity and development as well as quality of life within our community. They align with the Town Strategic Plan in the same manner as Habitat for Humanity. There exists a large opportunity for partnership in the future between the Town and Habitat.

If approved by Council, it would include waiving development and permit related fees including in the Town of Marana is a Comprehensive Fee Schedule with the exclusion of any fee paid into an Enterprise Fund as well as impact fees. Those two would not be included in this type of waiver. After we did significant internal research and discussion of applicable development and permit related fees, it was concluded that a waiver of up to \$40,000 would help facilitate the completion of both of the projects and offer maximum financial benefit to Habitat for Humanity to complete this project.

From the slides, the Town has reviewed a few examples of the fee types although this does not include every single applicable fee that might be waived or that they could essentially charge against if they were to get this waiver. The fees span multiple departments and divisions including Development Services, Engineering, Building Safety and others. It is important to note that although they would have the waiver and they would still be subject to every review that they would normally be by the Town of Marana. They have to go through Marana's typical Development Review Process.

At this particular point, we estimated the permit and review fees for Whitney Lane to be approximately \$43,000 and Sandy Street permit fees are approximately \$16,000. Habitat will be applying for the use of two other programs Council passed in 2006, and later amended in 2011 for relief from similar type fees as well as other fees. One such program is the Affordable Housing Revolving Loan Fund that assists with covering permit review related fees similar to how this waiver would.

The other one is the Colonia Waiver Program, assists in paying for impact fees that they would be charged during the development. It is important to note that with the Colonia Waiver Program any impacts fee funds is made whole. Currently there is \$108,000 in that fund. If they were to be accepted to use this program, essentially what would happen if there is a Northwest Parks Impact Fee and it costs \$10,000. Ten thousand dollars (\$10,000) would be transferred from the Colonial Waiver Program into the appropriate funds for the funds are always made hold.

Impact fees for Whitney Lane are estimated to be \$51,000 to \$52,000 and the impact fee for Sandy Street is about \$31,000. They would submit a different request that is administratively approved for the Colonial Waiver Program. Essentially, that is not something that comes to Council.

The Marana Affordable Housing Loan Fund has \$17,000. Essentially, what this would do is if they apply and they receive that would cover all of the expenses that are related to the Sandy Street Project, which would remain the \$43,000 in Permit Review Fees for Whitney Lane. This waiver would approximately take care of that is a little bit of give

and take when it comes to that. We did not come to \$43,000 because we believe there are some ways that we can make it work internally whether or not exceeding significant out of money that they would have to expect.

Mr. Vescovi-Chiordi acknowledged **T. VanHook** from **Habitat for Humanity, Director of Community Services Lisa Schafer**, and **Mr. Mehta** who can answer any questions from the Council.

Vice Mayor Post welcomed T. VanHook back in the Chambers.

Council Member Kai asked whether the timeline for Whitney Lane construction would be starting the south side or north side and what the total timeline for build out for the homes.

T. VanHook stated the 10 units on Whitney or all on one side of the street and we would start them simultaneously and complete them probably in a row. She is not sure which direction they would go, but we would start on Lot 1 or Lot 10 and then move our way through. All of the slabs with the ports simultaneously. If they are lucky, can do all of the wall raisings in a single day. Currently conditions only allow to have 10 volunteers at the time.

Council Member Kai asked how long it take to build the homes two or three years. **Ms. VanHook** replied it would be one year. Once permits are pulled, they will begin with concrete and start construction probably in April or May of 2021. She hopes this project is completed before she retires on June 30, 2022.

Council Member Ziegler stated it would be an honor for us to waive fees for Habitat for Humanity. It is an emotional thing to see the new homeowner take possession of those homes and having a home. After much sweat equity on the homeowner part, and other criteria they have to do and classes to qualify those homes, it is a great project.

Vice Mayor Post stated a number of years ago we worked on a project that was on the north side of the bank protection, right on that area. He asked what happened with that project, was it dropped. He asked whether there is still grant funding for the possibility of the project.

Ms. VanHook replied stating there are three items that three items that I would see having issues on that property. Number 1, the federal funding went away because of the Pima County match through the bond projects and that how to do it water wastewater worse. Number 2, it was not disclosed during the original environmental that the cars were buried there is bank protection. That was discovered some years after and in 2014 it was discovered when someone started excavating to sell the metal is strapped to a purchase. That was never disclosed during the environmental. Those cars would need to be excavated and that lands remediated, in her opinion, before Marana would be able to put any federal dollars to that property.

Council Member Ziegler moved and Council Member Officer second the motion to adopt Ordinance No. 2020.013 exempting two Habitat for Humanity Tucson, Inc. projects from certain Town of Marana development and building fees in a total amount of up to \$40,000. Motion passes, 6 Yay, 1 - Recuse.

A6 Resolution No. 2020-099: Relating to Development; approving the final plat for Linda Vista Village at Cascada, Village I (Lots 1-39), Village II (Lots 1-93), Village III (Lots 1-131), Blocks I-VII, and Common Areas "A", "B", "C", "D", "E", "F", "G", and "H" located southeast of Twin Peaks Road and north and south of Linda Vista Boulevard; and approving and authorizing the Mayor to sign the Linda Vista Village TEP Easement Agreement (Brian D. Varney)

Mr. Cassidy provided an overview of Resolution No. 2020-099 related to the final plat for Linda Vista Village at Cascada, Village I (Lots 1-39), Village II (Lots 1-93), Village III (Lots 1-131), Blocks I-VII, and Common Areas "A", "B", "C", "D", "E", "F", "G", and "H" located southeast of Twin Peaks Road and north and south of Linda Vista Boulevard; and approving and authorizing the Mayor to sign the Linda Vista Village TEP Easement Agreement. The reason I asked for this to be on the action part of the agenda has to do with the very last phrase of what **Ms. Lawson** just read, which is the authorization of and the approval of the Linda Vista Village TEP Easement Agreement that goes along with this. He wanted to discuss that element because it does deal with some real property issues.

Around the Marana Center, the Town of Marana owns the drainage way. TEP would like to put its facilities within the south edge of that drainage way, south of Marana Center to serve eastward over to Linda Vista Village. It is 600 feet or so of stretch of property. The Town of Marana agreed to allow TEP to place its stuff on Marana's property. TEP said they were not willing just to go within Marana's property. If we just put our stuff in your property, and for any reason those facilities must be moved in the future, TEP must pay for those relocation costs. Marana said, yes, exactly. That is why we would like to have you go in there pursuant to your franchise rights, as Town staff referred to it that way. TEP said they did not want to do that.

He spoke with (**Larry Crease**) and said, Larry, we have a little bit of a problem here. TEP is asking the Town of Marana for an easement. If we give them an easement and those facilities ever have to be relocated, the Town of Marana has to pay to relocate. In other words, TEP wants to change position so they have prior rights in the -- my business we call it prior rights. The Town will now have to pay those relocation costs and that is just not acceptable.

Trouble is from (**Larry Crease**) is perspective; he does not have the authority to condemn private property to acquire an easement for TEP. TEP is not going to acquire in an easement through condemnation to serve (**Mr. Crease's**) property. He had a negotiation with (**Mr. Crease**) to see what could be done. **Mr. Crease** agreed to step in as the

developer to pay any future relocation cost. His reactions were that is great. However, as soon as you (**Mr. Crease**), is gone what happens then. They came up with an agreement that (**Mr. Crease**), signs but it is binding on the HOA. The concern, how do you keep the HOA knowing consistently that it has this commitment. How do you know, when the fees have to be paid after sitting in a drawer for 25 years? We need to have them pay for relocation cost. The HOA would then ask what agreement the Town is referring too.

Mr. Cassidy stated they came up with this idea of charging \$500 a year, as it is enough whereby the HOA will notice. The HOA will pay \$500 every year as long as we do not have to relocate the facilities that becomes general revenue of the Town's \$500. If we ever do have to relocate, we go ahead and give them credit against all those \$500 per year that we had collected all those years just to make it fair. In all likelihood knowing where this is in that channel on the south edge of this channel. It is almost certain that the facilities are not going to need to be moved, but nothing is positive in life. We want to ensure the Town is not on the hook for that relocation costs.

He continued stating he wanted to mention that TEP does this all the time to Marana. This is not going to be the only time this happens. There will be this type and other situations where TEP will ask to come in to our right-of-way some place. They always have the same reaction. This is an opportunity for Council to weigh in on it before we use this as a template on other projects.

Council Member Kai asked as far as maintenance on that right-of-way at Tucson Electric will be putting their post, would Tucson Electric maintain the area with removal of the weeds.

Mr. Cassidy replies stating actually in that vicinity, the facilities are underground. No Marana staff will maintain the drainage way of weeds and various other things. When TEP constructs its facility, they will have to put it underground.

Mayor Honea stated the Town should charge them a lease agreement or something similar for putting in on Marana's right-of-way.

Council Member Comerford asked if TEP did not have Marana's land to place it upon, where would TEP then go. **Mr. Cassidy** stated TEP would have to put it on a U of A property. He is sure the radio tower property is owned by the U of A and getting an easement from the U of A would be problematic, to say the least. He does not think it would realistically happen.

Council Member Comerford stated TEP cannot get there without going through Marana. **Mr. Cassidy** replied correct, that is the reason why he had to come forward with something. This large residential project would be good for the Town of Marana in staff's opinion. As long as we can come up with a reasonable accommodation, it seems like a logical approach.

Council Member Bowen asked for clarification stating he is missing something here. The subdivision will pay \$500, the HOA will pay \$500 a year to the Town. In the course of 26 years, that is \$13,000 all this meanwhile a relocation would cost a lot more than that. The Town is on the hook here not the HOA, but the Town is on the hook for this relocation if it ever takes place eventually with a pittance of money provided to pay for it.

Mr. Cassidy stated the Town is ultimately on the hook for it. The agreement would make the HOA be legally responsible. He provided for an example that if it is \$500,000, we would then say to the HOA, you need to pay the \$500,000. The HOA is going to say we do not have \$500,000. The Town could sue the HOA and make them pay, as the agreement does say that very thing. **Council Member Bowen** stated that would be trying to get funds from the HOA that they do not have. **Mr. Cassidy** replied stating the Town would end up having to pay some relocation costs. So yes, it is possible that maybe the Town would decide to completely redo the drainage way because they wanted to get more capacity or something and would need to relocate those facilities.

However, TEP always tries to argue that, if you are doing such a major construction project anyway, you are relocating other things why not relocate us as well. Marana does not say no to the request, and we do not want to do that. We want those fees to be paid. Marana has done it personally for decades with TEP. He reflected on one of my first lawsuits was a relocation costs lawsuit against TEP when he worked at the county in 1984. This is the best I could think of.

Vice Mayor Post asked whether there is no other mechanism like performance bond that would be available to pay for this if this were to happen.

Mr. Cassidy replied stating we could instead of making it a \$500 a year lease payment to us, which should be general revenue, we could change it and require that it be some kind of a performance bond that they would pay annually. An insurance company or bonding company would charge to keep that bond current. Marana would have to come up with the principal amount. **Mr. Brann** could figure out what the potential costs for relocating the underground TEP line. That is another potential approach.

Vice Mayor Post commented on the suggestion for the HOA to not forget about the annual payment. He asked how the Town would ensure the HOA did not forget they had this. **Mr. Cassidy** replied stating every year when the Finance Department receives a check, and does not know why the check was received, Finance staff starts calling Town departments to determine who or where the check should be applied. The nice thing about the check passing is that the sender realizes that it is \$500. If both sides forget, he cannot guarantee that will not happen. The same could be true with paying for a bond. We have the same problem with people retaining insurance, for example, on license agreements just about every development maintains the landscaping in the right-of-way in front of their development. There is always a potential for lack or a loss of institutional memory on these things.

Vice Mayor Post stated we are looking at deciding whether we feel like the risk of TEP needing to relocate, or Marana needing to relocate at its cost. **Mr. Cassidy** stated yes.

Council Member Ziegler stated she does not feel good about this deal. We just came up with the mechanism to remind people sometime in the future and that mechanism is as described by **Mr. Cassidy**. She expressed her concern over the \$500 the Town would seek from the HOA on the relocation. TEP or the railroad has never been a partner with the Town or anyone.

We must look at what Cascade is going to bring into the Town of Marana. She stated that she does not want to get into a conversation on impact fees as she voted against La Puerto De Norte. Everything this development will bring into the Town of Marana shop in our Town sales tax, everything. She does not agree with the Town depending on a \$500 yearly payment from the HOA.

She expressed her dissatisfaction with having to work around the railroad and TEP. However, if you say that I am so what the risk is very low for this to happen, but it is just going to put my \$0.002 with the Vice Mayor is for us to have to do something like this just to make some sure somebody in the future remember so it just seems like a very wild and weird way to do it.

Mr. Cassidy stated he and **Mr. Crease** did have that conversation to determine how best to resolve this. If there is a better way to do this, he is open to it, and that is exactly they had said. In terms of TEP, over those 40 years of fighting with TEP about relocation costs, and many conversations with TEP that is the problem for them and, they have no control over when these relocations happen. It is not like they can go to the Arizona Corporation Commission and request a certain amount to cover possible relocation expense.

They feel as though we are in control of when the relocation costs happened; from their perspective if we are doing a CIP project. For example, in this case to redo the channel then we ought to consider all the cost. That is why they take that position. They must find money when the relocation costs happen. It is not something they can budget for because it is our action that caused them to have to spend the money.

Council Member Ziegler stated it is not palatable for her, as things happen where someone may forget.

Council Member Officer asked whether there is way the Town can request, as it is going to be on Marana easement right-of-way a more stringent code, buried electrical line deeper encased in concrete. You are going to be in a wash area that is going to be expanded later. If we protect it more up front when installed, it will be a bigger cost up initially. That is the insurance for the long term. If they must make that channel wider and deeper, Marana will still be protected within the right-of-way.

Mr. Cassidy commenting stating **Council Member Officer** makes an interesting point that the actual maintenance obligation for the underground facility is TEP. The relocation responsibility only comes about if Marana does a CIP project that requires them to move it. If we armored it or require them to do extra things in the installation, it will hurt Marana in the relocation. Then that armored facility must be moved; whereas if the facility because of flooding gets exposed and they need to do maintenance on it, that's TEP's responsibility. We have given them an easement we did not promise that their facility would not be touched by storm damage or anything like that. It is just the CIP project relocation costs own it.

Council Member Officer requested the Town make it more stringent to provide protection to the Town.

Vice Mayor Post stated he appreciated **Mr. Cassidy** and **Mr. Crease** coming together to try to figure out a way to solve this issue. Honestly, think that the risk is very minimal. The risk is minimal that the Town will collect any money from the HOA.

Council Member Bowen stated he agrees with **Vice Mayor Post** comments that the risk is very minimal. We are trying to foretell what might happen many years down the road from now and create an out for every eccentricity that takes place. He does not think it is possible. The idea of providing reminder for the HOA to remit \$500 a year seems to be a reasonable accommodation of the best we can do. The rest of it probably will be forgotten and when and if this thing ever does need to be relocated the finger pointing will begin and the records will be dug up and they will be much haranguing about how anybody let this get by. He noted as an example, the Tortolita Preserve what everybody decided that we were going to pay this lease till judgment day on the preserve.

The potential for Cascada's benefit to Marana far outweighs this. He commented on **Council Member Officer's** point stating he understands what he was referring to regarding fortifying the thing. Truth is, everything that goes wrong with this is going to be on TEP. The only time it will ever come to the town's attention is if we decide for some reason -- for some decision to move the whole thing. In that case, TEP will wash their hands of it anyway. They can build it according to their specifications. If it breaks, they have to fix it if it gets flooded. If it gets broken into anything, they must fix it. It is their problem not our problem; only if it needs to be relocated. In in that case it will not help us in any case.

Mayor Honea stated he has a hard time figuring out how \$1 billion Canadian Company TEP is not willing to take the risks. They want the taxpayers of the Town of Marana to take the risk of that thing ever having to be moved.

Vice Mayor Post moved and Council Member Kai second the motion adopting Resolution No. 2020-099 and exclude an agreement with the HOA. Vice Mayor Post stated correct. Motion passes, 6 Yay and 1 Nay (Bowen).

Mr. Cassidy asked for clarification stating the Town will delete the agreement and give them the easement, and not charge them for it. He stated the Resolution would state that it authorizes the Town Engineer to sign the TEP Easement, but not to sign agreement. **Vice Mayor Post** stated that is correct.

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)

Mr. Mehta stated that there are no new updates from the federal government. However, provided the following reports.

Federal

- Last week, a \$500B Republican-led bill failed to advance in the Senate.
- There is another discussion related to a recent proposal is a \$1.5T package. However, it is unlikely to pass.

State

- Two new Executive Orders related to COVID-19 have been announced by the Governor:
 - EO 2020-053: Regarding Driver License Renewals for Arizonans aged 65 and above. An extension was been granted. If you are in that age range, you have more time to renew your license until after December 31, 2020.
 - EO 2020-54: Regarding Enhanced Surveillance Advisory Monitoring the Spread of COVID-19 (Does not apply to the Town of Marana)
 - Requires certain licensed hospitals (and excludes others) to provide the following info every 24 hours:
 - The number of non-essential surgeries performed each day.
 - Number of influenza positive patients or suspected influenza patients
 - Number of ventilators for influenza or suspected influenza patients
 - Number of ICU beds in use for influenza/suspected influenza patients
 - Number of influenza positive patients/suspected influenza patients seen in the Emergency Dept. each day

Bill Tracking

- Two propositions will be on the ballot in November, including Prop 207 and 208. Detailed information on each proposition was sent in your weekly email to Council, and we can provide more information upon request.
 - *Prop 207 - Smart and Safe AZ (Recreational Marijuana)*
 - *Prop 208 - Invest in Education*

- Place a 3.5% tax surcharge on incomes of \$250k+ for individuals and \$500k+ for joint filers, with the revenue going to K-12 Public Schools.
- Would raise \$900M annually for public education.

EXECUTIVE SESSIONS

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

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

Mayor Honea asked for a motion to adjourn the meeting.

Vice Mayor Post moved and Council Member Kai second the motion to adjourn the meeting. Motion passes unanimously, 7-0. Meeting adjourned at 7:48 PM.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on September 15, 2020. I further certify that a quorum was present.

Cherry L. Lawson, Town Clerk



Council-Regular Meeting

B1

Meeting Date: 10/06/2020

To: Mayor and Council

From: Keith Brann, Town Engineer

Date: October 6, 2020

Strategic Plan Focus Area:

Not Applicable

Subject: [Town Council acting as Floodplain Board] Relating to Floodplain Management; staff report to Floodplain Board regarding a floodplain violation on property located at 4801 W. Flying Diamond, as required by Town Code section 17-15-7 (A) and federal regulations, and order from Floodplain Board regarding abatement of the violation (Keith Brann)

Discussion:

Marana Town Code section 17-15-7(A) requires that within 30 days of discovery of a floodplain violation, the floodplain administrator shall submit a report to the floodplain board. On September 8, 2020, the floodplain administrator notified the owner of the property at 4801 W Flying Diamond of a violation of section 17-15-9(E)(1), "[a] floodplain use permit shall be obtained before construction or development begins..." A building addition has been constructed on the property as well as a swimming pool.

On September 11, 2020, the floodplain administrator and the building official met with the property owner via ZOOM. The property owner desires to abate the violation and will be engaging professionals to recommend modifications to the structure. Based on the existing structure being built at-grade, it is likely that a combination of physical alterations and selected variance from the floodplain code will be necessary.

Along with this report to the floodplain board, 17-15-(A) requires that within 30 days of receipt of the report, the floodplain board shall do one of the following:

1. Take any necessary action to effect the abatement of such violation; or
2. Issue a floodplain variance to this Title in accordance with the provisions of Section 17-15-11; or
3. Order the owner of the property upon which the violation exists to provide whatever

additional information may be required for their determination. Such information must be provided to the floodplain administrator within 30 days of such order and the floodplain administrator shall submit an amended report to the floodplain board within 20 days. At the next regularly scheduled public meeting, the floodplain board shall either order the abatement of said violation or they shall grant a floodplain variance in accordance with the provisions of Section 17-15-11; or

4. For FEMA regulated special flood hazard areas, submit to the administrator of FIA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to Section 1316 of the FIA of 1968 as amended.

It should also be noted that Marana Town Code section 17-15-7(B) states that the Town of Marana may withhold the issuance of permits, including building permits, native plant permits and grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the same ownership.

Staff Recommendation:

Staff believes the owner is willing to abate the violation and needs time to seek the opinion of professionals on how to modify the structure. Staff recommends that the board utilize option 3 and require the owner to provide additional information. This additional information can then guide the board's deliberations on any variance decisions.

Suggested Motion:

I move to accept the floodplain administrator's report concerning the floodplain violation at 4801 W. Flying Diamond Drive. I further move that the property owner be ordered to provide additional information regarding the floodplain violation on the property, pursuant to Marana Town Code section 17-15-7(A)(3).

OR

Council's pleasure, acting as the floodplain board.

Attachments

presentation



Floodplain Violation – 4801 W Flying Diamond

Keith Brann, Town Engineer

October 6, 2020

Floodplain Violation Report

A Floodplain Violation notice has been given to the owner of the property at 4801 W Flying Diamond.

A building addition and a swimming pool were constructed without building permits or floodplain use permits. The entire property is FEMA zone AO-1



2015 Aerial



2018 Aerial

Upon Notification of a violation, the Floodplain Board must take one of the following actions:

1. Take any necessary action to effect the abatement of such violation.
2. Issue a floodplain variance to this chapter in accordance with the provisions of section 17-15-11.
3. **Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the floodplain administrator within 30 days of such order and the floodplain administrator shall submit an amended report to the floodplain board within 20 days. At the next regularly scheduled public meeting, the floodplain board shall either order the abatement of said violation or they shall grant a floodplain variance in accordance with the provisions of section 17-15-11.**
4. For FEMA regulated special flood hazard areas, submit to the administrator of FIA a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to section 1316 of the FIA of 1968 as amended.



Council-Regular Meeting

A1

Meeting Date: 10/06/2020

To: Mayor and Council

From: Jane Fairall, Deputy Town Attorney

Date: October 6, 2020

Strategic Plan Focus Area:

Not Applicable

Subject: Resolution No. 2020-111: Relating to Real Estate; approving and authorizing the Mayor to execute a Lease Agreement with Marana Chamber of Commerce, Inc. for the lease of Town-owned property located at 13250 N. Lon Adams Road (Jane Fairall)

Discussion:

The proposed resolution will approve a lease agreement between the Town and the Marana Chamber of Commerce for the lease of a portion of the Town's building located at 13250 N. Lon Adams Road. The building most recently housed the Town's Parks and Recreation Department, but is currently being remodeled for use as a visitors' center and offices.

The proposed agreement will lease to the Chamber exclusive use areas inside the remodeled building for Chamber offices, as well as areas for joint use with the Town. The attached diagram of the floor plan depicts the exclusive use and joint use areas. The Chamber will also be provided reasonable parking in the parking lot adjacent to the building as a part of the lease.

The lease agreement includes the following terms:

- The initial term of the lease is for five years beginning December 1, 2020
 - The parties will review the lease 90 days before the end of the term and determine whether to renew or terminate the lease at that time
- Initial rent is \$1,000 per month
 - Beginning on the second anniversary of the lease and on each anniversary thereafter, the Town may increase the rent up to 5%
- The Town leases the premises unfurnished
- The Town will pay for all utilities on the premises, except for internet, which will be

the Chamber's responsibility

- The Town will be responsible for maintenance and janitorial services for the premises

Financial Impact:

Fiscal Year: 2020

Budgeted Y/N: N

Amount: \$12,000

Revenues resulting from this lease will be included in future Town budgets.

Staff Recommendation:

Staff recommends approval of the lease agreement.

Suggested Motion:

I move to adopt Resolution No. 2020-111, approving and authorizing the Mayor to execute a Lease Agreement with the Marana Chamber of Commerce, Inc. for the lease of Town-owned property located at 13250 N. Lon Adams Road.

Attachments

Resolution 2020-111

Lease Agreement

MARANA RESOLUTION NO. 2020-111

RELATING TO REAL ESTATE; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH MARANA CHAMBER OF COMMERCE, INC. FOR THE LEASE OF TOWN-OWNED PROPERTY LOCATED AT 13250 N. LON ADAMS ROAD

WHEREAS the Marana Strategic Plan IV includes “Commerce” as a focus area with a principle statement to seek and retain diverse industries and commerce in order to promote sustainable economic health; and

WHEREAS Marana Chamber of Commerce, Inc. (the “Chamber”) is an Arizona 501(c)(6) non-profit corporation that operates the Marana Visitor Center and provides other services to the Town and the community; and

WHEREAS the Chamber desires to lease space in the recently remodeled Town-owned building located at 13250 N. Lon Adams Road; and

WHEREAS the Mayor and Council of the Town of Marana find that the best interests of Marana and its citizens are served by entering into a lease agreement with the Chamber.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, that the Lease Agreement with Marana Chamber of Commerce, Inc. is hereby approved in substantially the form set forth in the agenda materials accompanying this resolution, and the Mayor is authorized to sign it for and on behalf of the Town of Marana.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Frank Cassidy, Town Attorney

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town") and the MARANA CHAMBER OF COMMERCE, INC., an Arizona 501(c)(6) non-profit corporation (the "Chamber"). The Town and the Chamber are sometimes referred to collectively as the "Parties," either of which is sometimes individually referred to as a "Party."

1. *Property.* The Town is the owner of the property and improvements located at 13250 N. Lon Adams Road in Pima County, Arizona, as depicted in Exhibit A, attached to and incorporated in this Lease (the "Property").

2. *Lease.* The Town hereby leases to Chamber the following portions of the Property as the "Leased Premises" for the term of this Lease, subject to Chamber's performance of its obligations under this Lease:

- a. Exclusive use of the areas identified as the "exclusive use areas" in the diagram attached to and incorporated in this Lease as Exhibit B.
- b. Joint use, with the Town of Marana and the Town's permitted licensees or guests, if any, of the areas identified on Exhibit B as "joint use areas."
- c. Reasonable parking in the parking lot located just north of and adjacent to the Leased Premises, as depicted on Exhibit A.

3. *Term.* The initial term of this Lease shall be for five years commencing December 1, 2020 (the "Commencement Date"), unless sooner terminated as provided in this Lease. This Lease shall be reviewed 90 days before the end of the term, at which time the Parties will agree whether to terminate or continue this Lease for an additional term. Renewal shall be by written amendment, signed by both Parties.

4. *Rent.* In consideration for the terms and conditions of this Lease, and subject to adjustment as set forth in this paragraph, Chamber shall pay rent to the Town of \$1,000.00 each month during the term of this Lease. Rent shall be due and payable to the Town in advance on the 1st day of each month and shall be remitted to: The Town of Marana, Attn: Finance Department, 11555 W. Civic Center Dr., Marana, AZ 85653. Rent shall be paid without prior notice or demand. Any invoice provided by the Town is for courtesy only and any failure to send an invoice shall not relieve Chamber of its obligation to pay the rent in a timely manner. Rent payments made after the 5th day of each month shall be considered late and shall be subject to the late payment fee established by the Town Council in the Town's comprehensive fee schedule.

(A) Beginning on the second anniversary of the Commencement Date, and on each anniversary of the Commencement Date thereafter, the Town may increase the rent by an amount up to 5% above the rent applicable in the immediately preceding year.

(B) The Town must give Chamber at least 60 days' prior written notice of any increase in rent.

5. *Use.* Chamber shall use the Leased Premises for a Town of Marana visitors' center and office and conference room space for the administration and operation of the Chamber.

6. *Joint Use Areas.* The Town and the Town's licensees and guests shall have access at all reasonable times to the joint use areas, as those areas are identified in paragraph 2 above. The Town shall schedule and coordinate its use of a joint use area with Chamber prior to the date of the use. When there is a conflict in scheduling the use and occupancy of the joint use areas, Chamber shall have priority in scheduling over the Town and the Town's licensees and guests.

7. *Furnishings.* The Town shall lease the Leased Premises to Chamber unfurnished.

8. *Utilities.* The Town shall pay all utility expenses for the Leased Premises when they become due and payable, except for expenses for internet service. Chamber shall be responsible for obtaining and paying for internet service for the Leased Premises for Chamber's use.

9. *Repairs, Maintenance, and Custodial Services.* The Town shall pay all costs to repair the Leased Premises, shall maintain the exterior of and grounds around the Leased Premises, and shall pay for custodial services within the Leased Premises. Chamber shall report all maintenance issues to the Town's Facilities Division as soon as possible and no later than 24 hours after discovery. Chamber shall make any service requests to the Facilities Division via email or telephone.

10. *No Modifications.* Chamber shall not modify the Leased Premises or any of the improvements around or in any way associated with the Leased Premises, including the interior of the Leased Premises and any landscaping on the Leased Premises, without the prior written approval of the Town Manager or designee. If the Town Manager or designee gives written approval, Chamber shall be responsible for all expenses related to the alteration, improvement, addition, change, or modification. Any permanent improvement built, installed, or added on the Leased Premises shall become the property of the Town without compensation to Chamber.

11. *Non-Assignment.* Chamber's rights under this Lease cannot be assigned by Chamber nor shall Chamber grant any license in connection with the Leased Premises without the prior written approval of the Town Manager.

12. *Inspection.* The Town shall have the right at all reasonable times to inspect the Leased Premises and to require Chamber to correct any unsatisfactory conditions relative to Chamber's use of the Leased Premises pursuant to this Lease.

13. *Signs.* Chamber may affix and maintain upon the Property signs relating to the services provided on the Leased Premises as Chamber deems appropriate. Chamber must receive the Town's prior written approval, which will not be unreasonably withheld, as to type, size, color, location, copy nature, and display qualities for any signs that are visible outside of the Property. All signs used by Chamber on or about the Property, whether visible outside the Property or not, shall at all times comply with the Marana Land Development Code, and shall be installed and maintained at Chamber's sole cost.

14. *Environmental.* Chamber shall not cause or permit any hazardous or toxic substance or material to be brought upon, kept, or used in or about the Property by Chamber, its agents, employees, contractors or invitees. For purposes of this paragraph, "hazardous or toxic substance or material" does not include standard janitorial and office products. Chamber shall fully comply with all environmental rules and regulations with respect to its operations on the Leased Premises and shall remediate and clean up any contamination of the Property occurring during the term of this Lease, if the contamination is caused in whole or in part by the acts or omissions of Chamber, its agents, employees, contractors or invitees.

15. *Access/key control.* Chamber shall comply with any and all policies, procedures, rules or directives of the Town related to access to Town facilities and possession and use of Town keys, electronic access identification cards or other access devices.

16. *Indemnification.* To the fullest extent permitted by law, Chamber shall defend, indemnify, and hold harmless the Town, its officers, agents, and employees, from and against any and all claims, liabilities, losses, damage, cost and expense, including but not limited to reasonable attorneys' fees and/or litigation expenses, arising out of or resulting from the conduct or management of the Leased Premises, or any accident, injury, damage, or violation of law whatsoever occurring in or at the Leased Premises allegedly caused in whole or in part by any act or omission of Chamber or anyone directly or indirectly employed by it, its agents, representatives, contractors, subcontractors, licensees, or anyone for whose acts it may be liable, regardless of whether it is caused in part by the negligent act or omission of the Town or any of its officers, agents, or employees. To the fullest extent permitted by law, Chamber shall also indemnify the Town against any claim, liability, damage, cost, or expense arising out of the disposal, or release of any hazardous substance, hazardous waste, hazardous materials, or petroleum products or by products on, from or under the Leased Premises during the term of this Lease.

17. *Insurance.* Chamber shall maintain insurance with carriers acceptable to the Town with the following required coverages and limits:

Worker's Compensation	Statutory
Employer's Liability	U.S. \$100,000
Commercial General Liability	U.S. \$1,000,000 per occurrence
	U.S. \$2,000,000 aggregate
Business Auto Liability	U.S. \$1,000,000 combined single limit

- a. Chamber shall deliver one or more certificates of insurance evidencing coverage as described in this paragraph 17 to the Town upon execution of this Lease. Chamber shall also deliver new certificates of insurance each time the policy(s) is updated. All certificates shall be delivered to: The Town Manager's Office at 11555 W. Civic Center Drive, Marana, Arizona 85653.
- b. The Town shall be named as an additional insured on the commercial general liability policy required by this paragraph 17. As an additional insured, the Town shall be provided coverage for any liability arising out of operations performed in whole or in part by or on behalf of Chamber.
- c. The certificate(s) shall also stipulate that the insurance afforded Chamber shall be primary insurance and that any insurance carried by the Town, its agents, officials or employees shall be excess and not contributory insurance to that provided by Chamber. Coverage provided by Chamber shall be primary insurance with respect to all other available sources.
- d. The coverage requirements specified in this paragraph 17 may not be changed or modified except by written agreement signed by all Parties.
- e. Chamber shall give the Town at least 30 calendar days' written notice prior to a planned cancellation or reduction of any coverage required by this paragraph 17. Chamber shall give the Town immediate notice of any other cancellation or reduction of any coverage required by this paragraph 17. Cancellation or reduction of any coverage required by this paragraph 17 is grounds for termination of this Lease by the Town.

18. *Chamber not an Agent of Town.* Chamber is not an agent of the Town for any purpose under this Lease or otherwise. Chamber shall control activities on the Leased Premises, except for activities of the Town or the Town's licensees or guests in the joint use areas and in the shared parking lot, and the Town shall not control those activities. Chamber's employees and servants shall not be under the control of the Town.

19. *Notices.* All notices, requests, demands, and other communications under this Lease shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested; to the following addresses:

If to the Town, to: TOWN OF MARANA
Attn: Town Manager
11555 W. Civic Center Drive
Marana, AZ 85653

If to Chamber, to: MARANA CHAMBER OF COMMERCE, INC.
Attn: President/CEO
13250 N. Lon Adams Road
Marana, AZ 85653

20. *Entire Agreement.* This Lease constitutes the entire agreement and understanding of the Parties pertaining to the subject matter of the Lease and supersedes all offers, negotiations, and other agreements of any kind. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded and merged in this Lease.

21. *Authority to Execute Lease.* The individuals executing this Lease hereby represent that they have full right, power, and authority to execute this Lease on behalf of their respective Parties.

22. *Force Majeure.* Notwithstanding any other term, condition or provision of this Lease to the contrary, if any Party to this Lease is precluded from satisfying or fulfilling any duty or obligation imposed upon it due to labor strikes, material shortages, war, civil disturbances, weather conditions, natural disasters, acts of God, or other events beyond the control of such Party, the time period provided herein for the performance by such Party of such duty or obligation shall be extended for a period equal to the delay occasioned by such events.

23. *Conflict of Interest.* This Lease is subject to the provisions of A.R.S. § 38-511, which provides for termination in certain instances involving conflicts of interest.

24. *Non-Discrimination.* Chamber shall comply with applicable state and federal rules concerning equal employment opportunity and non-discrimination. Chamber shall further comply with the Americans with Disabilities Act, to the extent applicable to Chamber's operation and the Leased Premises.

25. *Attorneys' Fees.* The prevailing Party in a civil action to enforce this Lease shall be entitled to recover from the other Party, in addition to any relief to which such prevailing Party may be entitled, all costs, expenses and reasonable attorneys' fees incurred in connection with that civil action.

26. *Governing Law.* This Lease shall be construed in accordance with the laws of the State of Arizona.

27. *Default/Termination.*

(A) Immediate Termination of Lease. This Lease may be terminated immediately by the Town for any of the following:

- (i) Chamber at any time is without the required insurance;
- (ii) Chamber violates any law, or permits any unlawful activities to be carried out on the Leased Premises;
- (iii) Chamber takes or fails to take any action and this action or non-action, in the Town's sole judgment, causes or exacerbates a threat to the health or safety of the general public or the users of the facility;
- (iv) Chamber creates or permits any waste or nuisance on the Leased Premises;
- (v) Chamber permits the consumption of alcohol on the Leased Premises.

(B) Other Defaults. For any other default, defined as a violation of any of the terms or conditions of this Lease, the non-breaching Party may terminate this Lease only if the breaching Party fails to cure the default within 30 days of receiving written notice from the non-breaching Party describing the default, except that a Party may terminate this Lease if the other Party is guilty of four such defaults in a 12-month period, even if each default was cured in a timely manner. Either Party may pursue any other remedies provided by law for the breach of this Lease. No right or remedy conferred or reserved is intended to be exclusive of any other right or remedy, and each shall be cumulative and in addition to any other right or remedy conferred or reserved in this Lease.

28. *Termination for Convenience.* Either Party may terminate this Lease without cause, for convenience with 90 days' written notice to the other Party.

29. *Surrender of Premises Upon Termination.* Upon termination of this Lease, Chamber agrees to surrender the Leased Premises to the Town in as good a condition as when received, ordinary wear and tear or damage resulting from causes beyond the reasonable control of Chamber excepted. Chamber shall remove any Chamber-built or installed improvements prior to vacating the Leased Premises if requested by the Town or unless requested to be left in place by the Town.

30. *Disposition of Personal Property Upon Termination.* Upon termination of this Lease, Chamber agrees that the personal property of the Town shall not be removed from the Leased Premises but shall be surrendered in good condition. Chamber agrees to remove all equipment and personal property belonging to Chamber upon termination of this Lease without causing damage to the Leased Premises. Any damage to the Leased Premises resulting from the removal of Chamber's personal property or equipment shall be solely the responsibility of Chamber.

31. *Liens.* Chamber shall timely pay all contractors, subcontractors, mechanics, laborers, or materialmen providing materials or services with respect to the Leased Premises, and shall not permit any lien to attach to the Leased Premises or Property or any interest in the Leased Premises or Property, and shall indemnify and defend the Town against all legal costs and charges resulting from any such lien.

32. *Miscellaneous.*

(A) This Lease may not be modified except in a writing signed by both of the Parties.

(B) The captions and section numbers appearing in this Lease are inserted only as a matter of convenience, and do not define, limit, construe or describe the scope or intent of such sections or articles of this Lease.

(C) This Lease may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same Lease.

(D) Neither Party's waiver of the other's breach of any term or condition contained in this Lease shall be deemed a waiver of any subsequent breach of the same or any other term or condition of this Lease.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have duly executed this instrument below.

THE TOWN OF MARANA,
an Arizona municipal corporation

MARANA CHAMBER OF COMMERCE, INC.,
an Arizona 501(c)(6) non-profit corporation

By: _____
Ed Honea, Mayor

By: _____
Audra Winters, IOM
President/CEO

Date: _____

Date: _____

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

STATE OF ARIZONA)

ss.

County of Pima)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020
by Audra Winters, President/CEO of MARANA CHAMBER OF COMMERCE, INC., an Arizona
501(c)(6) non-profit corporation, on behalf of the corporation.

(Seal)

Notary Public

LIST OF EXHIBITS

Exhibit A: Map of Property

Exhibit B: Diagram of Leased Premises



Parcel
217370610

Parcel
217370570

Parcel
217370560

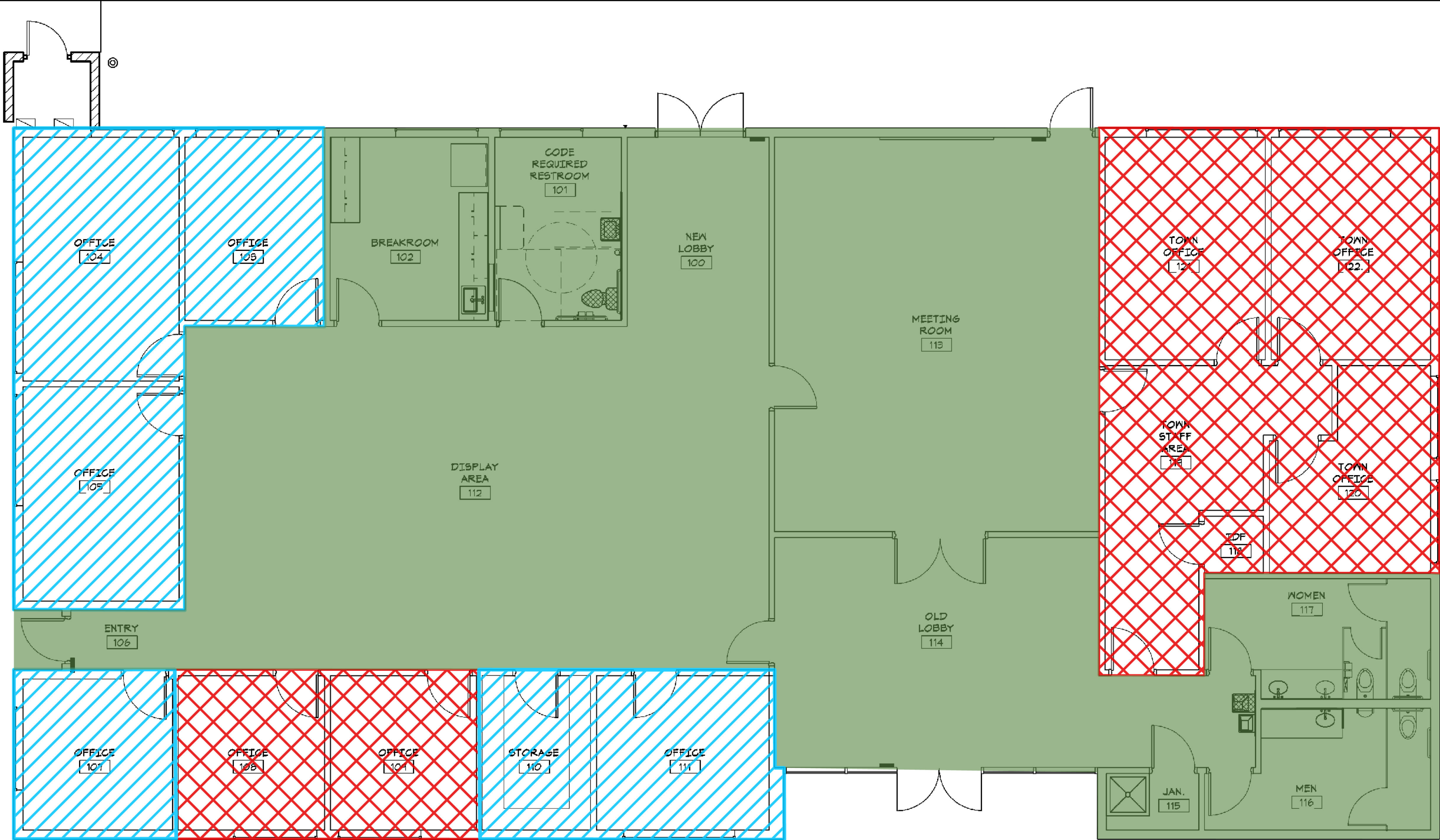
N LON ADAMS RD

Exhibit A to Lease Agreement

13250 N. Lon Adams Road



0 5 10 20
Yards



-  Areas excluded from Leased Premises
-  Exclusive use areas within Leased Premises
-  Joint use areas within Leased Premises



Council-Regular Meeting

A2

Meeting Date: 10/06/2020

To: Mayor and Council

From: Heath Vescovi-Chiordi, Assistant to the Town Manager

Date: October 6, 2020

Strategic Plan Focus Area:
Commerce

Strategic Plan Focus Area Additional Info:

Principle Statement 2: We will seek and retain diverse industries and commerce.

Initiative 5: Develop strategies and promote initiatives to further the development of the Downtown District.

Subject: Resolution No. 2020-112: Relating to Development; approving and authorizing the Mayor to sign the Marana Main Street Development Agreement and Right-of-Way License (Heath Vescovi-Chiordi)

Discussion:

On April 16th, 2013, Town Council authorized the establishment of the Downtown Marana Reinvestment Fund (DMRF) by adoption of Resolution 2013-036. This resolution set aside a 5 year period where 50% of construction sales tax revenues and 50% of general sales tax revenues collected by the Town of Marana in the Downtown Activity Center be available for use to fund public infrastructure projects desirable and necessary for the development of the Downtown Activity Center. By adoption of Resolution 2018-040, the Town Council extended the DMRF for ten years, and authorized it to be used pursuant to a Council-approved development agreement to pay for public infrastructure incentives associated with Downtown Marana mixed-use development in the downtown overlay zone established by Marana Ordinance No. 2018.010, and now codified in the Marana Town Code, section 17-4-22.

The Town's Strategic Plan 4 deliberately calls out the diversification of industries and commerce within the Town of Marana, as well as specifically addressing the development of Downtown Marana in order to do so. In order to develop the Downtown District in a manner befitting a traditional downtown-style, Town Staff, during the course of the Land Development Code rewrite exercise, engaged with a 3rd party organization to create a zoning overlay district for a specific geography in the

Downtown Activity Center that would function as an opt-in overlay zone. This zone was approved by Council in 2018, and serves as an addition to the DMRF, allowing for public infrastructure costs associated with mixed-use development to qualify for reimbursement.

Within the Downtown Activity Center, there existed opportunity for a partnership between a local developer and the Town to construct public infrastructure in a manner befitting the style of development that fits the vision for Downtown Marana. In order to attain this vision, the Town, entered into discussion for an agreement that would achieve multiple goals at once, during existing construction by the developer. By participating financially in construction of this project, the Town will receive public infrastructure for the development of Downtown Marana and Marana Main Street, upscaled landscaping, upscaled lighting, sign monumentation, and adherence to the Downtown Marana Overlay Zone, which establishes the look and feel for future design, constriction, open space, use, and more.

Staff is requesting authorization from the Town Council to execute an agreement that would provide \$300,000 from the Downtown Marana Reinvestment Fund to assist with public infrastructure construction costs in Downtown Marana, including street, electrical, landscaping, parking, and other infrastructure.

Financial Impact:

Fiscal Year: 2020-2021

Budgeted Y/N: Y

Amount: \$300,000

Budget appropriation exists in the Downtown Marana Reinvestment Fund.

Staff Recommendation:

Staff recommends adoption of Resolution 2020-112, approving and authorizing the Mayor to sign the Marana Main Street Development Agreement and Right-of-Way License.

Suggested Motion:

I move to adopt Resolution No. 2020-112, approving and authorizing the Mayor to sign the Marana Main Street Development Agreement and Right-of-Way License.

Attachments

Resolution 2020-112

Development Agreement and Right-of-Way License

Exhibit A - Downtown Implementation Plan

MARANA RESOLUTION NO. 2020-112

RELATING TO DEVELOPMENT; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE MARANA MAIN STREET DEVELOPMENT AGREEMENT AND RIGHT-OF-WAY LICENSE

WHEREAS the Town Council established the Downtown Marana Reinvestment Fund (the "DMRF") by adoption of Marana Resolution No. 2013-036, setting aside for a five-year period 50% of the construction sales tax revenues and 50% of the general sales tax revenues collected by the Town of Marana in the Downtown Activity Center for use to fund public infrastructure projects desirable and necessary for the development of the Downtown Activity Center; and

WHEREAS the Town Council extended the DMRF for ten years by adoption of Marana Resolution No. 2018-040 and authorized it to be used pursuant to a Council-approved development agreement to pay for public infrastructure incentives associated with downtown Marana mixed-use development in the downtown overlay zone established by Marana Ordinance No. 2018.010 and now codified in the Marana Town Code at section 17-4-22; and

WHEREAS the Parties desire to facilitate construction of Marana Main Street from just east of the roundabout at Sandario Road to the east boundary of the Marana Main Street project, and Center Street through the Marana Main Street project; and

WHEREAS a portion of the Marana Main Street project is in the downtown overlay zone, and its owners desire to implement the zoning of a portion of the Marana Main Street project as downtown (DT) and downtown neighborhood (DN) zoning pursuant to Marana Town Code sections 17-4-23 and 17-4-24; and

WHEREAS the Mayor and Council find that entering into the Marana Main Street Development Agreement and Right-of-Way License is in the best interests of the Town and its citizens and businesses.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the Marana Main Street Development Agreement and Right-of-Way License in substantially the form included with the agenda backup material accompanying this resolution is hereby approved, 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 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry L. Lawson, Town Clerk

Frank Cassidy, Town Attorney

MARANA MAIN STREET DEVELOPMENT AGREEMENT AND RIGHT-OF-WAY LICENSE

TOWN OF MARANA, ARIZONA

This Agreement is entered into by and among the TOWN OF MARANA (the "Town"), an Arizona municipal corporation; MARANA MAIN STREET, LLC ("MMS"), an Arizona limited liability company; MARANA HOSPITALITY, LLC ("MH"), an Arizona limited liability company; MARANA HOSPITALITY II, LLC ("MH2"), an Arizona limited liability company; FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation, as Trustee under Trust No. 60434 and not otherwise (the "Trust"); and MARANA MAIN STREET DEVELOPMENT CORP, ("MMSD"), an Arizona corporation. MMS, MH, MH2, the Trust, and MMSD are sometimes collectively referred to as the "Property Owner Entities," any one of which is sometimes referred to as a "Property Owner Entity." MMS, MH, MH2, the Trust, MMSD, and the Town are sometimes collectively referred to as the "Parties," any of which is sometimes individually referred to as a "Party."

RECITALS

A. The "Final Block Plat of Marana Main Street Blocks 1 through 10 and Common Area 'A' (Functional Open Space)" (the "Original MMS Plat") was recorded in the office of the Recorder of Pima County, Arizona, on March 21, 2014, at Sequence 20140800116.

B. Collectively, MMS, MH, MH2, and the Trust own Blocks 2, 3, 6, 7, 8, and 9 as depicted on the Original MMS Plat.

C. The "Final Block Plat of Marana Main Street Blocks 6, 7, 8, and 11 through 17 and Common Area 'A' (Functional Open Space)" (the "MMS Replat"), being a replat of Blocks 6, 7, and 8 of the Original MMS Plat, was recorded in the office of the Recorder of Pima County, Arizona, on October 18, 2019, at Sequence 20192910097.

D. Blocks 3 and 9 of the Original MMS Plat and Blocks 6 and 7 of the MMS Replat are collectively referred to in this Agreement as the Subject Property.

E. For purposes of this Agreement, the Original MMS Plat as amended by the MMS Replat is referred to as the "MMS Plats" and the development depicted on them is referred to as the "MMS Development."

F. MMS, MH, and MH2 are the sole beneficiaries of the Trust.

G. MMSD is the development entity doing the actual construction of what is defined later in this Agreement as the "Subject Roadways" – the work contemplated by this Agreement.

H. The Town has completed construction of the Marana Road Realignment and Reconstruction project, Marana Project No. ST044 (the "Project").

I. The Project included the construction of a roundabout (the "Roundabout") on Sandario Road at its intersection with Marana Main Street, and the construction of Marana Main Street to approximately 270 feet east of the centerline of Sandario Road (the "Main Street Stub").

J. The Parties desire to facilitate construction by the Property Owner Entities, as depicted on the Original MMS Plat and its associated improvement plans, of what are referred to in this Agreement as the "Subject Roadways"; specifically, Marana Main Street from the east terminus of the Project (which is also the east side of the Main Street Stub) on the west to the east boundary of the MMS Development, and Center Street through the MMS Development.

K. By adoption of Marana Resolution No. 2013-036, the Town Council established the Downtown Marana Reinvestment Fund (the "DMRF"), setting aside for a five-year period 50% of the construction sales tax revenues and 50% of the general sales tax revenues collected by the Town of Marana in the Downtown Activity Center for use to fund public infrastructure projects desirable and necessary for the development of the Downtown Activity Center.

L. By adoption of Marana Resolution No. 2018-040, the Town Council extended the DMRF for ten years and authorized it to be used pursuant to a Council-approved development agreement to pay for public infrastructure incentives associated with downtown Marana mixed-use development in the downtown overlay zone established by Marana Ordinance No. 2018.010 and now codified in the Marana Town Code at section 17-4-22.

M. The Subject Property is in the downtown overlay zone, and the Property Owner Entities desire to implement the zoning of the Subject Property as downtown (DT) and downtown neighborhood (DN) zoning pursuant to Marana Town Code sections 17-4-23 and 17-4-24 as described in a proposed downtown implementation plan submitted to the Town by the Property Owner Entities pursuant to Marana Town Code section 17-4-22, a copy of which is attached to this Agreement and incorporated by this reference as Exhibit A. This downtown implementation plan is referred to in this Agreement as the Implementation Plan.

N. The Town's Development Services Director, acting in his capacity as planning director, has reviewed the Implementation Plan and, as evidenced by his approval at the end of this Agreement, finds that the Implementation Plan conforms to the requirements of sections 17-4-19 (mixed-use zoning districts), 17-4-22 (downtown Marana overlay (DO)), 17-4-23 (downtown neighborhood (DN)), and 17-4-24 (downtown (DT)) of the Marana Town Code.

O. As an incentive for the Property Owner Entities to do mixed-use development on portions of the Subject Property consistent with the downtown (DT) and downtown

neighborhood (DN) zoning designations and the Implementation Plan, the Town is willing to pay \$300,000 from the DMRF for public infrastructure costs associated with or benefiting the mixed-use development, the total cost of which the Parties acknowledge significantly exceed \$300,000.

P. The MMS Development and this Agreement are consistent with the Town's adopted and approved General Plan (as defined in A.R.S. § 9-461), the Marana Main Street Specific Plan (Marana Ordinance Nos. 2008.24 and 2013.004), and the downtown overlay zone and downtown (DT) and downtown neighborhood (DN) zones (Marana Ordinance No. 2018.010).

Q. The zoning of the land area encompassed by the Original MMS Plat is governed by the Marana Main Street Specific Plan, which was adopted and amended, respectively, by Marana Ordinance Nos. 2008.20 and 2013.004, which require the Property Owner Entities to build and install to Town specifications a marker commemorating the cotton production and processing that occurred on this site.

R. The Town is authorized by A.R.S. § 9-500.05 to enter into a development agreement with a landowner or other person or entity having an interest in real property located within the Town to facilitate development of the property by providing for, among other things, the conditions, terms, restrictions, and requirements for development and public infrastructure and the financing of public infrastructure.

AGREEMENT

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

1. *Construction of the Subject Roadways.* The Property Owner Entities shall coordinate the construction of the Subject Roadways with the Town for consistency with the Project as completed, and shall substantially complete construction of the Subject Roadways no later than October 31, 2020, in accordance with and including all of the following:

a. *Improvement plans.* The improvement plans for the Subject Roadways as approved by the Town in connection with the MMS Plat, as amended to conform to the requirements of this Agreement.

b. *Sawtooth parking.* Angled parking shall be constructed along both sides of Marana Main Street, with curbing designed in a sawtooth fashion, accommodating a triangular landscaping area fronting every other parking space.

c. *Street landscaping and lighting.* Street landscaping and lighting shall be installed in a manner consistent with the provisions of paragraph 2 ("*Street landscaping and lighting*") of this Agreement.

2. *Street landscaping and lighting.*

a. *Landscaping and lighting plan.* In consultation with Town staff, the Property Owner Entities shall prepare a street landscaping and lighting plan for Marana Main

Street and Center Street through the MMS Development. At a minimum, the street landscaping and lighting plan shall include all of the following:

i. All street light and pedestrian light structures shall be LED Bell/Hook style bronze or deep brown as approved by the Town.

ii. Street lights shall be installed approximately every 160 feet apart along both sides of Marana Main Street and Center Street through the MMS Development.

iii. On Marana Main Street, pedestrian light attachments shall be affixed to the streetlights that are installed approximately every 160 feet along both sides of Marana Main Street, consistent with the height and style of standalone pedestrian lighting installed on Marana Main Street.

iv. On Marana Main Street, standalone pedestrian lighting (as approved by the Town) shall be installed approximately half the distance between the streetlights that are installed approximately 160 feet apart.

v. Trees shall be 36-inch box minimum, placed in augured twelve-inch holes twice the diameter of and as deep as the root ball, each containing a root guard.

vi. Trees shall be Arizona Ash, Raywood Ash, Arizona Oak, Heritage Oak, Honey Mesquite, or Chinese or Red Push Pistache, or any combination of them.

vii. Bushes, shrubs, and other features shall consist of Desert Spoon, Lantana, Little John Bottle Brush, Valentine Emu, Red Yucca, Variegated Yucca, Desert Ruellia, Texas Ranger, Cassia, Pink Fairy Duster, and landscape boulders.

viii. The landscaped right-of-way shall be covered with three-quarter-inch to half-inch ($\frac{3}{4}$ " to $\frac{1}{2}$ ") screened Desert Gold decomposed granite.

ix. Marana Main Street monuments designed in coordination with Marana staff for both sides of Marana Main Street just east of Sandario, to be installed at Property Owner Entities' cost concurrently with the development of the commercial lot closest to the monument.

b. *Water*. The Property Owner Entities shall:

i. Pay for one or more irrigation meters for all landscaping in the right-of-way of Marana Main Street and Center Street through the MMS Development.

ii. Pay all water meter fees, resource impact fees, and water infrastructure fees associated with the irrigation meter(s).

iii. Pay all water bills for the irrigation meter(s) for a period of two years after final completion of landscape installation consistent with the landscaping and lighting plan.

c. *Maintenance*. The Property Owner Entities shall maintain the landscaping and low-voltage landscape lighting for a period of two years after the date the Property

Owner Entities have achieved final completion of landscape installation consistent with the landscaping and lighting plan, as reasonably determined in writing by the Marana Town Engineer. "Final completion" as used in subparagraph 2.b.iii above and in this subparagraph means that the improvements are in place and operational, and all minor punch-list deficiencies identified by the Town Engineer or designee have been addressed and corrected.

3. Rezoning of the Subject Property. On the effective date of this Agreement, the Property Owner Entities hereby request and the Town hereby administratively grants rezoning of the Subject Property to downtown (DT) and downtown neighborhood (DN) as more specifically identified in the Implementation Plan.

4. DMRF contribution. Upon the Property Owner Entities' substantial completion of the Subject Roadways in compliance with paragraph 1 of this Agreement, the Town shall pay MMSD \$300,000 from the DMRF. "Substantially complete" as used in paragraph 1 of this Agreement and "substantial completion" as used in this paragraph mean that the improvements are in place and operational, with only minor punch-list deficiencies identified by the Town Engineer or designee to be corrected.

5. Historic marker. Concurrently with construction of Marana Main Street, the Property Owner Entities shall build and install to Town specifications a marker commemorating the cotton production and processing that occurred on this site. Maintenance of the heritage marker will be the responsibility of the Town of Marana.

6. License. The Town hereby grants the Property Owner Entities a license in accordance with the following terms:

a. *License Area.* This geographic area of this license is the "License Area," which is defined as those portions of the public right-of-way of Marana Main Street and Center Street through the MMS Development located outside the Marana Main Street and Center Street curbs.

b. *Purpose.* This license gives the Property Owner Entities the right to maintain the landscaping and low-voltage landscape lighting as set forth in paragraph 2.c ("Maintenance") of this Agreement.

c. *Duration.* This license shall remain in effect for so long as the Property Owner Entities are obligated to maintain the landscaping and low-voltage landscape lighting as set forth in paragraph 2.c ("Maintenance") of this Agreement.

d. *Indemnity.* The Property Owner Entities shall defend, indemnify and hold harmless the Town, its officers, agents, and employees from and against any and all claims, demands, causes of action, complaints, suits, losses, damages, injuries, and liabilities whatsoever (including those for costs, expenses, and attorneys' fees) arising out of the Property Owner Entities' maintenance and use of the License Area or the Property Owner Entities' negligent acts or omissions in connection with this license.

e. *Insurance.* The Property Owner Entities shall obtain liability insurance for the term of this license in minimum amounts of \$1,000,000.00 general liability per occurrence with a minimum \$2,000,000.00 general aggregate limit per occurrence. The Town shall be named as an "additional insured" under the liability insurance policies and shall be given at least 30 calendar days' written notice prior to cancellation or reduction in coverage. BEFORE THE PROPERTY OWNER ENTITIES BEGIN ANY WORK ON THE LICENSE AREA, ONE OR MORE CERTIFICATES OF INSURANCE EVIDENCING COVERAGE AS DESCRIBED IN THIS SECTION SHALL BE FILED WITH THE TOWN, BY MAILING OR DELIVERY TO THE TOWN'S NOTICE ADDRESS. THE PROPERTY OWNER ENTITIES SHALL ALSO FILE WITH THE TOWN ALL CERTIFICATES OF INSURANCE EACH TIME A NEW INSURANCE POLICY IS ISSUED OR A POLICY IS RENEWED.

f. *Damage to License Area.* If any Property Owner Entity causes any damage to the License Area, that Property Owner Entity shall promptly make and pay for the repairs necessary to restore the License Area to as close to its pre-damaged condition as reasonably possible. At the discretion of the Town, if repairs are not initiated and completed within a reasonable length of time, but in any event within 30 calendar days after the Town gives written notice of damage to the responsible Property Owner Entity, the Town may make all reasonably requested repairs and bill the responsible Property Owner Entity for all actual third party costs, plus a reasonable administrative fee not to exceed 25% of actual third party costs. The responsible Property Owner Entity shall pay the bill within ten calendar days of receipt.

7. Town responsibilities. The Town shall:

a. Maintain the Subject Roadways and all street lights and pedestrian lights, from and after the Marana Town Council's formal adoption of a resolution accepting the Subject Roadways for maintenance by the Town.

b. Maintain all landscaping and pay all irrigation meter bills, from and after the second anniversary of the date the Property Owner Entities have achieved final completion of landscape installation consistent with the landscaping and lighting plan, as reasonably determined in writing by the Marana Town Engineer (see subparagraph 2.c above).

c. Pay all costs of electric power to illuminate street lights, pedestrian lights, and landscape up-lighting, from and after their installation.

8. Joint and several responsibility. Unless the identity of a particular responsible Property Owner Entity is known and acknowledged by all of the Parties, the entities that comprise the Property Owner Entities are jointly and severally responsible for the Property Owner Entities' obligations under this Agreement

9. Assignment. Upon one or more of the Property Owner Entities' sale or transfer of its interest in the MMS Development, that Property Owner Entity's rights and responsibilities under this Agreement shall automatically transfer to the new owner or

transferee, and that Property Owner Entity's obligations under this Agreement shall be binding upon new owner, transferee, their heirs, successors-in-interest, and assignees. No later than 30 days after a sale or transfer, the new owner or transferee shall provide notice to the Town of its interest in the MMS Development. The right to receive any portion of the DMRF contribution as described in paragraph 4 above shall remain with MMSD except and to the extent MMSD clearly and unequivocally assigns in writing its right to the DMRF contribution.

10. Notices. Any notice, request, demand, consent, approval, waiver or other communication, herein individually and collectively referred to as "notice," which may be or is required to be given by a Party under this Agreement or by law to the other Party shall be in writing and shall be either personally delivered to the Party or shall be sent by: (i) registered or certified mail, postage paid by sender, return receipt requested; or (ii) overnight courier service (such as FedEx). Said notice shall be deemed received upon the earlier of: (i) personal delivery; (ii) if mailed, the date of posting by the United States Post Office or overnight courier service. Notices shall be sent to the other Parties at the following addresses:

If to the Town:

TOWN OF MARANA
11555 W. Civic Center Drive, Bldg. A3
Marana, Arizona 85653-7006
Telephone: (520) 382-1900
Fax: (520) 382-1901

If to MMS, MH, MH2, or MMSD:

MARANA MAIN STREET, LLC
MARANA HOSPITALITY, LLC
MARANA HOSPITALITY II, LLC
MARANA MAIN STREET DEVELOPMENT CORP
4572 East Camp Lowell Drive
Tucson, Arizona 85712
Attn: M. Chris Monson
Telephone: (520) 577-2611 (office) or 520-405-1275 (mobile)

If to the Trust:

FIDELITY NATIONAL TITLE AGENCY, INC. Trust No. 60434
6245 East Broadway Boulevard #200
Tucson, Arizona 85711
Attn: Rachel Turnipseed, Trust Officer
Telephone: (520) 751-2944

11. Change of address. Notice of change of any Party's address shall be given promptly by written notice in any method described in paragraph 10 ("Notices") of this Agreement. In the event any notice, invoice, statement, or bill is rejected, refused,

returned, or otherwise not received as a result of failure of a Party to give adequate notice of changed address, the notice, invoice, statement, or bill shall nevertheless be deemed received.

12. *Recording.* The Town shall record this Agreement in the office of the Pima County Recorder after it has been executed by the Parties.

13. *Counterparts.* This Agreement may be executed in identical counterparts, each of which shall be deemed to be 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 pages and this Agreement may be executed by the affixing of the signature pages, and all of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all the signers had signed a single signature page.

14. *Conflicts.* This Agreement is subject to A.R.S. § 38-511, which provides for cancelation in certain instances involving conflicts of interest.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives effective upon the last Party's signature date below or on the effective date of the Town's resolution approving and authorizing the signing of this Agreement, whichever is last.

The "Town":

TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

Date: _____

ATTEST:

Cherry L. Lawson, Town Clerk

APPROVED AS TO SUBSTANCE:

Keith Brann, Town Engineer

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

IMPLEMENTATION PLAN APPROVED:

Jason Angell
Development Services Director

The "Property Owner Entities":

MARANA MAIN STREET, LLC, an Arizona limited liability company

MARANA HOSPITALITY, LLC, an Arizona limited liability company

MARANA HOSPITALITY II, LLC, an Arizona limited liability company

By: _____
M. Chris Monson, Manager

Date: 8/19/20

FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation, as Trustee under Trust No. 60434 and not otherwise

By: _____
Rachel Turnipseed, Trust Officer

Date: 8-19-2020

MARANA MAIN STREET DEVELOPMENT CORP, an Arizona corporation

By: _____
M. Chris Monson, President/CEO

Date: 8/19/20

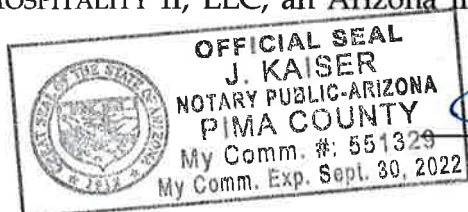
STATE OF ARIZONA)

ss

County of Pima)

The foregoing instrument was acknowledged before me on August 19, 2020, by M. Chris Monson, Manager of MARANA MAIN STREET, LLC, an Arizona limited liability company, MARANA HOSPITALITY, LLC, an Arizona limited liability company, and MARANA HOSPITALITY II, LLC, an Arizona limited liability company, on behalf of the LLCs.

(Seal)



J. Kaiser
Notary Public

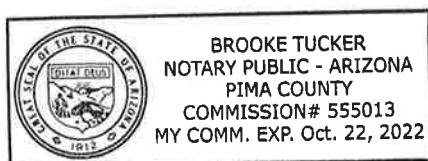
STATE OF ARIZONA)

ss

County of Pima)

The foregoing instrument was acknowledged before me on August 19, 2020, by Rachel Turnipseed, Trust Officer of FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation as Trustee under Trust No. 60434 and not otherwise.

(Seal)



Brooke Tucker
Notary Public

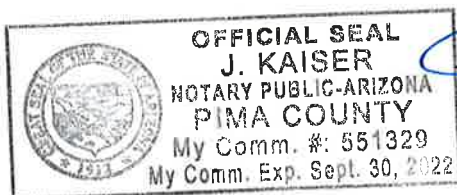
STATE OF ARIZONA)

ss

County of Pima)

The foregoing instrument was acknowledged before me on August 19, 2020, by M. Chris Monson, President/CEO of MARANA MAIN STREET DEVELOPMENT CORP, an Arizona corporation, on its behalf.

(Seal)



J. Kaiser
Notary Public

EXHIBITS

Exhibit A Downtown implementation plan submitted by the Property Owner Entities for the Subject Property

Downtown Implementation Plan

Exhibit A

Table of Contents

Pg. 1: Blocks 6 & 7 (highlighted) as recognized as part of the “Final Block Plat of Marana Main Street Blocks 6,7,8, and 11 through 17” identified as subject to Downtown Overlay District Zoning including Downtown (DT) section 17-4-24 and Downtown Neighborhood (DN) section 17-4-23 zoning pursuant to Marana Town Code section 17-4-22, as well as mixed-use zoning districts, section 17-4-19 of the Marana Town Code.

Pg. 2: Blocks 3 & 9 (highlighted) as recognized as part of the “Original MMS Plat” identified as subject to Downtown Overlay District Zoning including Downtown (DT) section 17-4-24 and Downtown Neighborhood (DN) section 17-4-23 zoning pursuant to Marana Town Code section 17-4-22, as well as mixed-use zoning districts, section 17-4-19 of the Marana Town Code.

Pg. 3: Marana Main Street Conceptual Site Plan, in conformance with Downtown Overlay District Zoning including Downtown (DT) section 17-4-24 and Downtown Neighborhood (DN) section 17-4-23 zoning pursuant to Marana Town Code section 17-4-22, as well as mixed-use zoning districts, section 17-4-19 of the Marana Town Code.



- ① 50' WIDE PUBLIC UTILITY AND PRIVATE ACCESS AND DRAINAGE EASEMENT BY THIS PLAT
- ② EXISTING 10' PUBLIC UTILITY & PEDESTRIAN ACCESS EASEMENT BY ORIGINAL PLAT SEQ. #20140800116
- ③ 10' PUBLIC UTILITIES EASEMENT BY THIS PLAT
- ④ 30' X 35' ELECTRIC EASEMENT RECORDED IN DK. 197, PG. 398
- ⑤ EXISTING 26' WIDE PUBLIC UTILITY & PRIVATE ACCESS EASEMENT BY ORIGINAL PLAT SEQ. #20140800116
- ⑥ 1' NO ACCESS EASEMENT BY ORIGINAL PLAT SEQ. #20140800116
- ⑦ EXISTING 20' PUBLIC UTILITY EASEMENT BY ORIGINAL PLAT SEQ. #20140800116
- ⑧ 20' BUILDING SETBACK
- ⑨ 20' PUBLIC UTILITY EASEMENT BY THIS PLAT
- ⑩ EXISTING 10' PUBLIC ROADWAY MAINTENANCE & PEDESTRIAN ACCESS EASEMENT BY ORIGINAL PLAT SEQ. #20140800116
- ⑪ 22' PUBLIC UTILITIES EASEMENT AND PRIVATE PARKING EASEMENT BY THIS PLAT

CURVE	RADIUS	ARC LENGTH	DELTA ANGLE
C1	838.00'	93.70'	06°24'23"
C2	838.00'	40.13'	02°44'07"
C3	115.00'	31.21'	15°32'53"
C4	115.00'	33.03'	16°27'28"
C5	25.00'	39.26'	89°59'09"
C6	223.00'	56.82'	14°35'55"
C7	25.00'	35.62'	81°39'25"
C8	533.00'	152.31'	16°22'22"
C9	200.00'	64.25'	18°24'25"

REPLAT LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 89°36'18" E	13.5
L2	N 89°44'38" E	5.2
L3	N 89°23'04" E	30.0
L4	N 89°23'04" E	30.0
L5	N 1°18'42" E	46.6



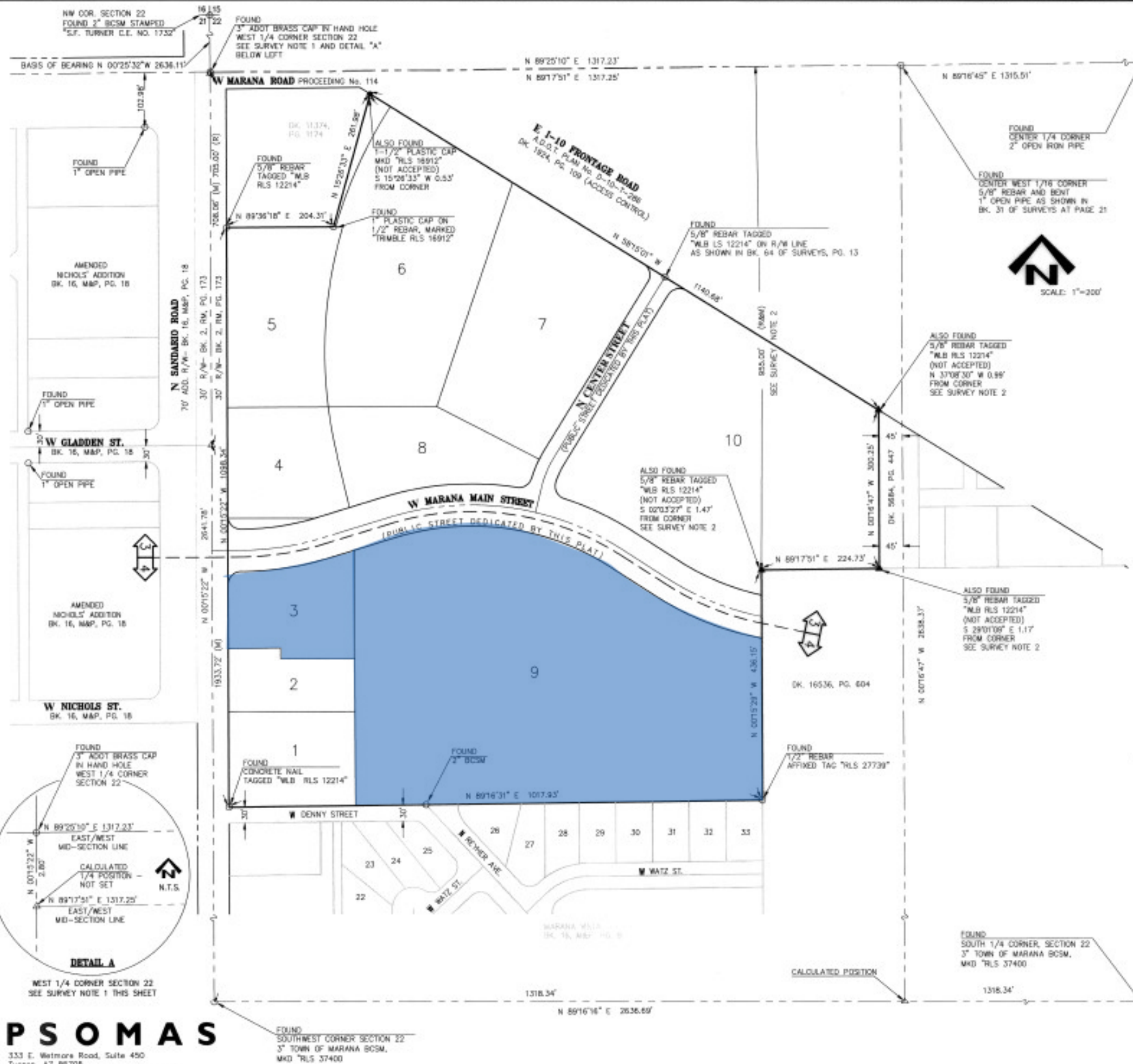
BRUCE R. CALL PLLC
ARCHITECTURE 45T2 E. CAMP LOWELL DRIVE
ENGINEERING TUCSON, ARIZONA 85712
CONSTRUCTION MANAGEMENT (520) 722-3668

MARANA MAIN STREET
BLOCKS 6, 7, 8 AND 11 THROUGH 17

BEING A REPLAT OF BLOCKS 6, 7, AND 8, OF
MARANA MAIN STREET BLOCKS 1 THROUGH 10 AND
COMMON AREA 'A' (FUNCTIONAL OPEN SPACE)
SEQUENCE NO. 20140800116

BEING A PORTION OF THE SW 1/4 OF SECTION 22,
TOWNSHIP 11 S, RANGE 11 E, GILA & SALT RIVER MERIDIAN,
TOWN OF MARANA, PIMA COUNTY, ARIZONA

DATE: 5 SEPTEMBER 2019 SHEET 2 OF 2



SURVEY NOTES:

1) THE LOCATION OF THE WEST ONE-QUARTER CORNER OF SECTION 22 HAS BEEN DEFINED BY TWO DIFFERENT POSITIONS AS NOTED BELOW:

A) In 1931, PIMA COUNTY HIGHWAY DEPARTMENT SET A HUB FOR THE WEST 1/4 CORNER AS SHOWN IN THE REFERENCE CARD BY MENARD, FOR THE LOCATION AS RECORDED IN BOOK 2 OF ROAD MAPS AT PAGE 173-174. THIS POSITION IS 2.7 FEET SOUTH OF THE CURRENT A.D.D.T. MONUMENT ACCORDING TO STATIONS TO THE SW CORNER OF SECTION 22 AS SHOWN ON SAID ROAD MAP.

B) IN 1950 A REFERENCE TIE CARD BY HORTON INDICATES A 1-1/2 INCH OPEN PIPE. THIS 1-1/2 INCH OPEN PIPE IS ALSO NOTED IN THE 1960 A.D.O.T. PLAN NO. D-10-T-286. THE POSITION CALCULATED ACCORDING TO SAID ADOT MAP AND FOUND R/W MONUMENTS AND SECTION MONUMENTS ALSO ESTABLISHES THE POSITION 3 FEET± SOUTH OF THE CURRENT A.D.O.T. MONUMENT.

C) THE FIRST SUBDIVISION IN THE AREA, RECORDED IN 1951, BK. 9 OF MAP, PG. 85 (MARANA ESTATES), SHOWING THE CENTER-WEST 1/16 CORNER AND CENTER QUARTER CORNER FOR SECTION 22 ALSO CALCULATES THE POSITION 2.8 FEET± SOUTH OF THE CURRENT A.D.O.T. MONUMENT HOLDING THE ALIGNMENT OF FOUND MONUMENTS RECORDED IN BOOK 31 OF SURVEYS AT PAGE 21.

D) THE 1982 SUBDIVISION PLAT (NICHOLS ADDITION) RECORDED IN BOOK 16 OF MAPS AND PLATS AT PAGE 18 ALSO CALCULATES THE 1/4 CORNER POSITION 3 FEET± SOUTH OF THE CURRENT A.D.O.T. MONUMENT ACCORDING TO FOUND ORIGINAL PIPE MONUMENTS AS SHOWN HEREON.

E) THE 1961 SUBDIVISION PLAT (MARANA VISTA) RECORDED IN BOOK 16 OF MAPS AND PLATS AT PAGE 9, AS ESTABLISHED BY FOUND CENTERLINE BRASS CAP MONUMENTS, AGREES WITH THE EXISTING WEST 1/4 CORNER A.D.O.T. MONUMENT. I BELIEVE SAID CENTERLINE BRASS CAPS WERE SET DURING THE MID 1970'S FOR ESTABLISHMENT PROCEEDINGS NO. 2006 RECORDED IN BOOK 16 OF ROAD MAPS AT PAGE 46 AND FOLLOWED UP WITH ADDITIONAL MONUMENTS RECORDED IN BOOK 57 OF SURVEYS AT PAGE 75.

F) P.C.D.O.T. REFERENCE TIES FOR 1979, 1992 & 1995 ALONG WITH MANY PRIVATE SURVEYS AND BOOK 84 OF SURVEYS, PAGE 13 OF THE SUBJECT PARCEL ALSO HOLD THE CURRENT A.D.O.T. MONUMENT.

G) I BELIEVE THE CURRENT A.D.O.T. 1/4 CORNER MONUMENT POSITION HAS BEEN RELIED UPON SINCE THE 1970'S. THIS SURVEY SHOWS BOTH LOCATIONS WHICH SHOULD BE CONSIDERED WHEN SURVEYING WITHIN THIS SECTION.

2. THE ORIGINAL PARCEL DEED AND ADJONER LEGAL DESCRIPTIONS CALL FOR THIS LINE ALONG THE EASTERLY BOUNDARY OF THE SUBJECT PARCEL TO BE 955 FEET SOUTH OF THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER AND 45 FEET WEST OF THE 1/16 LINE OF SECTION 22. THESE ORIGINAL DIMENSIONS WHICH FIT CLOSELY WITH THE MONUMENTS FOUND BUT NOT ACCEPTED IN BOOK 64 OF SURVEYS AT PAGE 13, I HELD THE 955 FOOT DIMENSION FOR THIS BOUNDARY AND DID NOT ACCEPT THE MONUMENTS SET BY "MLB RLS 12214" RECORDED IN BOOK 64 OF SURVEYS AT PAGE 13, FOLLOWED UP WITH PHONE CALL TO RLS 12214.

SURVEY REFERENCES

1. G.L.O. NOTES OFFICIALLY FILED 1-8-1997
2. P.C.D.O.T. REFERENCE SHEETS AND FIELD NOTES
3. A.D.O.T. MAPS
F.I. 94(14&15)
D-10-T-324
D-10-T-333
D-10-T-286
D-10-T-405
4. ASSESSOR'S MAPS
DOCKETS AND PAGES SHOWN HEREIN
5. RECORDS OF SURVEY
BOOK 03 OF RECORDS OF SURVEY AT PAGE 36, DATED: APRIL, 1980.
BOOK 31 OF RECORDS OF SURVEY AT PAGE 21, DATED: JUNE, 2003.
BOOK 36 OF RECORDS OF SURVEY AT PAGE 25, DATED: APRIL, 2004.
BOOK 36 OF RECORDS OF SURVEY AT PAGE 79, DATED: JUNE, 2004.
BOOK 42 OF RECORDS OF SURVEY AT PAGE 18, DATED: APRIL, 2005.
BOOK 57 OF RECORDS OF SURVEY AT PAGE 75, DATED: MAY, 2007.
BOOK 64 OF RECORDS OF SURVEY AT PAGE 13, DATED: MARCH, 2008.
BOOK 64 OF RECORDS OF SURVEY AT PAGE 15, DATED: MARCH, 2008.
BOOK 70 OF RECORDS OF SURVEY AT PAGE 88, DATED: MARCH, 2009.
6. SUBDIVISION PLATS
BOOK 09 OF MAPS AND PLATS AT PAGE 85, MARANA ESTATES, DATED: DECEMBER, 1951.
BOOK 16 OF MAPS AND PLATS AT PAGE 9, MARANA VISTA, DATED: DECEMBER, 1961.
BOOK 16 OF MAPS AND PLATS AT PAGE 18, AMENDED NICHOL'S ADDITION, DATED: MARCH, 1962.
7. MISCELLANEOUS SURVEYS
SURVEY OF LOT 6, BLOCK 1, NICHOL'S ADDITION, BY THOMAS F. LUCKOW, MAY, 1986.
SURVEY OF A PORTION OF THE SW 1/4, SEC. 22, BY JONES & ASSOC., JANUARY, 1986.
SURVEY OF LOT 1, BLOCK 1, NICHOL'S ADDITION, BY PRECISION LAND SURVEYING, FEB. 1987.
ALTA/ACSM SURVEY OF SUBJECT PARCEL BY WLB GROUP, JUNE, 2007.
8. ROAD MAPS
BOOK 14 OF ROAD MAPS AT PAGE 20, PROCEEDING No. 1784.
BOOK 16 OF ROAD MAPS AT PAGE 46, PROCEEDING No. 2086.
BOOK 02 OF ROAD MAPS AT PAGE 173-174, PROCEEDING No. 117

FINAL BLOCK PLAT #PRV-13007F
MARANA MAIN STREET
BLOCKS 1 THROUGH 10 AND
COMMON AREA 'A' (FUNCTIONAL OPEN SPACE)
 BEING A PORTION OF THE SW 1/4 OF SECTION 22,
 TOWNSHIP 11 SOUTH, RANGE 11 EAST,
 GILA & SALT RIVER MERIDIAN,
 TOWN OF MARANA, PIMA COUNTY, ARIZONA

DATE: DECEMBER, 2013 PSONAS JOB: 7MMAD0010 Page 156 of 179

333 E. Wetmore Road, Suite 450
Tucson, AZ 85705
(520) 292-2300 (520) 292-1290 fax

Marana Town Council Regular Council Meeting 10/06/2020

Site

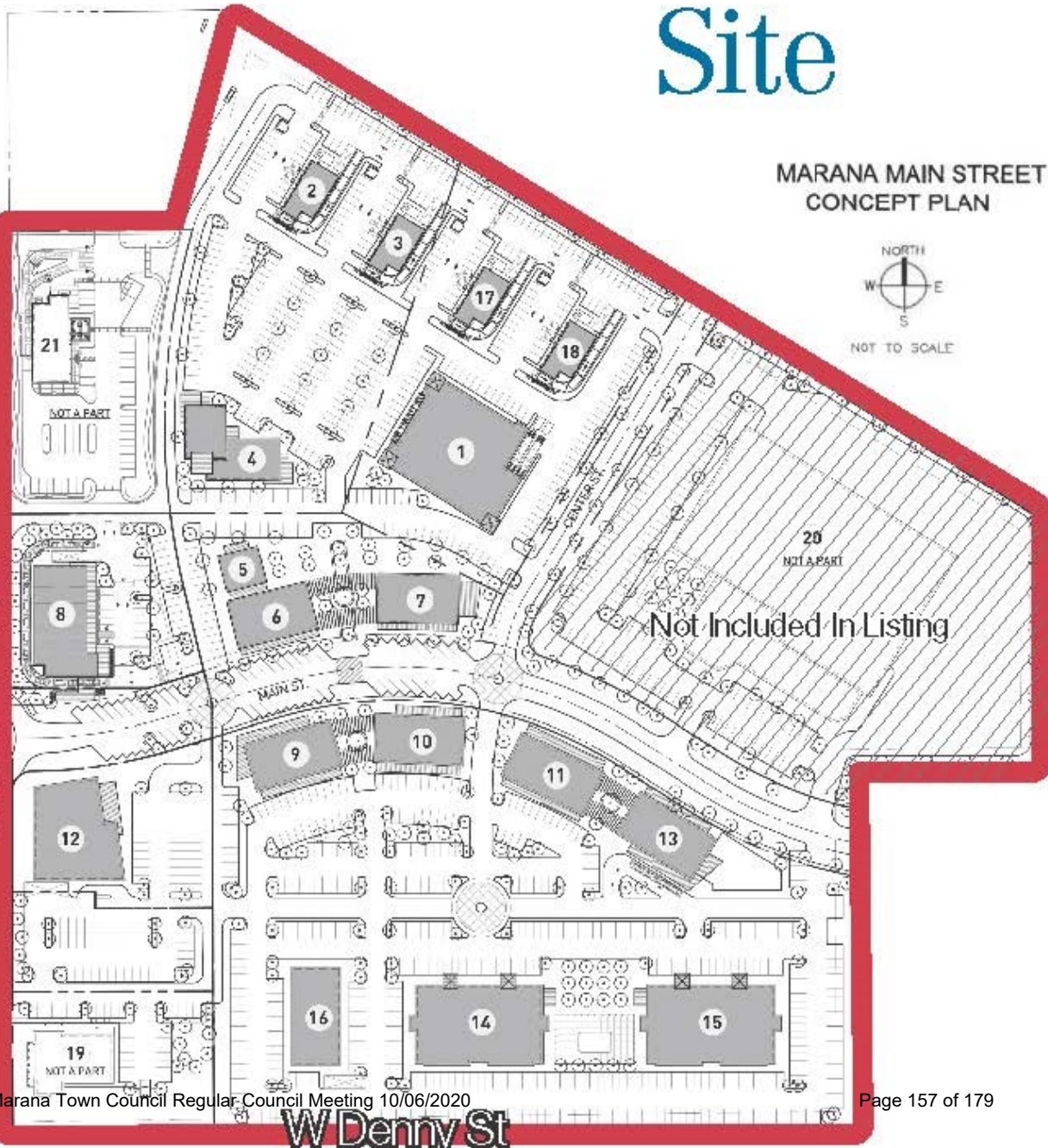
MARANA MAIN STREET CONCEPT PLAN



NOT TO SCALE

N Sandario Rd

SANDARIO RD



W Denny St



Council-Regular Meeting

A3

Meeting Date: 10/06/2020

To: Mayor and Council

From: David Udall, Associate Town Attorney

Date: October 6, 2020

Strategic Plan Focus Area:

Not Applicable

Subject: Resolution No. 2020-113: Relating to Utilities; approving and authorizing the Mayor to sign a Reconciliation Agreement for Construction of Water Facilities under Private Contract for The Preserve at Twin Peaks Subdivision between the Town of Marana and Lennar Arizona, Inc. (David L. Udall)

Discussion:

The Preserve at Twin Peaks is a 190-lot subdivision located just west of Twin Peaks Road and southeast of Camino De Manana. The developer of The Preserve at Twin Peaks subdivision has installed public water infrastructure to serve The Preserve at Twin Peaks subdivision. The water infrastructure is also sufficient to serve future development in the same water pressure zone. To compensate the developer for this extra capacity, the Town entered into the "Town of Marana Agreement for Construction of Water Facilities under Private Contract – The Preserve at Twin Peaks Subdivision" (the "Preserve at Twin Peaks WSA") pursuant to Marana Resolution No. 2020-025 dated March 3, 2020.

The Preserve at Twin Peaks WSA established an "oversizing recovery charge" of \$442.45 per equivalent demand unit ("EDU"), payable by the first 231 EDUs for a period of 15 years from the effective date of the Preserve at Twin Peaks WSA. Oversizing recovery charges are authorized by Town Code section 14-4-3 (C). This particular oversizing recovery charge was calculated based on the anticipated cost of the water infrastructure work installed by the developer under the Preserve at Twin Peaks WSA.

The Town anticipates accepting the water infrastructure work constructed pursuant to the Preserve at Twin Peaks WSA in the near future. The Applicant is now satisfied with the actual cost of the construction and does not anticipate the cost will change even though the constructed water infrastructure has not yet been fully accepted by the Town.

The actual cost of the work is higher than originally anticipated. As a result, Town staff has negotiated a reconciliation agreement with the developer to increase the oversizing recovery charge to \$642.78 per EDU, calculated based on the actual cost of the work. This oversizing recovery charge is a pass-through payment which will be made to the Town by future water customers who tie into the water facilities installed by the developer of The Preserve at Twin Peaks subdivision. The Town will then forward the oversizing recovery charge payments to the developer.

The backup information attached to this agenda item includes tables showing the original and modified oversizing recovery charge calculations.

Financial Impact:

Amounts under this agreement will be collected and remitted to the developer in future fiscal years as additional development occurs. As such, there will not be any budget impact.

Staff Recommendation:

Staff recommends adoption of Resolution No. 2020-113, approving and authorizing the Mayor to sign a Reconciliation Agreement for Construction of Water Facilities under Private Contract for The Preserve at Twin Peaks Subdivision.

Suggested Motion:

I move to adopt Resolution No. 2020-113, approving and authorizing the Mayor to sign a Reconciliation Agreement for Construction of Water Facilities under Private Contract for The Preserve at Twin Peaks Subdivision.

Attachments

Resolution 2020-113
Exhibit A
Calculation Tables

MARANA RESOLUTION NO. 2020-113

RELATING TO UTILITIES; APPROVING AND AUTHORIZING THE MAYOR TO SIGN A RECONCILIATION AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES UNDER PRIVATE CONTRACT FOR THE PRESERVE AT TWIN PEAKS SUBDIVISION BETWEEN THE TOWN OF MARANA AND LENNAR ARIZONA, INC.

WHEREAS the Town of Marana adopted Resolution No. 2020-025 on March 3, 2020, approving and authorizing the Mayor to sign an agreement entitled “Town of Marana Agreement for Construction of Water Facilities under Private Contract—The Preserve at Twin Peaks Subdivision” (the “Preserve at Twin Peaks WSA”), which was recorded in the office of the Recorder of Pima County, Arizona, on March 6, 2020, at Sequence 20200660162; and

WHEREAS the Town anticipates accepting the water infrastructure construction work in the near future. The developer is now satisfied with the actual cost of the work and does not anticipate the cost will change even though the work has not yet been fully accepted by the Town; and

WHEREAS the actual cost of the work constructed pursuant to the Preserve at Twin Peaks WSA was higher than contemplated when the Preserve at Twin Peaks WSA was entered into; and

WHEREAS Town staff has negotiated a Reconciliation Agreement for Construction of Water Facilities under Private Contract for The Preserve at Twin Peaks Subdivision to increase the “oversizing recovery charge” payable pursuant to the terms of the Preserve at Twin Peaks WSA to reflect the actual cost of the Work; and

WHEREAS the Mayor and Council find that the terms and conditions of the Reconciliation Agreement 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 Reconciliation Agreement for Construction of Water Facilities under Private Contract for The Preserve at Twin Peaks Subdivision attached to and incorporated by this reference in this resolution as Exhibit A 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 the terms, obligations, and objectives of the agreement.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF
MARANA, ARIZONA, this 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry Lawson, Town Clerk

Frank Cassidy, Town Attorney

**TOWN OF MARANA
RECONCILIATION AGREEMENT FOR CONSTRUCTION
OF WATER FACILITIES UNDER PRIVATE CONTRACT**

The Preserve at Twin Peaks Subdivision

THIS RECONCILIATION AGREEMENT (this “Reconciliation Agreement”) is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the “Town”), and LENNAR ARIZONA, INC., an Arizona corporation (the “Applicant”). The Town and the Applicant are sometimes collectively referred to as the “Parties,” each of which is sometimes individually referred to as a “Party.”

RECITALS

A. The Parties entered into an agreement entitled “Town of Marana Agreement for Construction of Water Facilities under Private Contract—The Preserve at Twin Peaks Subdivision” recorded in the office of the Recorder of Pima County, Arizona, on March 6, 2020, at Sequence 20200660162 (the “Preserve at Twin Peaks WSA”).

B. Among other things, pursuant to Marana Town Code section 14-4-3 (C), paragraph 1.10 of the Preserve at Twin Peaks WSA established an “oversizing recovery charge” of \$442.45 per equivalent demand unit (“EDU”) based on the Applicant’s then-anticipated costs of the “Work,” as defined in paragraph 1.1 of the Preserve at Twin Peaks WSA.

C. The anticipated cost of the Work at that time was \$186,269.50, as set forth in Recital G of the Preserve at Twin Peaks WSA.

D. The Town anticipates accepting the Work in the near future. The Applicant is now satisfied with the actual cost of the Work and does not anticipate the actual cost of the Work will change even though the Work has not yet been fully accepted by the Town.

E. The Parties now desire to reconcile the “oversizing recovery charge” payable to the Applicant pursuant to the terms of the Preserve at Twin Peaks WSA to reflect the actual cost of the Work.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants set forth in the Preserve at Twin Peaks WSA and in this Reconciliation Agreement, the Parties hereby agree as follows:

1. Amendment of oversizing recovery charge. The Parties agree and acknowledge that the Applicant’s actual cost of completing the Work was \$270,609.37. Accordingly, pursuant to Marana Town Code section 14-4-3 (C), the “oversizing recovery charge” established under paragraph 1.10 of the Preserve at Twin Peaks WSA is hereby modified and increased to \$642.78 per EDU for connections within the B zone service area whose capacity is made possible as a result of the Work.

2. No further amendments to the actual cost. In light of Recital D, the Parties hereby agree that that no further amendments to the Preserve at Twin Peaks WSA shall be made that are related to the actual cost of the Work or to the oversizing recovery charge amount.

3. Confirmation of remaining terms of the Preserve at Twin Peaks WSA. Except as expressly modified by this Reconciliation Agreement, all other provisions and limitations set forth in the Preserve at Twin Peaks WSA, including without limitation those pertaining to the oversizing recovery charge, remain in place and are unchanged by this Reconciliation Agreement.

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

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

THE "TOWN":

THE TOWN OF MARANA, an Arizona municipal
corporation

By: _____
Ed Honea, Mayor

Date: _____

ATTEST:

Cherry Lawson, Clerk

APPROVED AS TO FORM:

Frank Cassidy, Town Attorney

THE "APPLICANT":

LENNAR ARIZONA, INC., an Arizona corporation

By: _____

Its: _____

Date: _____

STATE OF ARIZONA)
 ss
County of Pima)

The foregoing instrument was acknowledged before me on _____ by
_____, as _____ of LENNAR ARIZONA,
INC., an Arizona corporation, on behalf of the corporation.

(Seal)

Notary Public

Anticipated Costs

Total Cost of Construction of Protected Main=	\$ 186,269.50	Tricon = \$34,200, OPCC Preserve Offsite=\$152,069.50
Reimbursement to Town for Easement Sub-Total=	\$ -	
Total Reimbursement Due to Developer=	\$ 186,269.50	
EDUs in the B Zone=	421	
Cost per EDU (Oversizing Recovery Charge)=	\$ 442.45	
Preserve EDUs=	190	
Reimbursable EDUs=	231	
Reimbursable Amount to Developer for 231 EDUs=	\$ 102,205.95	

Easement reimbursement (removed from calculation)= \$ 16,538.68

Actual Costs

Total Cost of Construction of Protected Main=	\$ 270,609.37	Tricon = \$34,200, OPCC Preserve Offsite=\$236,409.37
Reimbursement to Town for Easement Sub-Total=	\$ -	
Total Reimbursement Due to Developer=	\$ 270,609.37	
EDUs in the B Zone=	421	
Cost per EDU (Oversizing Recovery Charge)=	\$ 642.78	
Preserve EDUs=	190	
Reimbursable EDUs=	231	
Reimbursable Amount to Developer for 231 EDUs=	\$ 148,482.18	

Easement reimbursement (removed from calculation)= \$ 16,538.68



Council-Regular Meeting

A4

Meeting Date: 10/06/2020

To: Mayor and Council

From: Scott Schladweiler, Water Director

Date: October 6, 2020

Strategic Plan Focus Area:
Community

Subject: Resolution No. 2020-114: Relating to Budget; authorizing the transfer of up to \$420,000 in budgeted expense authority from the Water Capital Fund WT047 Marana Park Well to the Water Capital Fund project number WT037 Tangerine W to X-Zone Booster Station and PRV in the fiscal year 2020-2021 budget for costs related to the construction of the booster station (Scott Schladweiler)

Discussion:

A new Booster Station and Pressure Reducing Valve (PRV) is necessary to provide water service, including fire flow capacity, to the X-Zone service area in North Marana which includes a proposed new QuikTrip, Mandarin development, and any other potential developments east of the existing Ventana Medical facilities on Tangerine Loop Road. 100% design plans were completed in April 2020. The Opinion of Probable Construction Cost (OPCC) from the consultant was \$876,000 and the available construction budget was approximately \$911,000. Bids were opened on August 31, 2020, and the lowest acceptable base bid was \$1,325,838.

Staff is requesting a transfer of up to \$420,000 from Water Capital Fund WT047 Marana Park Well to Water Capital Fund WT037 Tangerine W to X-Zone Booster Station and PRV to allow construction of the booster station to proceed on schedule and not impact the schedule of other pending projects. The current FY21 construction budget for equipping the WT047 Marana Park Well is approximately \$551,000. Equipping the Marana Park Well will be delayed until completion of the WT046 Marana Park Reservoir, which is scheduled to be constructed in FY21. The additional costs of the booster station will be included in the upcoming revision to the water infrastructure improvement plan (currently in progress) and impact fees will be adjusted accordingly. Upon approval of this request available budget appropriations for the booster station project will total approximately \$1,331,000.

Financial Impact:

Fiscal Year: FY2021
Budgeted Y/N: Y
Amount: \$420,000

Budget appropriation is being re-allocated between two projects budgeted within the same fund (Water Impact Fee fund 5011). The overall fund budget remains unchanged.

Staff Recommendation:

Staff recommends the approval of the transfer of up to \$420,000 in budgeted expense authority from the Water Capital Fund WT047 Marana Park Well to Water Capital Fund WT037 Tangerine W to X-Zone Booster Station and PRV for activities related to the construction of the booster station.

Suggested Motion:

I move to adopt Resolution No. 2020-114, approving the transfer of up to \$420,000 in budgeted expense authority from the Water Capital Fund WT047 Marana Park Well to Water Capital Fund WT037 Tangerine W to X-Zone Booster Station and PRV for activities related to the construction of the booster station.

Attachments

Resolution 2020-114

MARANA RESOLUTION NO. 2020-114

RELATING TO BUDGET; AUTHORIZING THE TRANSFER OF UP TO \$420,000 IN BUDGETED EXPENSE AUTHORITY FROM THE WATER CAPITAL FUND WT047 MARANA PARK WELL TO THE WATER CAPITAL FUND WT037 TANGERINE W TO X-ZONE BOOSTER STATION AND PRV IN THE FISCAL YEAR 2020-2021 BUDGET FOR COSTS RELATED TO THE CONSTRUCTION OF THE BOOSTER STATION

WHEREAS on July 21, 2020, the Town Council adopted the fiscal year 2020-2021 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 Tangerine W to X-Zone Booster Station and PRV is necessary to provide water service, including fire flow capacity, to the X-Zone service area in North Marana; and

WHEREAS 100% complete design plans for the booster station were completed in April 2020, with an Opinion of Probable Construction Cost of \$876,000 and an available construction budget of approximately \$911,000; and

WHEREAS on August 31, 2020, bids for the booster station project were opened and the lowest acceptable base bid was \$1,325,838; and

WHEREAS staff is requesting a transfer of up to \$420,000 from Water Capital Fund WT047 Marana Park Well to Water Capital Fund WT037 Tangerine W to X-Zone Booster Station and PRV to allow construction of the booster station to proceed on schedule and not impact the schedule of other pending projects; and

WHEREAS reallocating amounts between two projects in the same fund (Water Impact Fee Fund 5011) within the fiscal year 2020-2021 budget will not significantly impact the Fund; and

WHEREAS reallocations of budgetary amounts between Capital Improvement Projects 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 \$420,000.00 in budgeted expense authority from Water Capital Fund WT047 Marana Park Well to Water Capital Fund WT037 Tangerine

W to X-Zone Booster Station and PRV in the fiscal year 2020-2021 budget 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 6th day of October, 2020.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Cherry Lawson, Town Clerk

Frank Cassidy, Town Attorney



Council-Regular Meeting

D1

Meeting Date: 10/06/2020

To: Mayor and Council

From: Yiannis Kalaitzidis, Finance Director

Date: October 6, 2020

Strategic Plan Focus Area:

Not Applicable

Subject: Relating to Budget; presentation of monthly financial revenues (July-August) of the Town's General Fund funds for the 2020-2021 fiscal year (Yiannis Kalaitzidis)

Discussion:

The Town of Marana started the new fiscal year 2020-2021 with a reduced revenue budget in anticipation of the continued negative impact of the COVID-19 pandemic to the economy.

During budget development Council and the Town Manager took steps to ensure that the Town continued to provide services at existing levels, while also presenting a structurally balanced budget, where ongoing revenues cover ongoing expenses. These steps included deferring projects to future periods, delaying or freezing the hiring of certain positions, and restricting some budget capacity until such time when fiscal year 2020-2021 revenues come in better than anticipated.

Staff will present an update of the Town's most significant General Fund revenue sources to Council on a monthly basis to assist Council in remaining informed during this period of economic uncertainty.

Overall, revenues for the month of July and August 2020 are higher than anticipated, while in some cases they are lower than amounts collected for the same periods in 2019.

While the current revenue levels are encouraging, economic data in this environment is still limited and the future continues to be uncertain. Factors that may impact the economy include the effectiveness of current measures against the disease, additional

federal relief funds, and a solution to the virus that is still several months away.

As such, staff will continue to monitor revenues and recommends maintaining the course set in the recently adopted Town Budget for fiscal year 2020-2021.

Staff Recommendation:

Presentation only.

Suggested Motion:

Presentation only.

Attachments

Financial Update Presentation

Fiscal Year
2020-2021:
Monthly Update
Revenues
July - August



FY 2021

- Economy - Local indicators
- July - August revenue update

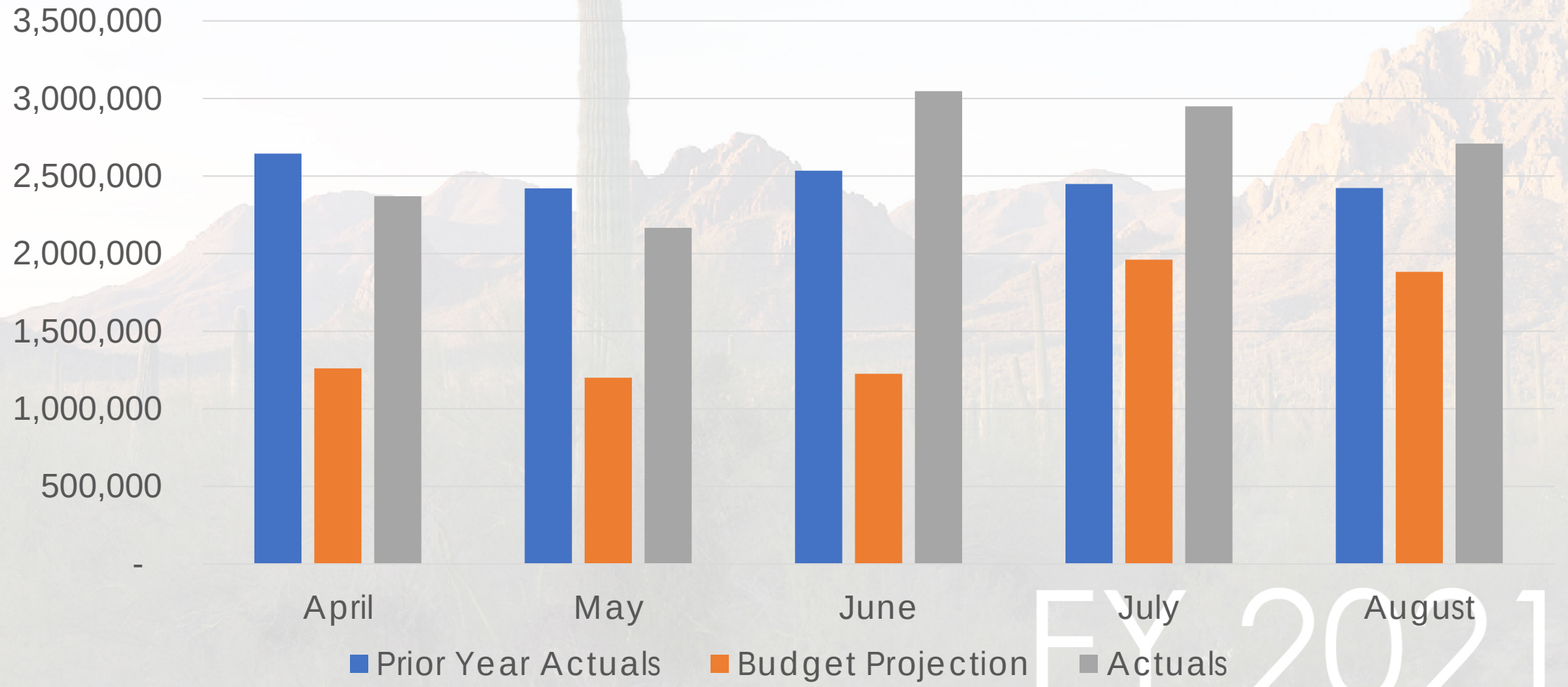
FY 2021

- Real-Time Indicators & Trends
 - Marana Hotel Occupancy rate fell by 5.7% (August Year over Year)
 - Marana Hotel Revenues declined by 8.1% (August Year over Year)
 - Housing Permits still being issued but future is uncertain
 - 185 issued in July & August 2020 vs. 145 in July & August of 2019
 - Urban Revenue Sharing – anticipate 8.7% reduction in FY2022.

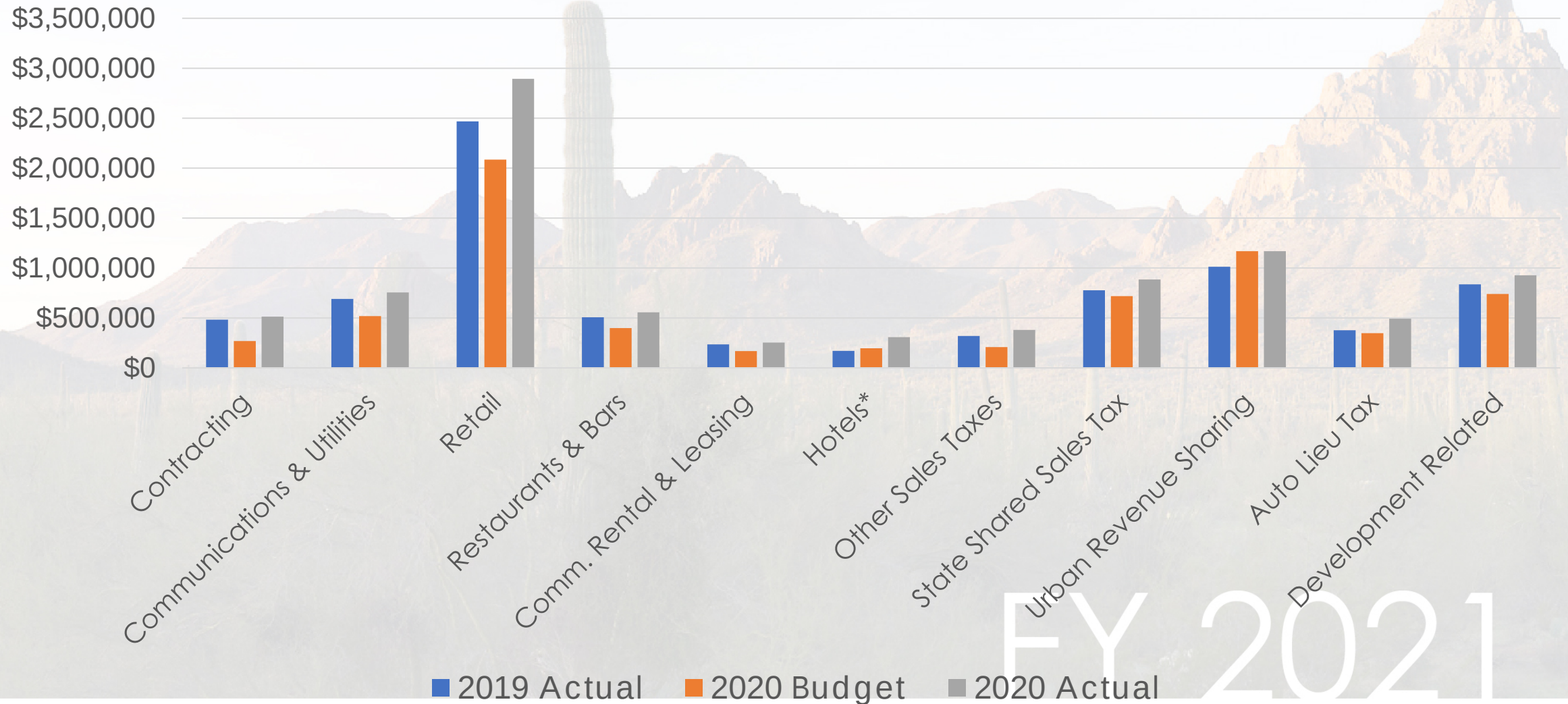
FY 2021

Sources: STR Report, JLBC, Marana Development Services, ADOR

April – August Revenues General Fund Sales Taxes



July-August General Fund Collections Year On Year Comparison



- Revenues are better than anticipated
- Still early to determine the future which will depend on
 - Federal relief funds
 - Virus solution (Vaccine or therapeutics)
 - Effectiveness of current measures
- Stay the course while uncertainty remains
- Continue to monitor revenues



DISCUSSION





Council-Regular Meeting

D2

Meeting Date: 10/06/2020

To: Mayor and Council

Submitted For: Vickie Hathaway, Communications Manager

From: Hilary H. Hiser, Deputy Town Clerk

Date: October 6, 2020

Strategic Plan Focus Area:
Community

Strategic Plan Focus Area Additional Info:

Strategic Plan Focus Area Additional Information: Principal Statement 1, initiative 1:
Provide exceptional community events that create opportunities for citizen engagement.

Subject: Relating to Special Events; discussion and possible direction regarding options for proceeding with the 2020 Marana Holiday Festival & Christmas Tree Lighting in light of the COVID-19 pandemic (Vic Hathaway)

Discussion:

The Marana Holiday Festival & Christmas Tree Lighting has successfully attracted thousands of attendees to its popular one-day annual event for the last several years. This year, the COVID-19 pandemic has greatly impacted event operations around the world. While it is difficult to forecast what emergency and public health orders may be in place in December, current public health guidelines continue to recommend caution through the holiday season. Multiple event features will be impacted by social distancing and hygiene requirements due to close contact and crowding. These features include vendor spacing and line management, inflatables, snow globes, audience seating, and the traditional Santa Claus interaction. Available personnel and resources are also impacted by the requirement to maintain cleanliness of common areas, including tables and chairs and portable restrooms. At tonight's meeting, Town staff seeks direction from Town Council to evaluate options for next steps:

Option 1: Modify the Marana Holiday Festival to accommodate CDC guidelines, including evaluating the placement of the event

Option 2: Cancel the traditional festival this year, but keep the nightly Christmas Tree light show

Additional consideration: Explore other community event opportunities for the holiday season in lieu of a festival, including working with HOAs to coordinate a community drive-thru tour of Christmas lights, and more.

Financial Impact:

Fiscal Year: 2021
Budgeted Y/N: Y
Amount: \$94,550

Staff Recommendation:

Staff recommends that Council consider federal, state, and local guidance and regulations to ensure the safety of event participants and vendors, and Town staff.

Suggested Motion:

Council's pleasure.

Attachments

No file(s) attached.
