MARANA AZ
ESTABLISHED 1977

MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING
NOTICE AND AGENDA
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, August 1, 2023, at or after 6:00 PM

Ed Honea, Mayor
Jon Post, Vice Mayor
Patti Comerford, Council Member
Jackie Craig, 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 August 1, 2023, 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.

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

PR1 Proclamation Recognizing Child Support Awareness Month (David L. Udall)

PR2 Proclamation Recognizing Drowning Awareness Month (David L. Udall)

PR3 Proclamation Recognizing Marana Police Officer Jeffrey Rowe (David L. Udall)

PR4 Proclamation Recognizing Marana Police Officer Kevin Trapp (David L. Udall)

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 Ordinance No. 2023.022: Relating to Finance; amending the Town of Marana Comprehensive Fee Schedule to revise various fees related to right-of-way permits; and declaring an emergency (Jennifer Flood)

C2 Ordinance No. 2023.023: Relating to Traffic and Highways; amending Town Code Title 12 (Traffic and Highways), Chapter 12-7 (Construction in Town Rights-of-Way); revising section 12-7-5 (Permit Process; grounds for denial) to revise permit application requirements; and declaring an emergency (Jennifer Flood)

C3 Resolution No. 2023-073: Relating to Development; approving a release of assurances for Los Saguaros at Dove Mountain, Lots 134-239 (Jason Angell)

C4 Resolution No. 2023-074: Relating to Development; approving a release of assurances for Saguaro Ranch II, Lots 53, 54, 55, 56, and 57 (Jason Angell)

C5 Resolution No. 2023-075: Relating to Development; approving a release of assurances for Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Boulder Bridge Pass III at Dove Mountain, Lots 25 and 26, and Boulder Bridge Pass IV at Dove Mountain, Lots 73-78 (Jason Angell)

C6 Resolution No. 2023-076: Relating to Personnel; approving and authorizing the Human Resources Director to execute a Memorandum of Understanding between the Town and the Arizona Board of Regents, Arizona State University providing a tuition discount program for Town employees (Curry C. Hale)

C7 Resolution No. 2023-077: Relating to Personnel; approving and authorizing the Human Resources Director to execute an agreement between the Town of Marana and Grand Canyon University providing a tuition discount program for Town employees (Curry C. Hale)

C8 Resolution No. 2023-078: Relating to Public Works; approving and authorizing the Mayor to sign an intergovernmental agreement between the State of Arizona by and through its Department of Transportation, and the Town of Marana for funding to design a traffic interchange located at Cortaro Road and Interstate 10 (Fausto Burruel)

C9 Resolution No. 2023-079: Relating to Water; approving and authorizing the Mayor to sign the Assignment and Assumption of Town of Marana Agreement for Construction of Water Facilities Under Private Contract - Tortolita Mountain Estates, Lots 1-81 (David L. Udall)

C10 Approval of Regular Council Meeting Summary Minutes of June 20, 2023, and Special Council Meeting Summary Minutes of June 20, 2023 (David L. Udall)

LIQUOR LICENSES

BOARDS, COMMISSIONS AND COMMITTEES

COUNCIL ACTION

A1 Resolution No. 2023-080: Relating to Traffic and Highways; approving and authorizing the Mayor to execute the Town of Marana Fiber Optic Communications License issued to Ting Internet, LLC (Jane Fairall)

A2 Resolution No. 2023-081: Relating to Water; approving and authorizing the Mayor to sign the Agreement for Construction of Water Facilities Under Private Contract, a temporary water wheeling agreement, for Twin Peaks Crossings (David L. Udall)

ITEMS FOR DISCUSSION / POSSIBLE ACTION

D1 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)

D2 Relating to Legislation and Government Actions; discussion and possible action or direction regarding all pending state, federal, and local legislation/government actions and on recent and upcoming meetings of other governmental bodies (Terry Rozema)

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 **PR1**

Meeting Date: 08/01/2023

Date: August 1, 2023

Subject: Proclamation Recognizing Child Support Awareness Month (David L. Udall)

Attachments

Proclamation

MARANA AZ
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PROCLAMATION

Recognizing Child Support Awareness Month

WHEREAS, the Town of Marana joins the nation in recognizing August as Child Support Awareness Month, and reaffirms its commitment to strengthening Arizona's families by providing child support services to improve the economic stability and well-being of children; and

WHEREAS, the State of Arizona is a committed advocate for our children, whose safety and security remains top of mind; and

WHEREAS, a child who receives emotional and financial support is more likely to feel safe and secure and is better equipped with the courage to be their very best in life; and

WHEREAS, the Department of Economic Security Division of Child Support Services (DCSS), is robustly committed to putting Arizona's children first and to humbly serving Arizonans with excellence, respect, integrity, and kindness, in addition to being an overall champion for economic growth and opportunity; and

WHEREAS, DCSS is a strong advocate for shared parenting responsibilities because parents and children benefit when both parents are engaged with their child at every stage, regardless of marital status; and

WHEREAS, strengthening individuals and families with an emphasis on fiscal responsibility promotes the safety and well-being of children, provides stability, improves the lives of children, and provides opportunities for families to be able to enhance their children's future; and

WHEREAS, Child Support Awareness Month salutes diligent parents who spend time with their child and who make regular child support payments to safeguard their children's future.

NOW, THEREFORE, I, Ed Honea, Mayor of the Town of Marana, do hereby proclaim August 2023 as Child Support Awareness Month.

Dated this 1st day of August, 2023.

ATTEST:

David L. Udall, Town Clerk

Ed Honea, Mayor

Council-Regular Meeting **PR2**

Meeting Date: 08/01/2023

Date: August 1, 2023

Subject: Proclamation Recognizing Drowning Awareness Month (David L. Udall)

Attachments

Proclamation

MARANA AZ
ESTABLISHED 1977

PROCLAMATION

Recognizing Drowning Impact Awareness Month

WHEREAS, Arizona's future prosperity depends upon the long-term health, safety, and well-being of the nearly two million children and teens in our state; and

WHEREAS, drowning is a top cause of injury and death for children and teens in Arizona, affecting not only the victims, but also families, emergency personnel, and our society as a whole; and

WHEREAS, child drownings are nearly 100 percent preventable; and

WHEREAS, research-proven strategies can save lives, including constant and capable supervision, restricting access to water, use of life jackets, swimming lessons for adults and children at the appropriate age, and rapid emergency response, including CPR; and

WHEREAS, awareness of the problem is just the first step; evidence-based programs to bring these strategies to families is the best way to save lives; and

WHEREAS, during the month of August, Drowning Prevention Coalition of Arizona, in collaboration with state and local governments, community organizations, and private citizens, will be engaging communities throughout Arizona in a coordinated and comprehensive response.

NOW, THEREFORE, I, Ed Honea, Mayor of the Town of Marana, do hereby proclaim August 2023 as Drowning Impact Awareness Month and urge all citizens to participate in efforts to reduce drowning risk, strengthen families, and protect children and teens.

Dated this 1st day of August, 2023.

ATTEST:

David L. Udall, Town Clerk

Ed Honea

Ed Honea, Mayor

Council-Regular Meeting **PR3**

Meeting Date: 08/01/2023

Date: August 1, 2023

Subject: Proclamation Recognizing Marana Police Officer Jeffrey Rowe (David L. Udall)

Attachments

Proclamation

MARANA AZ
ESTABLISHED 1977

PROCLAMATION

Recognizing Marana Police Officer Jeffrey Rowe

WHEREAS, Officer Jeffrey (Jeff) Rowe began serving his country in the United States Navy in 1991. After ten years of service in the Navy, he was honorably discharged and began his law enforcement career with the Tucson Police Department in 2003. While there, he served as a patrol officer, gang tactical officer, and motor officer; and

WHEREAS, Jeff joined the Marana Police Department in 2011 and immediately made a positive impact on the success of the Department; and

WHEREAS, in his 20-years of service, Jeff has become a Field Training Officer, Drug Recognition Expert and Instructor, Phlebotomy Instructor, DUI and Traffic Collison Instructor, Horizontal Gaze Nystagmus Instructor, and Field Sobriety Testing Instructor. He has also obtained several certifications and taught at Pima Community College; and

WHEREAS, Jeff was instrumental in implementing the E-Ticket/Citation and AZ TraCS programs, which allowed officers to issue citations electronically, and he continued to be instrumental in every aspect of the Department's IT services; and

WHEREAS, over his 20-years of service, Jeff has been awarded numerous awards and certificates, which include the following: Medal of Merit from the Tucson Police Department and the Marana Police Department, Unit Citation Award, and the Chief's Citation of Excellence Award; and

WHEREAS, after serving from July 27th, 2003 to July 28th, 2023 (20-years plus 1 day), Jeff has decided to officially retire; and

WHEREAS, Jeff will enter retirement enjoying time with his wife, Christiane, son Michael, daughters Marci and Jamie, and granddaughters, Charlotte, Amelia, Olivia, and Avery. As a family they plan to enjoy time together camping, swimming, and going to the beach.

NOW, THEREFORE, I, Ed Honea, Mayor of the Town of Marana, do hereby recognize and commend Officer Jeffrey Rowe for his many years of service and for the profound impact he has had on the Town, and I invite the citizens of Marana to join me in congratulating him on his retirement.

Dated this 26th day of July, 2023.

ATTEST:

David L. Udall, Town Clerk

Ed Honea, Mayor

Council-Regular Meeting **PR4**

Meeting Date: 08/01/2023

Date: August 1, 2023

Subject: Proclamation Recognizing Marana Police Officer Kevin Trapp (David L. Udall)

Attachments

Proclamation

MARANA AZ
ESTABLISHED 1977

PROCLAMATION

Recognizing Marana Police Officer Kevin Trapp

WHEREAS, Kevin Trapp began his career in law enforcement when he graduated from the Arizona Law Enforcement Training Academy in 1995 and worked for the Pima County Sheriff's Department until 1998. He and his family then relocated to Alabama, where he worked for the Tuscaloosa Police Department from 1998 until 2001; and

WHEREAS, Kevin returned to Arizona and continued his career with the Marana Police Department in 2003. While with the Department, Kevin served in many assignments, including as a Patrol Officer, Field Training Officer, General Instructor, High Risk Stop Instructor, and Lead Police Officer; and

WHEREAS, during his 20 years of service with the Department, Kevin was assigned to the Southern Arizona Law Enforcement Training Academy as a class counselor. He was a very active supporter of the Law Enforcement Torch Run for Special Olympics and of several fundraising campaigns, including the annual Tip-a-Cop events; and

WHEREAS, Kevin was one of the original members of MPD's Equestrian Unit, and, as an equestrian officer, he had the privilege of providing security and crowd control support for both the 2008 Fiesta Bowl and for Super Bowl XLII; and

WHEREAS, over his 20-years of service, Kevin has been awarded numerous awards and certificates, which have included the following: the Marana Police Department's Chief's Citation of Excellence Award, the Lifesaving Award, and the Distinguished Service Award; and

WHEREAS, Kevin will spend his retirement enjoying time with his wife, Kristin, and his children: Matthew, William, Cecilia, and in loving memory of his son Benjamin. As a family, they enjoy time together camping, trail running, and Pack Burro Racing.

NOW, THEREFORE, I, Ed Honea, Mayor of the Town of Marana, do hereby recognize and commend Kevin Trapp for his many years of service and for the profound impact he has had on the Town, and I invite the citizens of Marana to join me in congratulating him on his retirement.

Dated this 1st day of August, 2023.

ATTEST:

David L. Udall, Town Clerk

Ed Honea

Ed Honea, Mayor

Council-Regular Meeting **C1**

Meeting Date: 08/01/2023

To: Mayor and Council

From: Jennifer Flood, Public Works Deputy Director

Date: August 1, 2023

Strategic Plan Focus Area:
Proactive Public Services

Subject: Ordinance No. 2023.022: Relating to Finance; amending the Town of Marana Comprehensive Fee Schedule to revise various fees related to right-of-way permits; and declaring an emergency (Jennifer Flood)

Discussion:

The Town Council, via Ordinance No. 2021.008, adopted an amended comprehensive fee schedule on May 18, 2021, which was updated most recently on May 16, 2023, via Ordinance 2023.017. This proposed ordinance will amend the comprehensive fee schedule for Right-of-Way permits and effectively reduce the fee amounts. Staff believes that these updated fees provide a more accurate reflection of the cost that the Town incurs during the permitting and inspection process.

Financial Impact:

The financial impact of this amendment will not be significant to the Town's overall revenues.

Staff Recommendation:

Staff recommends approval or Ordinance 2023.022.

Suggested Motion:

I move to approve Ordinance 2023.022.

MARANA ORDINANCE NO. 2023.022

RELATING TO FINANCE; AMENDING THE TOWN OF MARANA COMPREHENSIVE FEE SCHEDULE TO REVISE VARIOUS FEES RELATED TO RIGHT-OF-WAY PERMITS; AND DECLARING AN EMERGENCY

WHEREAS the Town Council is authorized by A.R.S. § 9-240(A) to control the finances of the town; and

WHEREAS the Town Council, via Ordinance No. 2021.008, adopted an amended comprehensive fee schedule on May 18, 2021, which was made a public record by and attached as Exhibit A to Resolution No. 2021-071; and

WHEREAS from time to time the Town Council has adopted amendments to the comprehensive fee schedule, most recently on May 16, 2023, via Ordinance 2023.017; and

WHEREAS amending the comprehensive fee schedule as set forth in this ordinance is in the best interests of the Town of Marana.

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

SECTION 1. The Town of Marana comprehensive fee schedule adopted via Ordinance No. 2021.008, as previously amended, is hereby amended (with deletions shown with ~~strikeouts~~ and additions shown with double underlining) (only amendments to the fee schedule are shown; the remainder of the fee schedule is unchanged):

Fee/Description	Amount	Unit of Measure	Notes
DEVELOPMENT SERVICES: ENGINEERING			
Right-of-Way permit, base fee	$ 250.00	Per permit	Includes basic ROW access, traffic control review, pothole location review, and hauling within ROW of 7 or more trucks. Town projects subject to provisions of Marana ORD 2016.002. Driveways constructed concurrent with a custom home Type 1 grading permit are exempt from ROW fees

Fee/Description	Amount	Unit of Measure	Notes
Right-of-Way Permit; Construction Plan Check Fee	$200 ~~2% cost of construction~~	Per submittal	Not applicable when plans are reviewed through the Development Services process. Town projects subject to provisions of Marana ORD 2016.002.
Right-of-Way Permit; ~~Weekly~~ Inspection Fee	General Construction: Greater of 2% of construction cost or $200.00 ~~per week~~ Utility Construction: up to 200 linear feet - $150.00; 201 to 750 linear feet - $300.00; 751 to 2,000 linear feet - $600.00; 2,001 linear feet and up - $1,200.00 Aerial Utility Construction: $150.00	Per submittal	Calculated on construction in ROW costs, does not apply if no construction. ~~Includes two inspections per week and close-out inspection (not applied to every permit).~~ Town projects subject to provisions of Marana ORD 2016.002

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

SECTION 3. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Since it is necessary for the preservation of the peace, health and safety of the Town of Marana that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

Council-Regular Meeting **C2**

Meeting Date: 08/01/2023

To: Mayor and Council

Submitted For: Jennifer Flood, Public Works Deputy Director

From: Jane Fairall, Town Attorney

Date: August 1, 2023

Strategic Plan Focus Area:
Proactive Public Services

Strategic Plan Focus Area Additional Info:
Foster an open atmosphere that embraces change, creativity, innovation and calculated risk, and maintains the Town's high quality customer service.

Subject: Ordinance No. 2023.023: Relating to Traffic and Highways; amending Town Code Title 12 (Traffic and Highways), Chapter 12-7 (Construction in Town Rights-of-Way); revising section 12-7-5 (Permit Process; grounds for denial) to revise permit application requirements; and declaring an emergency (Jennifer Flood)

Discussion:

Town Code Chapter 12-7 governs construction in Town right-of-way. It requires any person, contractor, firm, utility company or corporation desiring to dig any hole, drain, trench or ditch in any public right-of-way or desiring to construct, remove or change any public improvement in any public right-of-way, or desiring to cut, trench, pothole or excavate any public right-of-way, or desiring to use any public right-of-way for traffic control, construction haul routes, landscape maintenance, maintenance of underground facilities or temporary parking, to first apply for and obtain a permit from the town engineer.

Section 12-7-5 sets forth the application requirements for a right-of-way permit and requires that all applicants post a bond in an amount equal to the cost of construction for all required improvements plus 15% to ensure completion of the proposed work. This proposed ordinance will eliminate the bonding requirement. Public infrastructure

is permitted through Development Engineering and Development Services, which require bonds already for improvements in the public right-of-way for residential and commercial installations. Other right-of-way permits are typically not public infrastructure improvements that will be released to the Town of Marana for maintenance, for example, utility installations and pavement cuts. Town staff also researched other jurisdictions' right-of-way permitting processes and found that others are not requiring bonding for right-of-way permits. Based on these factors, Town staff determined that requiring bonds for right-of-way permits is not necessary and results in increased expense for applicants and increased administrative burden for the Town.

Staff Recommendation:

Staff recommends approval of the ordinance.

Suggested Motion:

I move to adopt Ordinance No. 2023.023, amending Town Code Title 12 (Traffic and Highways), Chapter 12-7 (Construction in Town Rights-of-Way); revising section 12-7-5 (Permit Process; grounds for denial) to revise permit application requirements; and declaring an emergency.

Attachments

Ordinance No. 2023.023

MARANA ORDINANCE NO. 2023.023

RELATING TO TRAFFIC AND HIGHWAYS; AMENDING TOWN CODE TITLE 12 (TRAFFIC AND HIGHWAYS), CHAPTER 12-7 (CONSTRUCTION IN TOWN RIGHTS-OF-WAY); REVISING SECTION 12-7-5 (PERMIT PROCESS; GROUNDS FOR DENIAL) TO REVISE PERMIT APPLICATION REQUIREMENTS; AND DECLARING AN EMERGENCY

WHEREAS the Town Council is authorized by A.R.S. § 9-240 to exercise exclusive control over the streets, alleys, avenues and sidewalks of the town; and

WHEREAS on January 22, 2008, the Town Council adopted Ordinance No. 2008.04, adding Chapter 12-7 "Construction in Town Rights-of-Way" to the Marana Town Code, which chapter has been amended from time to time; and

WHEREAS the Town Council finds that revision of the regulations for construction in Town rights-of-way as set forth in this ordinance is in the best interests of the Town and its residents.

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

SECTION 1. Marana Town Code Title 12 (Traffic and Highways) is hereby amended to revise section 12-7-5 (Permit process; grounds for denial) as follows (with deletions shown with ~~strikeouts~~):

12-7-5 Permit process; grounds for denial

[No amendments to paragraph A]

B. Before issuance of any permit, each applicant will be required to do all of the following:

[No amendments to subparagraphs 1 through 5]

~~6. Post bonds or other cash forms of assurance with the town in an amount equal to the cost of construction for all required improvements plus 15% to ensure completion of the proposed work. Third party trust forms of assurance are not acceptable for work in the public right-of-way.~~

[No amendments to subparagraph 7 which is hereby renumbered as subparagraph 6 to conform to these amendments]

[No amendments to paragraphs C through E]

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

SECTION 3. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 5. Since it is necessary for the preservation of the peace, health and safety of the Town of Marana that this ordinance become immediately effective, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 1st day of August, 2023.

_____
Mayor Ed Honea

ATTEST:

_____
David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____
Jane Fairall, Town Attorney

Council-Regular Meeting **C3**

Meeting Date: 08/01/2023

To: Mayor and Council

Submitted For: Jason Angell, Development Services Director

From: Dustin Ward, Development Engineering Division Manager

Date: August 1, 2023

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2023-073: Relating to Development; approving a release of assurances for Los Saguaros at Dove Mountain, Lots 134-239 (Jason Angell)

Discussion:
Los Saguaros at Dove Mountain, Lots 134-239 is located off of Dove Mountain Blvd. and Los Saguaros Drive. The final plat was recorded in the Pima County Recorder's Office on April 8, 2016, at Sequence Number 20160990155.

The town has a substitute third-party trust assurance agreement assuring the completion of improvements needed to serve the subdivision. The subdivider has completed the improvements serving Los Saguaros, Lots 134-239 acceptable to Town standards in accordance with the assurance agreement.

If approved, this resolution will release the Los Saguaros, Lots 134-239 assurances.

Staff Recommendation:
Staff recommends adoption of Resolution No. 2023-073.

Suggested Motion:
I move to adopt Resolution No. 2023-073, approving a release of assurances for Los Saguaros at Dove Mountain, Lots 134-239.

Attachments

Resolution No. 2023-073
Location Map

MARANA RESOLUTION NO. 2023-073

RELATING TO DEVELOPMENT; APPROVING A RELEASE OF ASSURANCES FOR LOS SAGUAROS AT DOVE MOUNTAIN, LOTS 134-239

WHEREAS the final plat for "Los Saguaros at Dove Mountain, Lots 134-239 and Common Areas "A" (Private Streets), "B" (Open Space), "C" (Open Space/Drainage) and "D" (Open Space/Public Sewer)" was recorded in the Pima County Recorder's Office on April 8, 2016 at Sequence 20160990155; and

WHEREAS the Town has a substitute third party trust assurance agreement (the "Assurance Agreement") with KL LHB AZ AIV, LLC (the "Subdivider") and Title Security Agency, LLC, under Trust No. 202135-S, recorded in the Pima County Recorder's office on November 29, 2021, at Sequence 20213330653, assuring the completion of private improvements for Los Saguaros at Dove Mountain Lots 134-239; and

WHEREAS the Subdivider has completed the improvements for Los Saguaros at Dove Mountain Lots 134-239 acceptable to Town standards in accordance with the Assurance Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Marana as follows:

Section 1. The Assurance Agreement is hereby released.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

Location Map

DEDICATION

WE THE UNDERSIGNED, HEREBY WARRANT THAT WE ARE ALL AND THE ONLY PARTIES HAVING ANY TITLE INTEREST IN THE LAND SHOWN ON THIS PLAT, AND WE CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON. UTILITY AND OTHER EASEMENTS AS SHOWN HEREON ARE GRANTED TO THE TOWN OF MARANA, PIMA COUNTY, AND ALL UTILITY COMPANIES FOR THE PURPOSE OF ACCESS, INSTALLATION, AND MAINTENANCE OF UTILITIES AND PUBLIC SEWERS AND OTHER USES AS DEFINED BY THIS PLAT.

WE, THE UNDERSIGNED, OUR SUCCESSORS AND ASSIGNS, DO HEREBY HOLD HARMLESS THE TOWN OF MARANA, ITS SUCCESSORS, ASSIGNS, THEIR EMPLOYEES, OFFICERS, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF SAID LANDS NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOWAGE, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE, FLOOD OR RAINFALL. IT IS FURTHER UNDERSTOOD AND AGREED THAT NATURAL DRAINAGE SHALL NOT BE ALTERED, DISTURBED, OR OBSTRUCTED WITHOUT THE WRITTEN APPROVAL OF THE MARANA TOWN COUNCIL.

COMMON AREAS "A", "B" AND "C," AS SHOWN HEREON, ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND INVITEES, AND ARE GRANTED AS EASEMENTS TO THE TOWN OF MARANA, PIMA COUNTY, AND ALL UTILITY COMPANIES FOR THE PURPOSE OF ACCESS, INSTALLATION AND MAINTENANCE OF UTILITIES AND PUBLIC SEWERS. COMMON AREA "D,", AS SHOWN HEREON, IS IRREVOCABLY GRANTED AS AN EASEMENT TO PIMA COUNTY FOR ACCESS, INSTALLATION, CONSTRUCTION, MAINTENANCE AND REPLACEMENT OF THE PUBLIC SEWERS. TITLE TO THE LAND OF ALL COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY THE ANNEXATION AND PARCEL DECLARATION AS TO THE GALLERY AT DOVE MOUNTAIN, RECORDED IN DOCKET 12133 AT PAGE 6297 IN THE OFFICE OF THE PIMA COUNTY RECORDER. EACH AND EVERY LOT OWNER WITHIN THE SUBDIVISION SHALL BE A MEMBER OF THE ASSOCIATION, WHICH WILL ACCEPT ALL RESPONSIBILITY FOR THE CONTROL, MAINTENANCE, SAFETY, AND LIABILITY OF ALL COMMON AREAS WITHIN THIS SUBDIVISION, AS SHOWN HEREON.

STEWART TITLE & TRUST OF TUCSON
AN ARIZONA CORPORATION AS TRUSTEE UNDER TRUST NUMBER 3720
AND NOT IN ITS CORPORATE CAPACITY.

Doris J. Clark
TRUST OFFICER

BENEFICIARY

TORTOLITA PROPERTIES, L.L.C.
6125 E. INDIAN SCHOOL ROAD, #2000, SCOTTSDALE, AZ 85251

ACKNOWLEDGMENT

STATE OF ARIZONA } S.S.
COUNTY OF PIMA

ON THIS, THE 14th DAY OF May, 2015 BEFORE ME PERSONALLY APPEARED Doris J. Clark WHO ACKNOWLEDGED HIMSELF/HERSELF TO BE THE TRUST OFFICIAL OF STEWART TITLE & TRUST OF TUCSON, AN ARIZONA CORPORATION, AS TRUSTEE UNDER TRUST NO. 3720, AND NOT IN ITS CORPORATE CAPACITY, AND ACKNOWLEDGED THAT HE/SHE, AS THE TRUST OFFICIAL, BEING AUTHORIZED TO DO SO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED.

IN WITNESS WHEREOF: I HEREBY SET MY NAME AND OFFICIAL SEAL.

NOTARY PUBLIC

MY COMMISSION EXPIRES: 1-21-17

OFFICIAL SEAL
LEE ANN WATTERSON
Notary Public - State of Arizona
PIMA COUNTY
My Comm. Expires Jan. 21, 2017

ASSURANCES

ASSURANCE IN THE FORM OF A THIRD PARTY TRUST AGREEMENT FROM STEWART TITLE & TRUST OF TUCSON, TRUST NO. 3720, AS RECORDED IN SEQUENCE NO. 20160990139 HAS BEEN PROVIDED TO GUARANTEE DRAINAGE AND STREET IMPROVEMENTS (INCLUDING MONUMENTS) AND UTILITY IMPROVEMENTS (ELECTRIC, TELEPHONE, GAS, SEWER AND WATER) IN THIS SUBDIVISION.

BY: _____ DATE: 3-15-16
TOWN OF MARANA

ASSURED WATER SUPPLY

THIS SUBDIVISION LIES WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY. TUCSON WATER WILL PROVIDE WATER SERVICE TO THIS SUBDIVISION.

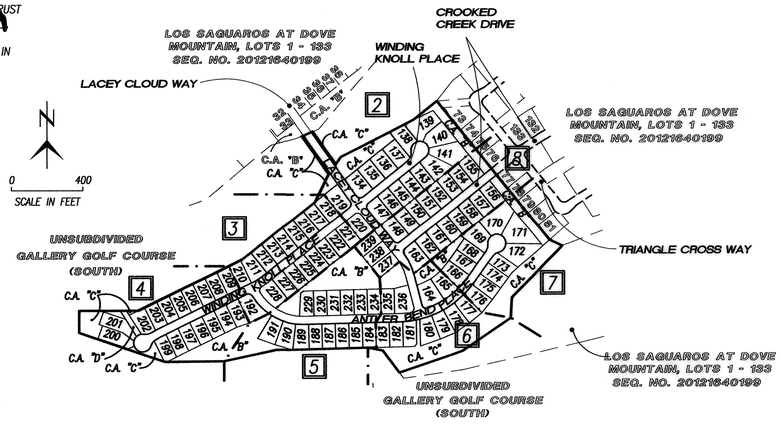
BY: Melodie Lowe DATE: 8 Mar 2016
ITS: Planning Administrator
CITY OF TUCSON WATER DEPARTMENT

(a) County of Recordation PIMA
(b) Date of Recording 04/08/2016
(c) Fee/Recording Number 20160990155

Maps not picked up in 45 days will be recycled. 4/8/2016 JE

GENERAL NOTES

1. THE GROSS AREA OF THIS SUBDIVISION IS 44.4 ACRES (1,935,318 S.F.).
2. THE TOTAL NUMBER OF LOTS IS 106.
3. THE TOTAL AREA OF COMMON AREA "A" (PRIVATE STREETS) IS 6.0 ACRES (263,465.2 S.F.)
   THE TOTAL AREA OF COMMON AREA "B" (OPEN SPACE) IS 5.2 ACRES (229,742.0 S.F.)
   THE TOTAL AREA OF COMMON AREA "C" (OPEN SPACE/DRAINAGE) IS 4.5 ACRES (196,259 S.F.)
   THE TOTAL AREA OF COMMON AREA "D" (OPEN SPACE/SEWER) IS 0.1 ACRES (4,811 S.F.)
4. TOTAL MILES OF NEW PRIVATE STREETS IS 1.0.
5. MINIMUM ALLOWABLE LOT SIZE IS 6,000 SF (PER DOVE MOUNTAIN SPECIFIC PLAN).
   MINIMUM PROVIDED LOT SIZE IS 10,404 SF (LOT 199).
   AVERAGE LOT SIZE IS 11,711 SF.
   MAXIMUM LOT SIZE PROVIDED IS 21,229 SF (LOT #171 – NOT A RESTRICTION).
   MAXIMUM ALLOWABLE BUILDING HEIGHT 35' FT FOR "LDR."
6. THE BUILDING SETBACKS ARE AS FOLLOWS:
   FRONT: 20 FEET
   SIDE: 5 FEET
   REAR: 15 FEET
   CORNER: 20 FEET
7. THERE WILL BE 2 PARKING SPACES PROVIDED FOR EACH LOT ON–SITE, OFF–STREET.
8. THIS PROJECT SHALL COMPLY WITH THE CONDITIONS SET FORTH IN THE DOVE MOUNTAIN SPECIFIC PLAN APPROVED ON 3/28/00, PER ORDINANCE 2000.04, AND AS AMENDED ON 7/16/02 PER ORDINANCE 2002.13.
9. THE EXISTING LAND USE DESIGNATIONS ARE "LDR" IN ACCORDANCE WITH THE DOVE MOUNTAIN SPECIFC PLAN AND WILL REMAIN.
10. THE GROSS DENSITY FOR THIS PROJECT IS 2.38 RAC.
11. NO FURTHER SUBDIVIDING OR LOT SPLITTING SHALL BE DONE WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA MAYOR AND COUNCIL.
12. APPROVAL OF THIS PLAT DOES NOT AFFIRM, CERTIFY OR APPROVE ANY LAND DIVISION THAT MAY BE CONTRARY TO STATE LAW, NOR DOES IT CERTIFY THE EXISTENCE OF, OR COMPLIANCE WITH, ANY DEED RESTRICTIONS OR EASEMENTS.
13. MATERIALS OR IMPROVEMENTS PLACED AND/OR MAINTAINED WITHIN THE SIGHT–VISIBILITY TRIANGLES SHALL BE LOCATED SO AS NOT TO INTERFERE WITH A VISIBILITY PLANE DESCRIBED BY AN AREA MEASURED BETWEEN 30 INCHES AND 72 INCHES IN HEIGHT ABOVE THE FINISHED GRADE OF THE ADJACENT ROADWAY SURFACE.
14. THE PROFESSIONAL ENGINEER OF RECORD SHALL CERTIFY AS TO THE FORM, LINE AND FUNCTION OF ALL PRIVATE ROADWAYS AND PRIVATE DRAINAGE STRUCTURES BEFORE THE RELEASE OF ASSURANCES.
15. THE AREA BETWEEN 100–YEAR FLOOD LIMITS REPRESENTS AN AREA THAT MAY BE SUBJECT TO FLOODING FROM A 100–YEAR FREQUENCY FLOOD AND ALL LAND IN THIS AREA WILL BE RESTRICTED TO USES THAT ARE COMPATIBLE WITH THE FLOOD PLAIN MANAGEMENT AS APPROVED BY THE FLOOD PLAIN ADMINISTRATOR.
16. BASIS OF BEARING FOR THIS PROJECT IS THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 23, T–11–S, R–12–E, AS SHOWN ON THE FINAL PLAT OF DOS LAGOS AT DOVE MOUNTAIN, LOTS 1–91, AS RECORDED IN BOOK 57 OF MAPS & PLATS AT PAGE 43, SAID BEARING BEING N89°59'18"E. SEE DETAIL, SHEET #5.
17. THIS SUBDIVISION IS SUBJECT TO THE MASTER DELCARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DOVE MOUNTAIN AS RECORDED IN DOCKET 10660 AT PAGE 1083.
18. ALL NEW AND EXISTING UTILITIES EXCEPT ELECTRICAL TRANSMISSION LINES CARRYING 46 KV OR GREATER, AND THOSE LINES WHICH CAN BE SHOWN TO EXIST IN CURRENT OR FUTRUE ELECTRICAL TRANSMISSION CORRIDORS, WITHIN OR CONTIGUOUS TO THE SITE, SHALL BE PLACED UNDERGROUND.
19. THE LANDSCAPING WITHIN ALL PUBLIC SEWER EASEMENTS SHALL BE IN ACCORDANCE WITH THE LANDSCAPE AND PLANTING GUIDELINES FOR PUBLIC SEWERS OF THE ENGINEERING DESIGN STANDARDS 2012, SUBSECTION 7.7.



COMPOSITE DETAIL

CERTIFICATIONS

I HEREBY CERTIFY THAT THE BOUNDARY SURVEY AS SHOWN ON THIS PLAT WAS PERFORMED UNDER MY DIRECTION AND THAT ALL EXISTING OR PROPOSED SURVEY MONUMENTS AND MARKERS SHOWN ARE CORRECTLY DESCRIBED.

CHRIS E. MORRISON
OPW SURVEYING, LLC
REGISTERED LAND SURVEYOR NO. 26928
STATE OF ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 26928 CHRIS E. MORRISON ARIZONA U.S.A. EXPIRES 03/31/2017

I HEREBY CERTIFY THAT THE INTERIOR SUBDIVISION GEOMETRY FOR THIS PLAT WAS REVIEWED AND SHOWN UNDER MY SUPERVISION.

WILLIAM H. BAKER, JR.
BAKER & ASSOCIATES ENGINEERING, INC.
REGISTERED LAND SURVEYOR NO. 16784
STATE OF ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 16784 WILLIAM H. BAKER, JR. Date Signed 5-13-15 ARIZONA, U.S.A.

EXPIRES: 3/31/2017

I HEREBY CERTIFY THAT THE FLOODPRONE LIMITS AND EROSION HAZARD SETBACKS WERE REVIEWED AND SHOWN UNDER MY SUPERVISION.

LARRY K. ROBERTS
ARROYO ENGINEERING, L.L.C.
REGISTERED ENGINEER NO. 25331
STATE OF ARIZONA

Registered Professional Engineer CERTIFICATE NO. 25331 LARRY K. ROBERTS Date Signed 5-13-15 ARIZONA, U.S.A. EXPIRES

TOWN OF MARANA APPROVALS

BY: _____ P.E. 3-15-16
MARANA TOWN/DEVELOPMENT ENGINEER — DATE

BY: _____ 3-15-16
MARANA PLANNING DIRECTOR — DATE

I, Jocelyn C. Bronson, CLERK OF THE TOWN OF MARANA, HEREBY CERTIFY THAT THIS PLAT WAS APPROVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA ON THE 15th DAY OF March, 2016.

BY: _____ 3/16/2016
CLERK OF THE TOWN OF MARANA — DATE

PIMA COUNTY APPROVAL

BY: Francisco Gallinda 5/13/2015
PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DEPARTMENT — DATE

RECORDING DATA

STATE OF ARIZONA } S.S.
COUNTY OF PIMA

FEE $84.00
SEQUENCE NO. 20160990155

THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF BAKER AND ASSOCIATES ENGINEERING, INC., ON THIS 8th DAY OF April, 20 16, AT 10:27 AM. IN SEQUENCE NO. 20160990155 THEREOF.

Jessie Elliott
F. ANN RODRIGUEZ
PIMA COUNTY RECORDER BY DEPUTY

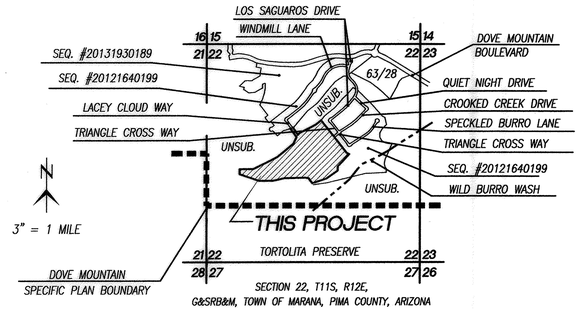
April 8, 2016
DATE

COUNTY RECORDER PIMA COUNTY ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 26928 CHRIS E. MORRISON ARIZONA, U.S.A. EXPIRES 03/31/2017

REGISTERED LAND SURVEYOR CERTIFICATE NO. 16784 WILLIAM H. BAKER, JR. Date Signed 5-13-15 ARIZONA, U.S.A.

FOR EXTERIOR BOUNDARY ONLY — EXPIRES: 3/31/2017



LOCATION PLAN

LEGEND

- ▲ SET SURVEY MONUMENT (TAGGED "RLS22245") – SEE ALSO BASIS OF BEARING, SHEET #5 OF 5
- △ SURVEY MONUMENT TO BE SET PER TOWN OF MARANA STD. DTL. M–103B
- • BOUNDARY CORNER TO BE SET (TAGGED "RLS26928")
- OR PROPERTY CORNER TO BE SET BY A REGISTERED LAND SURVEYOR
- SUBDIVISION BOUNDARY
- C23 CURVE DATA (SEE SHEET #6)
- L10 LINE DATA (SEE SHEET #3)
- ☆ ADDRESSING/ACCESS LOCATION
- NEW RIGHT–OF–WAY LINE
- R/W EXISTING RIGHT–OF–WAY LINE
- STREET CENTERLINE
- NEW OR EXISTING EASEMENT LINE AS SHOWN (SEE ALSO "EASEMENT KEYNOTES," SHEETS #2 – #8)
- DEVELOPED (OR EXISTING/DEVELOPED) 100 YEAR FLOODPRONE LINE ("F.P.L.")
- DEVELOPED EROSION SETBACK LINE ("E.S.L.")
- FEMA FLOODPRONE LINE ("FEMA")
- SVT SIGHT VISIBILITY TRIANGLE EASEMENT AREA (SEE "EASEMENT KEYNOTES," SHEETS #2 – #8)
- (R) RADIAL
- 7 COMPOSITE DETAIL PAGE INDEX

FINAL PLAT for
LOS SAGUAROS AT DOVE MOUNTAIN, LOTS 134–239 AND COMMON AREAS "A" (PRIVATE STREETS), "B" (OPEN SPACE), "C" (OPEN SPACE/DRAINAGE) AND "D" (OPEN SPACE/PUBLIC SEWER)

BEING A RESUBDIVISION OF BLOCK "7" OF LOS SAGUAROS AT DOVE MOUNTAIN, LOTS 1 – 133, COMMON AREAS "A," "B" AND "E" (PRIVATE STREETS), "C" AND "F" (OPEN SPACE/DRAINAGE) "D" (LANDSCAPE/OPEN SPACE), "G" (OPEN SPACE) AND BLOCKS "1" THROUGH "7" AS RECORDED IN SEQUENCE NO. 20121640199, LYING IN SECTION 22, T11S, R12E, G&SRBM, TOWN OF MARANA, PIMA COUNTY, ARIZONA

Baker & Associates Engineering, Inc.
3561 E. Sunrise Drive, Suite #225 Tucson, Arizona 85718 (520) 318-1950 Fax (520) 318-1930

#PRV–1411–001

REF.: #PRV-1407-002; PRV-06024; ENG1012-006; ENG1203-002 | JOB #2253.3 | MAY 6, 2015 | SHEET 1 OF 8

SEQUENCE # 20160990155

SEQUENCE # 20160990155-1

Council-Regular Meeting **C4**

Meeting Date: 08/01/2023

To: Mayor and Council

Submitted For: Jason Angell, Development Services Director

From: Dustin Ward, Development Engineering Division Manager

Date: August 1, 2023

Strategic Plan Focus Area:
Not Applicable

Strategic Plan Focus Area Additional Info:

Subject: Resolution No. 2023-074: Relating to Development; approving a release of assurances for Saguaro Ranch II, Lots 53, 54, 55, 56, and 57 (Jason Angell)

Discussion:

Saguaro Ranch II, Lots 53, 54, 55, 56, and 57 are located north of Thornydale Road and Moore Road along Old Ranch House Road. The final plat was recorded in the Pima County Recorder's Office on June 22, 2021, at Sequence Number 20211730184.

The Town has a cash assurance agreement assuring the completion of improvements needed to serve Saguaro Ranch II, Lots 53, 54, 55, 56, and 57, and the portion of Common Area "A" designated as "Ranheim Place." The subdivider has completed the improvements serving Saguaro Ranch II, Lots 53, 54, 55, 56, and 57 acceptable to town standards in accordance with the assurance agreement.

If approved, this resolution will release the Saguaro Ranch II, Lots 53, 54, 55, 56, and 57 assurances.

Staff Recommendation:

Staff recommends the approval of Resolution No. 2023-074.

Suggested Motion:

I move to adopt Resolution No. 2023-074, approving a release of assurances for Saguaro Ranch II, Lots 53, 54, 55, 56, and 57.

Attachments

Resolution No. 2023-074

Location Map

MARANA RESOLUTION NO. 2023-074

RELATING TO DEVELOPMENT; APPROVING A RELEASE OF ASSURANCES FOR SAGUARO RANCH II, LOTS 53, 54, 55, 56, AND 57

WHEREAS the final plat for Saguaro Ranch II Lots 50, 51, & 53-65, Parcel "A" & Common Areas "A" & "B" was recorded in the Pima County Recorder's Office on November 9, 2006 at Sequence 20062170590; and

WHEREAS the Town has a substitute cash assurance agreement (the "Assurance Agreement") with Saguaro Property Development, LLC (the "Subdivider") and The Town of Marana, recorded in the Pima County Recorder's office on June 22, 2021 at Sequence 20211730184, assuring the completion of private improvements for Saguaro Ranch II, Lots 53, 54, 55, 56, and 57; and

WHEREAS the Subdivider has completed the improvements for Saguaro Ranch II, Lots 53, 54, 55, 56, and 57 acceptable to Town standards in accordance with the Assurance Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Marana as follows:

Section 1. The Assurance Agreement is hereby released.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

Location Map

DEDICATION

I, THE UNDERSIGNED, HEREBY WARRANT THAT I AM ALL AND THE ONLY PARTY HAVING ANY INTEREST IN THE LAND SHOWN ON THIS PLAT, AND I CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON.

I, THE UNDERSIGNED, HEREBY GRANT TO THE TOWN OF MARANA, PIMA COUNTY, AND ALL UTILITY COMPANIES ALL PUBLIC EASEMENTS AS SHOWN HEREON. PUBLIC EASEMENTS AS SHOWN HEREON ARE GRANTED FOR THE PURPOSE OF ACCESS, INSTALLATION AND MAINTENANCE OF UTILITIES AND PUBLIC SEWERS AS DESIGNATED BY THIS PLAT.

I, THE UNDERSIGNED, MY SUCCESSORS AND ASSIGNS, DO HEREBY SAVE THE TOWN OF MARANA, ITS SUCCESSORS AND ASSIGNS, THEIR EMPLOYEES, OFFICERS, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF SAID LANDS NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOWAGE, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE, FLOOD, OR RAINFALL. IT IS FURTHER UNDERSTOOD AND AGREED THAT NATURAL DRAINAGE SHALL NOT BE ALTERED, DISTURBED, OR OBSTRUCTED WITHOUT APPROVAL OF THE MARANA TOWN COUNCIL.

COMMON AREAS AS SHOWN HEREON, ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND INVITEES, AND ARE GRANTED AS EASEMENTS TO THE TOWN OF MARANA, PIMA COUNTY AND ALL UTILITY COMPANIES FOR THE ACCESS, INSTALLATION AND MAINTENANCE OF UNDERGROUND UTILITIES AND PUBLIC SEWERS. TITLE TO THE LAND OF ALL COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY THAT CERTAIN AMENDED AND RESTATED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SAGUARO RANCH RECORDED IN DOCKET 12550 AT PAGE 2986 AS SUPPLEMENTED BY THAT CERTAIN SUPPLEMENTAL DECLARATION RECORDED IN DOCKET 12928 AT PAGE 2039 (OTHER THAN LOT 50) IN THE OFFICE OF THE PIMA COUNTY RECORDER. EACH AND EVERY LOT OWNER WITHIN THE SUBDIVISION SHALL BE A MEMBER OF THE ASSOCIATION, WHICH WILL ACCEPT ALL RESPONSIBILITY FOR THE CONTROL, MAINTENANCE, SAFETY, AND LIABILITY OF THE COMMON AREAS, PRIVATE DRAINAGEWAYS, PRIVATE RECREATIONAL TRAIL EASEMENTS AND PRIVATE HORSEBACK RIDING TRAIL EASEMENTS WITHIN THIS SUBDIVISION, AS SHOWN HEREON.

BY: TITLE SECURITY AGENCY OF ARIZONA, AN ARIZONA CORPORATION, AS TRUSTEE UNDER TRUST NUMBER 773 (LOT 51, PORTION OF PARCEL "A" AND COMMON AREA "A" BK 57, PG 57)

Diane L. Stone — 10/26/06
TRUST OFFICER — DATE

* PURSUANT TO A.R.S. SECTION 33-404(B), THE NAME AND ADDRESS OF THE BENEFICIARY OF TRUST NO. 773 DESCRIBED ABOVE AS DISCLOSED BY THE RECORDS OF SAID TRUST IS:

SAGUARO RANCH DEVELOPMENT CORPORATION,
AN ARIZONA CORPORATION
PO BOX # 70207
TUCSON, AZ 85737-0030
PHONE: (520) 498-2300

STATE OF ARIZONA } SS.
COUNTY OF PIMA }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 26th DAY OF October, 2006, BY Diane L Stone, OF TITLE SECURITY AGENCY OF ARIZONA, AS TRUSTEE UNDER TRUST NO. 773.

Official Seal
NOTARY PUBLIC
STATE OF ARIZONA
County of Pima
REBECCA L MENUEY
My Commission Expires December 27, 2009

Rebecca L Menuey — MY COMMISSION EXPIRES
NOTARY PUBLIC

BY: TITLE SECURITY AGENCY OF ARIZONA, AN ARIZONA CORPORATION, AS TRUSTEE UNDER TRUST NUMBER 787.(LOT 50 AND BLOCK 1)

Diane L Stone — 10/26/06
TRUST OFFICER — DATE

* PURSUANT TO A.R.S. SECTION 33-404(B), THE NAME AND ADDRESS OF THE BENEFICIARY OF TRUST NO. 787 DESCRIBED ABOVE AS DISCLOSED BY THE RECORDS OF SAID TRUST IS:

SAGUARO RANCH INVESTMENTS, LLC,
AN ARIZONA LIMITED LIABILITY COMPANY

C/O: SAGUARO RANCH DEVELOPMENT CORPORATION
PO BOX # 70207
TUCSON, AZ 85737-0030
PHONE: (520) 498-2300

STATE OF ARIZONA } SS.
COUNTY OF PIMA }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 26th DAY OF Oct, 2006, BY Diane L Stone, OF TITLE SECURITY AGENCY OF ARIZONA, AS TRUSTEE UNDER TRUST NO. 787.

Official Seal
NOTARY PUBLIC
STATE OF ARIZONA
County of Pima
REBECCA L MENUEY
My Commission Expires December 27, 2009

Rebecca L Menuey — MY COMMISSION EXPIRES
NOTARY PUBLIC

RICK ENGINEERING COMPANY
1745 EAST RIVER ROAD - SUITE 101
TUCSON, AZ 85718
520.795.1000
(FAX) 520.322.6956
rickengineering.com
Tucson Phoenix San Diego Riverside Orange Sacramento

© 2006 Rick Engineering Company

DEDICATION (CONTINUED)

BY: CITY OF TUCSON, A MUNICIPAL CORPORATION (PORTION OF PARCEL "A")

Tom Victory — 11/3/06
TITLE: ACTING ENGINEERING MANAGER — DATE

STATE OF ARIZONA } SS.
COUNTY OF PIMA }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 3rd DAY OF November, 2006, BY CITY OF TUCSON, A MUNICIPAL CORPORATION.

OFFICIAL SEAL
BETTYJO HUERTA
NOTARY PUBLIC-ARIZONA
PIMA COUNTY
My Comm. Exp. Aug. 12, 2008

Bettyjo Huerta — MY COMMISSION EXPIRES
NOTARY PUBLIC

BENEFICIARY

KENNEDY FUNDING, INC, A NEW JERSEY CORPORATION AND ANGLO-AMERICAN FINANCIAL LLC, A DELAWARE LIMITED LIABILITY COMPANY

CONSENT TO SUBDIVIDE BY SEPARATE INSTRUMENT PER DOCKET 12928, PAGE 2037

BASIS OF BEARING

THE BASIS OF BEARING IS THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 11 SOUTH, RANGE 13 EAST, G&SRM, ARIZONA, AS SHOWN ON THE RECORD OF SURVEY RECORDED IN BOOK 26 AT PAGE 12, RECORDS OF PIMA COUNTY, ARIZONA . SAID BEARING BEING N00°00'09"E.

WATER ADEQUACY

THIS DEVELOPMENT LIES WITHIN AN AREA DESIGNATED HAVING AN ASSURED WATER SUPPLY.

Chris B. Lair #3639 — 11/07/06
UTILITY DIRECTOR - TOWN OF MARANA — DATE

ASSURANCES

ASSURANCES IN THE FORM OF A THIRD PARTY TRUST AGREEMENT, TRUST NUMBER 773 FROM TITLE SECURITY AGENCY OF ARIZONA, AS RECORDED IN DOCKET 12928, PAGE 2029, HAVE BEEN PROVIDED TO GUARANTEE DRAINAGE AND STREET IMPROVEMENTS (INCLUDING MONUMENTS) AND UTILITY IMPROVEMENTS (ELECTRIC, TELEPHONE, GAS, SEWER, WATER) IN THIS SUBDIVISION.

Ed Honea — 11-7-06
TOWN OF MARANA — DATE

PIMA COUNTY APPROVAL

Robert E. Hunt — 11.01.06
PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY — DATE

MARANA APPROVAL

Kenneth Bee — 11-7-06 ,P.E.
FOR TOWN OF MARANA SUBDIVISION ENGINEER — DATE

Barbara E. Gastelum, AICP — 7 Nov 06
PLANNING DIRECTOR — DATE

I, Jocelyn C. Bronson, CLERK OF THE TOWN OF MARANA, HEREBY CERTIFY THAT THIS PLAT WAS APPROVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ON THIS THE 3rd DAY OF October, 2006

Jocelyn C. Bronson — 11/7/06
TOWN CLERK — DATE

RECORDING DATA

STATE OF ARIZONA } SS.
COUNTY OF PIMA }

COUNTY RECORDER — PIMA COUNTY — ARIZONA

FEE 4104.00
SEQ NO. 20062170590

THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF RICK ENGINEERING COMPANY, INC. ON THIS 9th DAY OF November, 2006, AT 15:34 pm. IN BOOK 61 OF MAPS AND PLATS AT PAGE 89 THEREOF.

F. Ann Rodriguez — Mari Lupe Romero
F. ANN RODRIGUEZ — DEPUTY COUNTY RECORDER
PIMA COUNTY RECORDER

CERTIFICATION OF SURVEY

I HEREBY CERTIFY THAT THE BOUNDARY SURVEY AS SHOWN ON THIS PLAT WAS PERFORMED UNDER MY DIRECTION AND THAT ALL EXISTING AND/OR PROPOSED SURVEY MONUMENTS AND MARKERS SHOWN ARE CORRECTLY DESCRIBED. I FURTHER CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY DIRECTION.

DOUGLAS E. SCHNEIDER — R.L.S. 17479

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
17479
DOUGLAS E. SCHNEIDER
Date Signed 10/25/06
ARIZONA U.S.A.

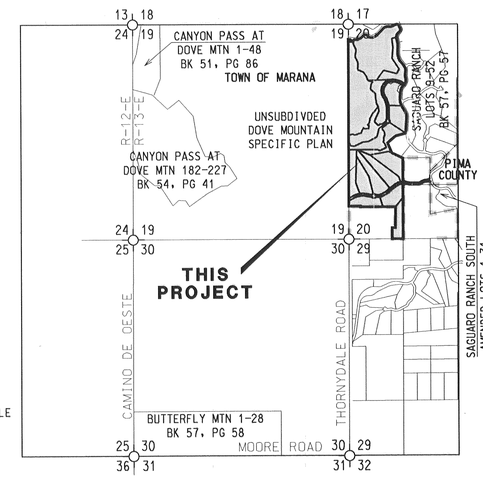
I HEREBY CERTIFY THAT THE 100-YEAR FLOOD PRONE LIMITS AND EROSION HAZARD SETBACKS AS SHOWN ON THIS PLAT WERE PREPARED UNDER MY SUPERVISION.

DAVID G. LAREDO — P.E. 40063

Registered Professional Engineer (Civil)
CERTIFICATE NO.
40063
DAVID G. LAREDO
Date Signed 10/25/06
ARIZONA U.S.A.

GENERAL NOTES

1. THE GROSS AREA OF THIS DEVELOPMENT IS 129.356 AC; 5,634,764 SF
   COMMON AREA "A" - PRIVATE STREETS/PUE 3.08 AC; 134,403 SF
   COMMON AREA "B" - PRIVATE INGRESS/EGRESS AND PUBLIC UTILITY 0.76 AC; 32,921 SF
   PARCEL "A" ADJACENT TO CITY OF TUCSON WATER 0.28 AC; 12,135 SF
   THE NET AREA OF THIS SUBDIVISION IS 125.23 AC; 5,455,305 SF
   THE RAC FOR THIS DEVELOPMENT IS 0.12.
2. THE ZONING FOR THIS PROJECT IS RD-180.
3. THE TOTAL NUMBER OF RESIDENTIAL LOTS IS 15. LOT 50 IS A PROPOSED SITE FOR A GUEST RANCH.
4. THE DEVELOPER WILL COVENANT TO HOLD TOWN OF MARANA, ITS SUCCESSORS AND ASSIGNS, HARMLESS IN THE EVENT OF FLOODING.
5. DRAINAGE WILL NOT BE ALTERED, DISTURBED, OR OBSTRUCTED WITHOUT THE APPROVAL OF THE TOWN OF MARANA.
6. DRAINAGEWAYS SHOWN ON THIS PLAT ARE TO BE CONSTRUCTED ACCORDING TO APPROVED PLANS PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS FROM THE TOWN OF MARANA.
7. SAGUARO RANCH PROPERTY OWNERS ASSOCIATION, INC., AN EXISTING PROPERTY OWNERS ASSOCIATION, WILL ACCEPT RESPONSIBILITY FOR MAINTENANCE, CONTROL, SAFETY AND LIAB LITY OF PRIVATE DRAINAGE WAYS, DRAINAGE EASEMENTS, AND COMMON AREAS.
8. THE AREA WITHIN THE 100-YEAR FLOOD LIMITS REPRESENTS AN AREA THAT MAY BE SUBJECT TO FLOODING DURING A 100-YEAR FLOOD. ALL LAND USE IN THIS AREA SHALL BE RESTRICTED TO USES THAT HAVE BEEN APPROVED BY THE FLOODPLAIN ADMINISTRATOR.
9. ALL ROADS AND DRAINAGE IMPROVEMENTS WITHIN OR ADJACENT TO THIS SUBDIVISION SHALL BE CONSTRUCTED ACCORDING TO PLANS AS REVIEWED AND APPROVED BY THE TOWN OF MARANA.
10. ALL REQUIRED PARKING WILL BE OFF STREET, ON SITE.
11. THE DESIGN SPEED FOR THIS STREET IS 15 MPH. THE DESIGN VEHICLE IS WB-40.
12. THE WATER COMPANY THAT WILL SERVICE THIS SUBDIVISION IS TUCSON WATER. THIS SUBDIVISION LIES WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.
13. APPROVAL OF THIS PLAT DOES NOT AFFIRM, CERTIFY OR APPROVE ANY LAND DIVISION THAT MAY BE CONTRARY TO STATE LAW, NOR DOES IT CERTIFY THE EXISTENCE OF COMPLIANCE WITH ANY DEED RESTRICTIONS OR EASEMENTS.
14. DUE TO THE DESIGNED ACCESS RESTRICTIONS, ALL BUILDINGS IN THIS PROJECT WILL REQUIRE FIRE SPRINKLERS DESIGNED TO THE APPROPRIATE STANDARD. ANY BUILDING WITH ACCESS GREATER THAN 12% GRADE, ACCESS EXCEEDING 150 FEET IN LENGTH FROM THE ROADWAY TO ALL PORTIONS OF THE EXTERIOR OF THE STRUCTURE OR ACCESS WITH WIDTH OF LESS THAN 12 FEET AT ANY POINT SHALL BE EVALUATED BY NORTHWEST FIRE DISTRICT FOR FIRE PROTECTION MEASURES IN ADDITION TO AUTOMATIC FIRE SPRINKLERS.
15. AN ALL WEATHER ACCESS ROAD SHALL BE INSTALLED AND SERVICEABLE PRIOR TO THE INTRODUCTION OF COMBUSTIBLE CONSTRUCTION MATERIALS ON SITE.



SCALE: 3"= 1 MILE

LOCATION MAP

SECTION 20, T 11 S, R 13 E
G & SRM
TOWN OF MARANA
PIMA COUNTY, ARIZONA

LEGEND

(#)	NEW BCSM TO BE SET PER BK 57, PG 57 M&P BY REGISTERED LAND SURVEYOR.
⊡	NEW BCSM TO BE SET BY REGISTERED LAND SURVEYOR
•	MONUMENT TO BE SET BY REGISTERED LAND SURVEYOR
○	1/2" REBAR TAGGED "RLS 17479" OTHERWISE SURVEY MONUMENT AS NOTED
———	SUBDIVISION BOUNDARY
———	PROPERTY LINE
– – – –	EASEMENT BOUNDARY
14 13 / 23 24	SECTION CORNER
——•••——	100-YEAR FLOOD PRONE LIMIT
– – – –	EROSION HAZARD SETBACK (EHS) LIMIT
★	ACCESS POINT (FOR ADDRESSING PURPOSES ONLY)
——— ———	JURISDICTIONAL BOUNDARY
ACP	ALUMINUM CAPPED PIN
BC	BRASS CAP (DISK)
R.O.S.	INDICATES RECORD OF SURVEY RECORDED IN PIMA COUNTY RECORDS PER BOOK AND PAGE INDICATED

FINAL PLAT FOR

SAGUARO RANCH II

LOTS 50, 51, & 53-65, PARCEL "A" & COMMON AREAS "A" & "B"
A RESUBDIVISION OF LOTS 50 & 51, PARCEL "A", BLOCK 1 & A PORTION OF COMMON AREA "A" OF SAGUARO RANCH LOTS 9-52, BLOCKS 1, 2, 3, & 4, PARCEL "A", COMMON AREAS "A"&"B" AS RECORDED IN BOOK 57, PG 57, G & SRM, TOWN OF MARANA, PIMA COUNTY, ARIZONA.

RELATED CASES:
PCZ-02047
PRV-03072f

PRV-04058f
SHEET 1 OF 10

BOOK 61 PAGE 89-1

BOOK 61 PAGE 89

GENERAL NOTES - CONTINUED

16. FIRE HYDRANTS CAPABLE OF PROVIDING FIRE FLOW APPROVED BY NORTHWEST FIRE DISTRICT SHALL BE INSTALLED, TESTED AND SERVICEABLE PRIOR TO THE INTRODUCTION OF COMBUSTIBLE CONSTRUCTION MATERIALS ON ANY SITE.

17. A SIGN IDENTIFYING THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE BUILDER AS WELL AS THE LOT NUMBER AND ADDRESS OF THE SITE SHALL BE POSTED IN A MANOR THAT IS VISIBLE AND LEGIBLE FROM THE FIRE DEPARTMENT ACCESS ROAD. THIS SIGN SHALL BE POSTED COMMENCING WITH PLACEMENT OF THE FLOOR SLAB AND SHALL REMAIN UNTIL COMPLETION OF THE FINAL INSPECTION.

18. THORNYDALE ROAD IS THE NEAREST PAVED ACCESS MAINTAINED BY THE TOWN OF MARANA WHICH SERVES THIS SUBDIVISION. CONLIN PLACE AND RANHEIM PLACE, WHICH SERVE THIS SUBDIVISION ARE PRIVATE STREETS ACCESSED FROM OLD RANCH HOUSE ROAD (A PRIVATE STREET).

19. SEWAGE DISPOSAL FOR LOTS 50, 51, & 53-65 SHALL BE BY A PRIVATE INDIVIDUAL ON-SITE DISPOSAL SYSTEM, AND PRIOR TO CONSTRUCTION EACH LOT MUST HAVE A SITE EVALUATION THAT MEETS THE REQUIREMENTS OF R18-9-A310 AND THAT IS PERFORMED BY AN ARIZONA REGISTERED PROFESSIONAL ENGINEER. THE COST OF AN ALTERNATIVE SYSTEM MAY BE SUBSTANTIALLY HIGHER THAN A CONVENTIONAL DISPOSAL SYSTEM.

20. BASED UPON PRELIMINARY SITE ANALYSIS, ADDITIONAL TREATMENT WITH TEXTILE FILTER WITH UV DISINFECTION, OR AN APPROVED EQUAL, WILL BE NECESSARY TO OVERCOME THE SITE LIMITATIONS ON EACH LOT. THE ALTERNATIVE SYSTEM SHALL BE DESIGNED BY AN ARIZONA REGISTERED PROFESSIONAL ENGINEER. THE TEXTILE FILTER AND UV DISINFECTION, OR APPROVED EQUIVALENT, SHALL MEET ALL APPLICABLE REQUIREMENTS OF A.A.C. TITLE 18 CHAPTER 9 AND SHALL INCLUDE THE FOLLOWING CRITERIA:

    1. PRODUCE EFFLUENT THAT HAS A TSS OF 15 MG/L, 30 DAY ARITHMETIC MEAN.
    2. BOD OF 15 MG/L, 30 DAY ARITHMETIC MEAN.
    3. TOTAL NITROGEN OF 30 MG/L, 5 MONTH ARITHMETIC MEAN.
    4. TOTAL COLIFORM OF 10 CFU/100 ML.
    5. UNIT SHALL INCLUDE REMOTE MONITORING CAPABILITIES.
    6. UV DISINFECTION UNIT WITH ALARM, OR APPROVED EQUIVALENT.

    DRIP IRRIGATION DISPOSAL SYSTEM SHALL MEET THE REQUIREMENTS SET FORTH IN R-18-9-E322 FOR CATEGORY.

21. TOTAL MILES OF NEW PRIVATE STREET WITHIN THIS SUBDIVISION IS 0.69 MILES. TOTAL MILES OF NEW PUBLIC STREET WITHIN THIS SUBDIVISION IS 0.00 MILES.

22. COMMON AREAS AS SHOWN ON THIS PLAT, ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND INVITES, AND ARE GRANTED AS EASEMENTS TO PIMA COUNTY AND ALL UTILITY COMPANIES FOR THE INSTALLATION AND MAINTENANCE OF UNDERGROUND UTILITIES AND PUBLIC SEWERS.

23. THE MINIMUM LOT SIZE IS 180,005 SF. THE MAXIMUM LOT SIZE IS 288,643 SF. THE AVERAGE LOT SIZE IS 231,301 SF. THESE CALCULATIONS EXCLUDE LOT 50.

24. ANY RELOCATION OR MODIFICATION OF EXISTING UTILITIES AND/OR PUBLIC IMPROVEMENTS REQUIRED BY THIS DEVELOPMENT WILL BE AT NO EXPENSE TO THE PUBLIC.

25. RD-180 DEVELOPMENT STANDARDS:
    MAXIMUM BUILDING HEIGHT = 18'. AN ELEVATOR OR SINGLE CHIMNEY MAY NOT EXCEED THIS HEIGHT BY MORE THAN AN ADDITIONAL 4'.
    MINIMUM LOT WIDTH = 175'
    MINIMUM LOT DEPTH = 200'
    SETBACKS: FRONT = 40'
    SIDE = 50'
    REAR = 50', UNLESS THE LOT ABUTS A NON-RESIDENTIAL USES.

26. NO FURTHER LOT SPLITTING OR SUBDIVIDING WILL BE DONE WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA.

27. ANNEXATION INTO NORTHWEST FIRE DISTRICT BY RESOLUTION 2005-016, A RESOLUTION OF THE NORTHWEST FIRE DISTRICT BOUNDARIES NORTH THORNYDALE ANNEXATION RECORDED IN DOCKET 12541 PAGE 441

28. DISTURBED AREAS FOR INDIVIDUAL LOTS ARE NOT TO EXCEED 27,000 SQUARE FEET, EXCLUDING DRIVEWAYS. TEMPORARY FENCING IS REQUIRED AROUND AREAS OF DISTURBANCE PRIOR TO GRADING. ALL NON DISTURBED AREAS ON LOTS ARE SUBJECT TO A NON DISTURBANCE EASEMENT. NO GRADING OF LOTS IS PERMITTED PRIOR TO ISSUANCE OF GRADING PERMIT.

29. PATIO WALLS SHALL NOT BE CONSTRUCTED ALONG THE PERIMETER OF THE INDIVIDUAL LOTS, EXCEPT ON OCCASION TO PROTECT FROM OFFSITE VIEWS OR ADJACENT TRAFFIC OR HEADLIGHTS; HOWEVER, THEY MAY BE CONSTRUCTED AT THE BOUNDARY OF THE GRADING ENVELOPE.

30. NO CUT OR FILL SLOPE SHALL EXCEED 15 FEET IN HEIGHT, MEASURED VERTICALLY FROM TOP OF SLOPE TO TOE OF SLOPE. MULTIPLE SLOPE PITCHES SHALL NOT EXCEED A TOTAL OF 15 FEET OF CUT AND 15 FEET OF FILL.

GENERAL NOTES - CONTINUED

31. ALL SLOPES HAVING A HEIGHT GREATER THAN 4 FEET SHALL BE CONSTRUCTED USING NATIVE STONE AS A PART OF A RETAINED EARTH WALL OR AS A VENEER TO A MASONRY OR CAST-IN-PLACE CONCRETE RETAINING WALL UNLESS THEY ARE CUT IN ROCK AND A GEOTECHNICAL ENGINEER CERTIFIES THEIR STABILITY. IF A RETAINED EARTH WALL IS CONSTRUCTED, THE INTERSTITIAL AREAS BETWEEN THE ROCKS SHALL BE PLANTED WITH NATIVE PLANT MATERIAL AND SHALL AT A MINIMUM INCLUDE ONE NATIVE PLANT OF A TYPE INDIGENOUS TO THE SITE FOR EVERY 20 LINEAR FEET OF WALL, IN A SIZE OF NOT LESS THAN A 24-INCH BOX. IF A ROCK VENEER ON A CONCRETE OR MASONRY RETAINING WALL IS USED, A NATIVE PLAT OF A SPECIES INDIGENOUS TO THE SITE, IN A SIZE NO LESS THAN A 24-INCH BOX, SHALL BE PLANTED EVERY 20 FEET ALONG THE BASE OF WALL. IF THE ROCK EMPLOYED IN THE VENEER OR THE FACE OF A STABLE ROCK CUT FACE IS NOT OF A PATINA MATCHING THE SURROUNDING FIELD STONE, A STAIN OR A WEATHERING TREATMENT SHALL BE APPLIED TO THE ROCK FACE. IF THE EXISTING VEGETATION ON THE LOTS AFFORDS EFFECTIVE SCREENING OF THE RETAINING WALL, THE PLANTING REQUIREMENTS MAY BE REDUCED UPON APPROVAL OF THE TOWN'S PLANNING AND ZONING DIRECTOR.

32. EASEMENTS ARE HEREBY CREATED OVER AND ACROSS EACH OF THE LOTS IN THIS SUBDIVISION FOR THE PURPOSES OF PRIVATE RECREATIONAL TRAIL PATHS AND PRIVATE HORSEBACK RIDING TRAILS, AS THOSE TERMS ARE REFERRED TO IN THE DEDICATION OF THIS PLAT AND IN ARTICLE 2, SECTION 2.5, AND IN ARTICLE 6, SECTION 6.3, OF THAT CERTAIN AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SAGUARO RANCH REFERRED TO IN THE DEDICATION OF THIS PLAT. SUCH EASEMENTS SHALL NOT BE LOCATED WITHIN THE BUILDING SITES ON THE LOTS AS APPROVED BY THE DESIGN REVIEW BOARD. THE DEVELOPER SHALL HAVE THE RIGHT TO RECORD AN INSTRUMENT MODIFYING THE LEGAL DESCRIPTIONS OF THE EASEMENTS CREATED HEREBY SUCH THAT THEY ENCOMPASS AND BURDEN ONLY THOSE PORTIONS OF A LOT OR LOTS AFFECTED BY THE PRIVATE RECREATIONAL TRAIL PATHS AND PRIVATE HORSEBACK RIDING TRAILS "AS BUILT".

33. ALL NEW UTILITIES AND ALL EXISTING UTILITIES, EXCEPT ELECTRICAL TRANSMISSION LINES CARRYING 69 KV OR MORE, WITHIN OR CONTIGOUS TO THIS SITE, SHALL BE PLACED UNDERGROUND.

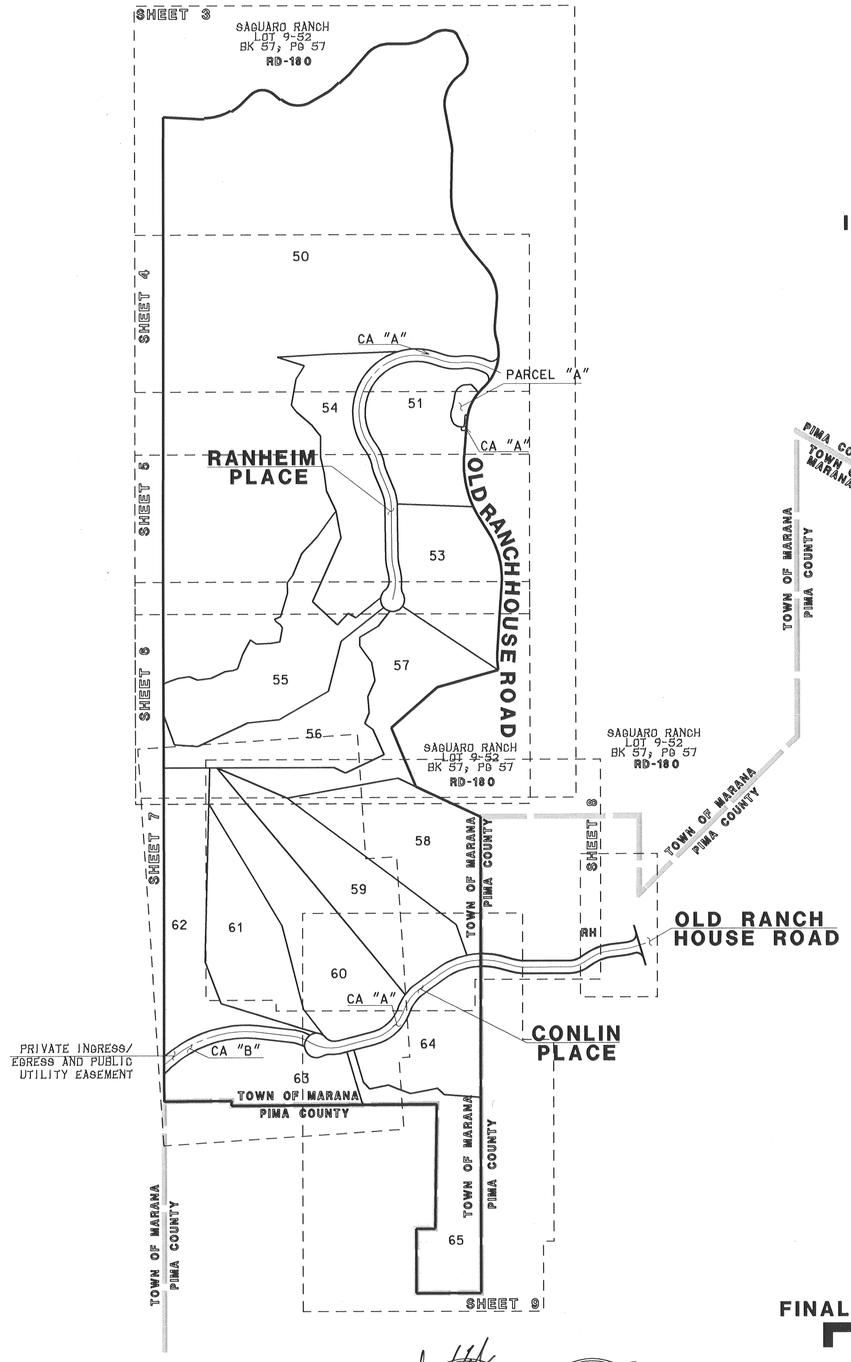
34. EXCEPT FOR CONSTRUCTION AND IMPROVEMENTS BY GOVERNMENTAL ENTITIES AND CERTIFIED PUBLIC UTILITIES, CONSTRUCTION AND IMPROVEMENTS WITHIN EASEMENTS SHALL BE LIMITED TO ONLY THE FOLLOWING:
    (i) WOOD, WIRE OR REMOVABLE SECTION TYPE FENCING.
    (ii) CONSTRUCTION, STRUCTURES OR BUILDINGS EXPRESSLY APPROVED IN WRITING BY ALL PUBLIC UTILITIES AND THE TOWN OF MARANA WHICH USE THE UTILITY EASEMENT.

35. PROPERTY SUBJECT TO THE FOLLOWING:

    RESERVATIONS CONTAINED IN THE PATENT FROM THE UNITED STATES OF AMERICA RECORDED IN DOCKET 154, PAGE 262, DOCKET 640, PAGE 362, DOCKET 679, PAGE 450, DOCKET 699, PAGE 157 AND DOCKET 1477, PAGE 386.

    EASEMENTS, RESTRICTIONS, RESERVATIONS AND CONDITIONS AS SET FORTH IN BOOK 57, PAGE 57 OF MAPS AND PLATS.

    EASEMENTS AND RIGHTS SET FORTH IN DOCKET 12581, PAGE 1 AND DOCKET 12676, PAGE 7068.



SCALE: 1" = 300'

INDEX MAP

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
17479
DOUGLAS E. SCHNEIDER
10/25/06
Date Signed
ARIZONA U.S.A.

Registered Professional Engineer
CERTIFICATE NO.
40063
DAVID G. LAREDO
Date Signed
ARIZONA U.S.A.

RELATED CASES:
PCZ-02047
PRV-03072f

FINAL PLAT FOR

SAGUARO RANCH II

LOTS 50, 51, & 53-65, PARCEL "A"
& COMMON AREAS "A" & "B"

A RESUBDIVISION OF LOTS 50 & 51, PARCEL "A", BLOCK 1 & A PORTION OF COMMON AREA "A" OF SAGUARO RANCH LOTS 9-52, BLOCKS 1, 2, 3, & 4, PARCEL "A", COMMON AREAS "A"&"B" AS RECORDED IN BOOK 57, PG 57, G & SRM, TOWN OF MARANA, PIMA COUNTY, ARIZONA.

PRV-04058f
SHEET 2 OF 10

RICK ENGINEERING COMPANY
Tucson Phoenix San Diego Riverside Orange Sacramento
1745 EAST RIVER ROAD - SUITE 101
TUCSON, AZ 85718
520.795.1000
(FAX) 520.322.6956
rickengineering.com

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Council-Regular Meeting **C5**

Meeting Date: 08/01/2023

To: Mayor and Council

Submitted For: Jason Angell, Development Services Director

From: Dustin Ward, Development Engineering Division Manager

Date: August 1, 2023

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2023-075: Relating to Development; approving a release of assurances for Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Boulder Bridge Pass III at Dove Mountain, Lots 25 and 26, and Boulder Bridge Pass IV at Dove Mountain, Lots 73-78 (Jason Angell)

Discussion:

Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Block "A" (Future Residential) and Common Areas "A" (Private Streets) and "B" (Open Space/Drainage) is located off Dove Mountain Blvd. and Dove Mountain Resort. The final plat was recorded in the Pima County Recorder's Office on March 6, 2020, at Sequence Number 20200660137. Block "A" (Future Residential) was subsequently re-platted as "Boulder Bridge Pass IV at Dove Mountain, Lots 73-78 and Common Area "B" (Open Space/Drainage), as recorded in the Pima County Recorder's Office on April 14, 202 at Sequence 20201050245.

The Town has a third-party trust assurance agreement assuring the completion of improvements needed to serve Boulder Bridge Pass III and Boulder Bridge Pass IV. The Town also has a substitute assurance agreement assuring the completion of improvements for Lots 25 and 26 of Boulder Bridge Pass III at Dove Mountain. The subdivider has completed the improvements serving Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Lots 25 and 26 of Boulder Bridge Pass III at Dove Mountain, and Boulder Bridge Pass IV at Dove Mountain, Lots 73-78 acceptable to town standards in accordance with the assurance agreements.

If approved, this resolution will release the assurances for Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Lots 25 and 26 of Boulder Bridge Pass III at Dove Mountain, and Boulder Bridge Pass IV at Dove Mountain, Lots 73-78.

Staff Recommendation:

Staff recommends the approval of Resolution No. 2023-075.

Suggested Motion:

I move to adopt Resolution No. 2023-075, approving a release of assurances for Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Boulder Bridge Pass III at Dove Mountain, Lots 25 and 26, and Boulder Bridge Pass IV at Dove Mountain, Lots 73-78.

Attachments

Resolution No. 2023-075

Boulder Bridge Pass III Final Plat

Boulder Bridge Pass IV Final Plat

MARANA RESOLUTION NO. 2023-075

RELATING TO DEVELOPMENT; APPROVING A RELEASE OF ASSURANCES FOR BOULDER BRIDGE PASS III AT DOVE MOUNTAIN, LOTS 1-72, BOULDER BRIDGE PASS III AT DOVE MOUNTAIN, LOTS 25 AND 26, AND BOULDER BRIDGE PASS IV AT DOVE MOUNTAIN, LOTS 73-78

WHEREAS the final plat for Boulder Bridge Pass III at Dove Mountain, Lots 1-72, Block "A" (Future Residential) and Common Areas "A" (Private Streets) and "B" (Open Space/Drainage) was recorded in the Pima County Recorder's Office on March 6, 2020 at Sequence 20200660137; and

WHEREAS Block "A" (Future Residential) was subsequently re-subdivided as "Boulder Bridge Pass IV at Dove Mountain, Lots 73-78 and Common Area "B" (Open Space/Drainage), recorded in the Pima County Recorder's Office on April 14, 2020 at Sequence 20201050245; and

WHEREAS the Town has a third party trust assurance agreement (the "Assurance Agreement") with Dove Mountain Investors, LLC and Landmark Title Assurance Agency of Arizona, under Trust No. 18355-T, recorded in the Pima County Recorder's office on Feb 14, 2020 at Sequence 20200660154, assuring the completion of improvements for Boulder Bridge Pass III at Dove Mountain and Boulder Bridge Pass IV at Dove Mountain; and

WHEREAS the Town has a substitute third party trust assurance agreement (the "Substitute Assurance Agreement") with Dove Land Holdings, LLC and Title Security Agency, LLC, under Trust No. 202051-S, recorded in the Pima County Recorder's office on June 29, 2020 at Sequence 20201810351, assuring the completion of improvements for Lots 25 and 26 of Boulder Bridge Pass III at Dove Mountain; and

WHEREAS the improvements for Boulder Bridge Pass III at Dove Mountain, Boulder Bridge Pass IV at Dove Mountain, and Lots 25 and 26 Boulder Bridge Pass III at Dove Mountain have been completed acceptable to Town standards in accordance with the Assurance Agreement and Substitute Assurance Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Marana as follows:

Section 1. The Assurance Agreement and the Substitute Assurance Agreement are hereby released.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

Location Map

DEDICATION

WE THE UNDERSIGNED, HEREBY WARRANT THAT WE ARE, AS OF THE DATE THIS PLAT IS RECORDED, ALL AND THE ONLY PARTIES HAVING ANY FEE TITLE INTEREST IN THE LAND SHOWN ON THIS PLAT, AND WE CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON. UTILITY AND OTHER EASEMENTS AS SHOWN HEREON ARE GRANTED TO THE TOWN OF MARANA, PIMA COUNTY AND ALL UTILITY COMPANIES FOR THE PURPOSE OF ACCESS TO, INSTALLATION, AND MAINTENANCE OF UTILITIES AND OTHER USES AS DEFINED BY THIS PLAT.

WE, THE UNDERSIGNED, OUR SUCCESSORS AND ASSIGNS, DO HEREBY HOLD THE TOWN OF MARANA, ITS EMPLOYEES, OFFICERS, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF SAID LANDS NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOWAGE, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE, FLOOD OR RAINFALL. IT IS FURTHER UNDERSTOOD AND AGREED THAT NATURAL DRAINAGE SHALL NOT BE ALTERED, DISTURBED OR OBSTRUCTED WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA.

ALL COMMON AREAS AS SHOWN HEREON ARE RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND INVITEES, AND ARE GRANTED AS EASEMENTS TO THE TOWN OF MARANA, PIMA COUNTY AND ALL UTILITY COMPANIES FOR THE PURPOSE OF ACCESS TO, INSTALLATION AND MAINTENANCE OF SLOPE AND DRAINAGE IMPROVEMENTS, UTILITIES AND PRIVATE SEWERS. TITLE TO THE LAND OF ALL COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED IN DOCKET 10660, PAGE 1083, PIMA COUNTY RECORDS, AS MODIFIED BY THE SUPPLEMENTARY DECLARATION RECORDED AT SEQUENCE NUMBER 20143000308, PIMA COUNTY RECORDS, THE TRACT DECLARATION RECORDED AT SEQUENCE NUMBER 20143000309, PIMA COUNTY RECORDS, THE SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS RECORDED AT SEQUENCE NUMBER 20200660155, PIMA COUNTY RECORDS AND THE FIRST AMENDMENT TO TRACT DECLARATION RECORDED AT SEQUENCE NUMBER ~~20200660154~~ 20200660156 PIMA COUNTY RECORDS. EACH AND EVERY LOT OWNER WITHIN THE SUBDIVISION SHALL BE A MEMBER OF THE ASSOCIATION, WHICH WILL ACCEPT RESPONSIBILITY FOR THE CONTROL, MAINTENANCE, SAFETY AND LIABILITY FOR ALL COMMON AREAS WITHIN THIS SUBDIVISION, AS SHOWN HEREON.

LANDMARK TITLE ASSURANCE AGENCY OF ARIZONA, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS TRUSTEE UNDER TRUST NO. 18355-T AND NOT IN ITS CORPORATE CAPACITY.

TRUST OFFICER

BENEFICIARY OF LANDMARK TITLE TRUST NO. 18355-T

TRUST #18355 BENEFICIARY: DOVE MOUNTAIN INVESTORS, L.L.C.

ADDRESS: C/O COTTONWOOD PROPERTIES, INC.
3567 E. SUNRISE DRIVE, SUITE #219, TUCSON, ARIZONA 85718

ACKNOWLEDGEMENT

STATE OF ARIZONA } S.S.
COUNTY OF PIMA

ON THIS, THE 14th DAY OF Feb, 2020 BEFORE ME PERSONALLY APPEARED DIANE L SLOPAK WHO ACKNOWLEDGED HIMSELF/HERSELF TO BE THE TRUST OFFICIAL OF LANDMARK TITLE ASSURANCE AGENCY OF ARIZONA, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS TRUSTEE UNDER TRUST NO. 18355-T, AND NOT IN ITS CORPORATE CAPACITY, AND ACKNOWLEDGED THAT HE/SHE, AS THE TRUST OFFICIAL, BEING AUTHORIZED TO DO SO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE(S) THEREIN CONTAINED.

IN WITNESS WHEREOF: I HEREBY SET MY NAME AND OFFICIAL SEAL.

NOTARY PUBLIC

MY COMMISSION EXPIRES: 9-23-2023

NOTARY PUBLIC
STATE OF ARIZONA
Pima County
TAYLOR BARNES
COMMISSION # 571151
My Commission Expires September 23, 2023

ASSURANCES

ASSURANCES IN THE FORM OF A THIRD PARTY TRUST AGREEMENT FROM LANDMARK TITLE ASSURANCE AGENCY OF ARIZONA, L.L.C., TRUST NO. 18355-T, AS RECORDED IN SEQUENCE NO. 20200660154, HAVE BEEN PROVIDED TO GUARANTEE INSTALLATION OF REQUIRED STREET, SEWER, ELECTRIC, GAS, AND WATER UTILITIES, DRAINAGE, FLOOD CONTROL, AND OTHER SUBDIVISION IMPROVEMENTS MEETING ESTABLISHED MINIMUM STANDARDS OF DESIGN AND CONTRUCTION.

BY: _____ DATE: 3/3/2020
TOWN OF MARANA

ASSURED WATER SUPPLY

THE UNDERSIGNED CERTIFIES THAT IT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY, AND WILL PROVIDE WATER SERVICE TO THIS SUBDIVISION.

BY: _____
ITS: N.A.D. ADMINISTRATOR DATE: 02/11/2020
CITY OF TUCSON WATER DEPARTMENT

GENERAL NOTES

1. THE GROSS AREA OF THIS SUBDIVISION IS 39.4 ACRES (1,716,734.3 S.F.).
2. THE TOTAL NUMBER OF LOTS IS 72.
   THE TOTAL NUMBER OF BLOCKS IS 1.
3. THE TOTAL AREA OF COMMON AREA "A" (PRIVATE STREETS) IS 4.8 ACRES (211,185 S.F.)
   THE TOTAL AREA OF COMMON AREA "B" (OPEN SPACE/DRAINAGE) IS 9.0 ACRES (395,030 S.F.)
4. TOTAL MILES OF NEW PRIVATE STREETS IS 0.8. TOTAL MILES OF NEW PUBLIC STREET IS 0.0,
5. MINIMUM ALLOWABLE LOT SIZE: 6,000 SF REQUIRED (PER THE DOVE MOUNTAIN SPECIFIC PLAN)
   AVERAGE LOT SIZE: 11,735 SF PROVIDED
   MINIMUM PROVIDED LOT SIZE 10,351 SF (LOT 59) – NOT A RESTRICTION)
   MAXIMUM PROVIDED LOT SIZE 14,651 SF (LOT 65) – NOT A RESTRICTION
   MAXIMUM ALLOWABLE BUILDING HEIGHT IS 35' FOR "LDR"
7. BUILDING SETBACKS PER THE DOVE MOUNTAIN SPECIFIC PLAN ARE AS FOLLOWS:
   FRONT: 20 FEET REAR: 15 FEET
   SIDE: 5 FEET CORNER: 20 FEET
8. THIS SUBDIVISION SHALL COMPLY WITH THE CONDITIONS SET FORTH IN THE DOVE MOUNTAIN SPECIFIC PLAN APPROVED MARCH 25, 2000, PER ORDINANCE 2000.04, AND SUBSEQUENT AMENDMENTS TO DATE.
9. PROJECT AREA IS ZONED F – DOVE MOUNTAIN SPECIFIC PLAN.
10. THE EXISTING LAND USE DESIGNATION IS "LDR," IN ACCORDANCE WITH THE DOVE MOUNTAIN SPECIFIC PLAN ZONING AND WILL REMAIN (AS GOVERNED BY THE SPECIFIC PLAN AS ADOPTED AND AMENDED).
11. THE GROSS DENSITY FOR THIS PROJECT IS 1.8 RAC.
12. NO FURTHER SUBDIVIDING OR LOT SPLITTING OR SUBDIVIDING SHALL BE DONE WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA.
13. APPROVAL OF THIS PLAT DOES NOT AFFIRM, CERTIFY OR APPROVE ANY LAND DIVISION THAT MAY BE CONTRARY TO STATE LAW, NOR DOES IT CERTIFY THE EXISTENCE OF, OR COMPLIANCE WITH, ANY DEED RESTRICTIONS OR EASEMENTS.
14. OBJECTS AND MATERIALS WITHIN SIGHT VISIBILITY TRIANGLES SHALL BE PLACED SO AS NOT TO INTERFERE WITH A VISIBILITY PLANE DESCRIBED BY TWO HORIZONTAL LINES LOCATED 30 INCHES AND 72 INCHES ABOVE FINISHED GRADE IOF THE ADJACENT ROADWAY SURFACE, AND SHALL CONFORM TO THE TOWN OF MARANA SUBDIVISION STREET STANDARDS.
15. THE PROFESSIONAL ENGINEER OF RECORD SHALL CERTIFY AS TO THE FORM, LINE AND FUNCTION OF ALL PUBLIC AND PRIVATE ROADWAYS AND PRIVATE DRAINAGE STRUCTURES BEFORE THE RELEASE OF ASSURANCES.
16. THE AREA BETWEEN 100-YEAR FLOOD LIMITS REPRESENTS AN AREA THAT MAY BE SUBJECT TO FLOODING FROM A 100-YEAR FREQUENCY FLOOD AND ALL LAND IN THIS AREA WILL BE RESTRICTED TO USES THAT ARE COMPATIBLE WITH THE FLOOD PLAIN MANAGEMENT AS APPROVED BY THE FLOOD PLAIN ADMINISTRATOR.
17. ALL NEW AND EXISTING UTILITIES EXCEPT ELECTRICAL TRANSMISSION LINES CARRYING 48 KV OR GREATER, AND THOSE LINES WHICH CAN BE SHOWN TO EXIST IN CURRENT OR FUTURE ELECTRICAL TRANSMISSION CORRIDORS, WITHIN OR CONTIGUOUS TO THE SITE, SHALL BE PLACED UNDERGROUND.
18. THERE WILL BE TWO PARKING SPACES PROVIDED FOR EACH LOT ON SITE, OFF-STREET.
19. THIS SUBDIVISION IS SUBJECT TO THE MASTER DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR DOVE MOUNTAIN AS RECORDED IN DOCKET 10660 AT PAGE 1083 AS AMENDED BY SUPPLEMENTARY DECLARATION RECORDED IN SEQUENCE NUMBER 20143000308.
20. THIS SUBDIVISION IS SUBJECT TO THE TRACT DECLARATION AS RECORDED IN SEQUENCE NUMBER 20143000309.
21. BASIS OF BEARING FOR THIS PROJECT IS THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 16, T-11-S, R-12-E, SAID BEARING BEING S00°10'26"W. SEE DETAIL, SHEET #3.
22. LOTS 1 THROUGH 72 WILL BE EQUIPPED WITH AUTOMATIC FIRE SPRINKLERS.
23. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF TUCSON SERVICE AREA, WHICH HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER A.R.S. 45-576.

RECORDING DATA

STATE OF ARIZONA } S.S.
COUNTY OF PIMA

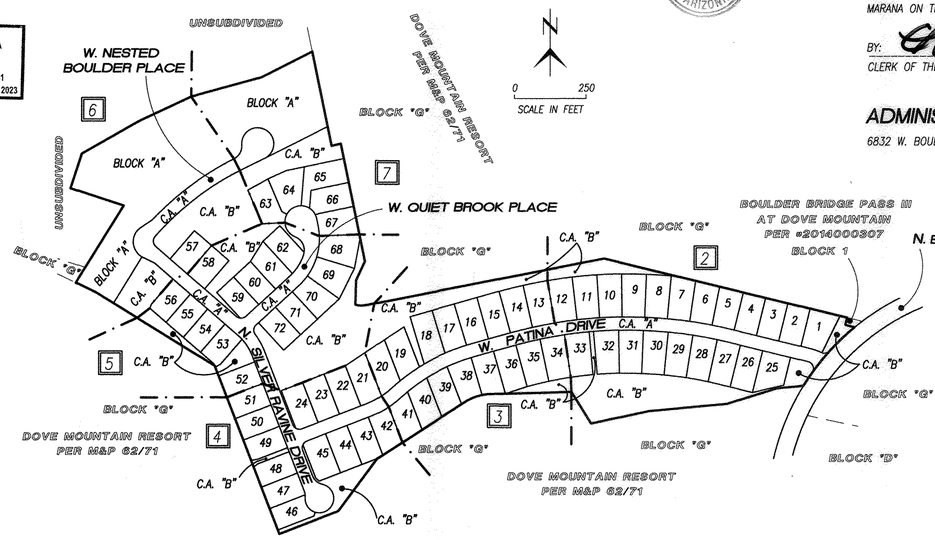
FEE $74.00
SEQUENCE NO. 20200660137

THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF BAKER AND ASSOCIATES ENGINEERING, INC. ON THIS 6th DAY OF March, 20 20, AT 9:49 A.M. IN SEQUENCE NO. 20200660137 THEREOF.

F. ANN RODRIGUEZ
PIMA COUNTY RECORDER BY DEPUTY

3-6-20
DATE

PIMA COUNTY RECORDER ARIZONA



COMPOSITE DETAIL

CERTIFICATIONS

I HEREBY CERTIFY THAT THE BOUNDARY SURVEY AS SHOWN ON THIS PLAT WAS PERFORMED UNDER MY DIRECTION AND THAT ALL EXISTING OR PROPOSED SURVEY MONUMENTS AND MARKERS SHOWN ARE CORRECTLY DESCRIBED.

CHRIS E. MORRISON
OPW SURVEYING, LLC
REGISTERED LAND SURVEYOR NO. 26928
STATE OF ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 26928 CHRIS E. MORRISON Date Signed 02/11/2020 ARIZONA, U.S.A.

I HEREBY CERTIFY THAT THE INTERIOR SUBDIVISION GEOMETRY FOR THIS PLAT WAS REVIEWED AND SHOWN UNDER MY SUPERVISION.

WILLIAM H. BAKER, JR.
BAKER & ASSOCIATES ENGINEERING, INC.
REGISTERED LAND SURVEYOR NO. 16784
STATE OF ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 16784 WILLIAM H. BAKER, JR. Date Signed 2-11-20 ARIZONA, U.S.A.

I HEREBY CERTIFY THAT THE FLOODPRONE LIMITS AND EROSION HAZARD SETBACKS WERE REVIEWED AND SHOWN UNDER MY SUPERVISION.

LARRY K. ROBERTS
ARROYO ENGINEERING, L.L.C.
REGISTERED ENGINEER NO. 25331
STATE OF ARIZONA

REGISTERED Professional ENGINEER CERTIFICATE NO. 25331 LARRY K. ROBERTS Date Signed 2-11-20 ARIZONA, U.S.A.

TOWN OF MARANA APPROVALS

BY: _____ P.E. 3-4-20
MARANA TOWN/DEVELOPMENT ENGINEER DATE

BY: _____ 3-9-2020
MARANA DEVELOPMENT SERVICES DIRECTOR DATE

PIMA COUNTY APPROVAL

BY: _____ 2/11/2020
PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DEPARTMENT DATE

CERTIFICATION

I, Cherry L. Lawson, CLERK OF THE TOWN OF MARANA, HEREBY CERTIFY THAT THIS PLAT WAS APPROVED BY THE TOWN COUNCIL OF THE TOWN OF MARANA ON THE 3 DAY OF MARCH, 2020.

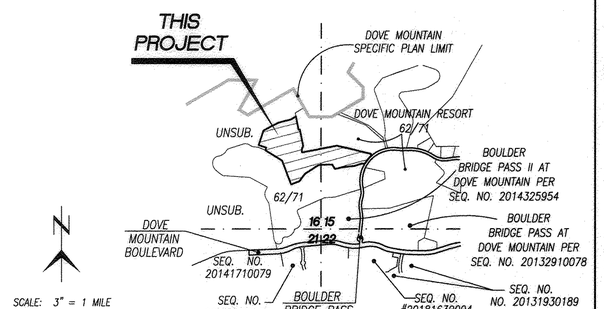
BY: _____ 3/3/2020
CLERK OF THE TOWN OF MARANA DATE

ADMINISTRATIVE ADDRESS

6832 W. BOULDER BRIDGE PASS, MARANA, ARIZONA 85658

FOR INTERIOR LINEWORK ONLY

REGISTERED LAND SURVEYOR CERTIFICATE NO. 16784 WILLIAM H. BAKER, JR. Date Signed 2-11-20 ARIZONA, U.S.A.



LOCATION PLAN

PORTIONS OF SECTIONS 15 AND 16, T11S, R12E, G&SRB&M, TOWN OF MARANA, PIMA COUNTY, ARIZONA

LEGEND

▲	SURVEY MONUMENT TO BE SET BY REGISTERED LAND SURVEYOR PER TOWN OF MARANA STANDARD DETAIL M-103B
△	SURVEY MONUMENT TO BE SET
●	PROPERTY CORNER (5/8" REBAR TAGGED "RLS 26928")
⊥ OR ⊸	SURVEY MONUMENT TO BE SET BY A REGISTERED LAND SURVEYOR
———	SUBDIVISION BOUNDARY
C23	CURVE DATA (SEE SHEET #6)
L10	LINE DATA (SEE SHEET #7)
☆	ADDRESSING/ACCESS LOCATION
———	NEW RIGHT-OF-WAY LINE
— — R/W — —	EXISTING RIGHT-OF-WAY LINE
—— - ——	STREET CENTERLINE
— — — —	EASEMENT LINE AS SHOWN (SEE ALSO "EASEMENT KEYNOTES," SHEETS #2 – #7)
——·—·——	DEVELOPED OR EXISTING 100 YEAR FLOODPRONE LINE ("F.P.L.") – SEE PLAN VIEW
—— - - ——	DEVELOPED EROSION SETBACK LINE ("E.S.L.")
(R)	RADIAL
⟋ ⟍	SIGHT VISIBILITY TRIANGLE LINE – SEE EASEMENT KEYNOTES AND DETAILS, SHEETS #4 AND #5

(a) County of Recordation PIMA
(b) Date of Recording 03/06/2020
(c) Fee/Recording Number 20200660137

Maps not picked up in 45 days will be recycled. 3-6-20 MB

SEQUENCE # 20200660137-1

AMENDED FINAL PLAT for

BOULDER BRIDGE PASS III AT DOVE MOUNTAIN, LOTS 1 - 72, BLOCK "A" (FUTURE RESIDENTIAL) AND COMMON AREAS "A" (PRIVATE STREETS) AND "B" (OPEN SPACE/DRAINAGE)

BEING A RESUBDIVISION OF LOTS 1–99, BLOCK "2" AND COMMON AREAS "A" AND "B", AS RECORDED IN BOULDER BRIDGE PASS III AT DOVE MOUNTAIN, SEQUENCE #20143000307 AND A RESUBDIVISION OF A PORTION OF BLOCK "G", AS RECORDED IN DOVE MOUNTAIN RESORT, M&P 62/71, AND A SUBDIVISION OF A PORTION OF SECTION 16, T11S, R12E, G&SRBM, TOWN OF MARANA, PIMA COUNTY, ARIZONA

Baker & Associates Engineering, Inc.
3561 E. Sunrise Drive, Suite #225 Tucson, Arizona 85718 (520) 318-1950 Fax (520) 318-1930

#PRV-1911-001 REF.: #PRV-06012F; PRV-14009F JOB #2235.11B DATE: FEBRUARY 10, 2020 SHEET 1 OF 7

SEQUENCE # 20200660137-1

Location Map

DEDICATION

WE THE UNDERSIGNED, HEREBY WARRANT THAT WE ARE, AS OF THE DATE THIS PLAT IS RECORDED, ALL AND THE ONLY PARTIES HAVING ANY TITLE INTEREST IN THE LAND SHOWN ON THIS PLAT, AND WE CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON. UTILITY AND OTHER EASEMENTS AS SHOWN HEREON ARE GRANTED TO THE TOWN OF MARANA, PIMA COUNTY AND ALL UTILITY COMPANIES FOR THE PURPOSE OF ACCESS TO, INSTALLATION, AND MAINTENANCE OF UTILITIES AND OTHER USES AS DEFINED BY THIS PLAT.

COMMON AREA "B" AS SHOWN HEREON IS RESERVED FOR THE PRIVATE USE AND CONVENIENCE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND INVITEES, AND IS GRANTED AS AN EASEMENT TO THE TOWN OF MARANA, PIMA COUNTY AND ALL UTILITY COMPANIES FOR THE PURPOSE OF ACCESS TO, INSTALLATION AND MAINTENANCE OF SLOPE AND DRAINAGE IMPROVEMENTS, UTILITIES AND PRIVATE SEWERS. TITLE TO THE LAND OF COMMON AREAS SHALL BE VESTED IN AN ASSOCIATION OF INDIVIDUAL LOT OWNERS AS ESTABLISHED BY THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED IN DOCKET 10660, PAGE 1083, PIMA COUNTY RECORDS, AS MODIFIED BY THE SUPPLEMENTARY DECLARATION RECORDED AT SEQUENCE NUMBER 20143000308, PIMA PIMA COUNTY RECORDS, THE TRACT DECLARATION RECORDED AT SEQUENCE NUMBER 20143000309, PIMA COUNTY RECORDS, THE SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AT SEQUENCE NUMBER 20200660155, PIMA COUNTY RECORDS AND THE FIRST AMENDMENT TO TRACT DECLARATION RECORDED AT SEQUENCE NUMBER 20200660156, PIMA COUNTY RECORDS. EACH AND EVERY LOT OWNER WITHIN THE SUBDIVISION SHALL BE A MEMBER OF THE ASSOCIATION, WHICH WILL ACCEPT RESPONSIBILITY FOR THE CONTROL, MAINTENANCE, SAFETY AND LIABILITY FOR COMMON AREA "B" WITHIN THIS SUBDIVISION, AS SHOWN HEREON.

WE, THE UNDERSIGNED, OUR SUCCESSORS AND ASSIGNS, DO HEREBY HOLD HARMLESS THE TOWN OF MARANA, THEIR EMPLOYEES, OFFICERS, AND AGENTS HARMLESS FROM ANY AND ALL CLAIMS FOR DAMAGES RELATED TO THE USE OF SAID LANDS NOW AND IN THE FUTURE BY REASON OF FLOODING, FLOWAGE, EROSION, OR DAMAGE CAUSED BY WATER, WHETHER SURFACE, FLOOD OR RAINFALL. IT IS FURTHER UNDERSTOOD AND AGREED THAT NATURAL DRAINAGE SHALL NOT BE ALTERED, DISTURBED OR OBSTRUCTED WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA.

LANDMARK TITLE ASSURANCE AGENCY OF ARIZONA, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS TRUSTEE UNDER TRUST NOS. 18355-T, AND NOT IN ITS CORPORATE CAPACITY.

Dawn Shaw

TRUST OFFICER

BENEFICIARY OF LANDMARK TITLE TRUST NO. 18355-T

TRUST #18355-T BENEFICIARY: DOVE MOUNTAIN INVESTORS, L.L.C.

ADDRESS: C/O COTTONWOOD PROPERTIES, INC.
3567 E. SUNRISE DRIVE, SUITE #219, TUCSON, ARIZONA 85718

ACKNOWLEDGMENT

STATE OF ARIZONA } S.S.
COUNTY OF PIMA

ON THIS, THE 2nd DAY OF April, 2020 BEFORE ME PERSONALLY APPEARED DAWN L SHAW WHO ACKNOWLEDGED HIMSELF/HERSELF TO BE THE TRUST OFFICIAL OF LANDMARK TITLE ASSURANCE AGENCY OF ARIZONA, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, AS TRUSTEE UNDER TRUST NO. 18355-T AND NOT IN ITS CORPORATE CAPACITY, AND ACKNOWLEDGED THAT HE/SHE, AS THE TRUST OFFICIAL, BEING AUTHORIZED TO DO SO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE(S) THEREIN CONTAINED.

IN WITNESS WHEREOF: I HEREBY SET MY NAME AND OFFICIAL SEAL.

Taylor Barnes

NOTARY PUBLIC

MY COMMISSION EXPIRES: 9/23/2023

NOTARY PUBLIC
STATE OF ARIZONA
Pima County
TAYLOR BARNES
COMMISSION # 571151
My Commission Expires September 23, 2023

ASSURANCES

ASSURANCES IN THE FORM OF A THIRD PARTY TRUST AGREEMENT FROM LANDMARK TITLE ASSURANCE AGENCY OF ARIZONA, L.L.C., TRUST NO. 18355-T, AS RECORDED IN SEQUENCE NO. 20200660154, HAVE BEEN PROVIDED TO GUARANTEE INSTALLATION OF REQUIRED STREET, SEWER, ELECTRIC, GAS, AND WATER UTILITIES, DRAINAGE, FLOOD CONTROL, AND OTHER SUBDIVISION IMPROVEMENTS MEETING ESTABLISHED MINIMUM STANDARDS OF DESIGN AND CONTRUCTION. THE AREA ON THIS PLAT IS REFERRED TO AS BLOCK A ON THE BOULDER BRIDGE PASS III AMENDED PLAT AND IN THE ASSURANCE AGREEMENT.

BY: [signature] DATE: 4-11-20
TOWN OF MARANA

ASSURED WATER SUPPLY

THE UNDERSIGNED CERTIFIES THAT IT IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY, AND WILL PROVIDE WATER SERVICE TO THIS SUBDIVISION.

BY: Richard A. Sarti
ITS: NEW DEVELOPMENT ADMINISTRATOR DATE: 4/6/2020
CITY OF TUCSON WATER DEPARTMENT

GENERAL NOTES

1. THE GROSS AREA OF THIS SUBDIVISION IS 6.0 ACRES (265,701 S.F.).
2. THE TOTAL NUMBER OF LOTS IS 6.
3. THE TOTAL AREA OF COMMON AREA "B" (OPEN SPACE/DRAINAGE) IS 0.1 ACRES (6056 S.F.)
4. TOTAL MILES OF NEW PRIVATE STREETS IS 0.0.
   TOTAL MILES OF NEW PUBLIC STREETS IS 0.0.
5. MINIMUM ALLOWABLE LOT SIZE: 6,000 SF REQUIRED (PER THE DOVE MOUNTAIN SPECIFIC PLAN)
   AVERAGE LOT SIZE: 43,275 SF PROVIDED
   MINIMUM PROVIDED LOT SIZE 31,838 SF (LOT 73) – NOT A RESTRICTION)
   MAXIMUM PROVIDED LOT SIZE 50,816 SF (LOT 74) – NOT A RESTRICTION
   MAXIMUM ALLOWABLE BUILDING HEIGHT IS 35' FOR "LDR"
7. BUILDING SETBACKS PER THE DOVE MOUNTAIN SPECIFIC PLAN ARE AS FOLLOWS:
   FRONT: 20 FEET REAR: 15 FEET
   SIDE: 5 FEET CORNER: 20 FEET
8. THIS SUBDIVISION SHALL COMPLY WITH THE CONDITIONS SET FORTH IN THE DOVE MOUNTAIN SPECIFIC PLAN APPROVED MARCH 25, 2000 PER ORDINANCE 2000.04 AND SUBSEQUENT AMENDMENTS TO DATE.
9. PROJECT AREA IS ZONED F – DOVE MOUNTAIN SPECIFIC PLAN.
10. THE EXISTING LAND USE DESIGNATION IS "LDR," IN ACCORDANCE WITH THE DOVE MOUNTAIN SPECIFIC PLAN ZONING AND WILL REMAIN (AS GOVERNED BY THE SPECIFIC PLAN AS ADOPTED AND AMENDED).
11. THE GROSS DENSITY FOR THIS PROJECT IS 1.0 RAC.
12. NO FURTHER LOT SPLITTING OR SUBDIVIDING SHALL BE DONE WITHOUT THE WRITTEN APPROVAL OF THE TOWN OF MARANA.
13. APPROVAL OF THIS PLAT DOES NOT AFFIRM, CERTIFY OR APPROVE ANY LAND DIVISION THAT MAY BE CONTRARY TO STATE LAW, NOR DOES IT CERTIFY THE EXISTENCE OF, OR COMPLIANCE WITH, ANY DEED RESTRICTIONS OR EASEMENTS.
14. THE PROFESSIONAL ENGINEER OF RECORD SHALL CERTIFY AS TO THE FORM, LINE AND FUNCTION OF ALL PUBLIC AND PRIVATE ROADWAYS AND PRIVATE DRAINAGE STRUCTURES BEFORE THE RELEASE OF ASSURANCES.
15. THE AREA BETWEEN 100-YEAR FLOOD LIMITS REPRESENTS AN AREA THAT MAY BE SUBJECT TO FLOODING FROM A 100-YEAR FREQUENCY FLOOD AND ALL LAND IN THIS AREA WILL BE RESTRICTED TO USES THAT ARE COMPATIBLE WITH THE FLOOD PLAIN MANAGEMENT AS APPROVED BY THE FLOOD PLAIN ADMINISTRATOR.
16. ALL NEW AND EXISTING UTILITIES EXCEPT ELECTRICAL TRANSMISSION LINES CARRYING 48 KV OR GREATER, AND THOSE LINES WHICH CAN BE SHOWN TO EXIST IN CURRENT OR FUTURE ELECTRICAL TRANSMISSION CORRIDORS, WITHIN OR CONTIGUOUS TO THE SITE, SHALL BE PLACED UNDERGROUND.
17. THERE WILL BE TWO PARKING SPACES PROVIDED FOR EACH LOT ON SITE, OFF-STREET.
18. THIS SUBDIVISION IS SUBJECT TO THE MASTER DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR DOVE MOUNTAIN AS RECORDED IN DOCKET 10660 AT PAGE 1083 AS AMENDED BY SUPPLEMENTARY DECLARATION RECORDED IN SEQUENCE NUMBER 20143000308.
19. THIS SUBDIVISION IS SUBJECT TO THE TRACT DECLARATION AS RECORDED IN SEQUENCE NUMBER 20143000309.
20. BASIS OF BEARING FOR THIS PROJECT IS THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 16, T-11-S, R-12-E, SAID BEARING BEING S00°10'26"W. SEE DETAIL, SHEET #2.
21. LOTS 73 THROUGH 78 WILL BE EQUIPPED WITH AUTOMATIC FIRE SPRINKLERS.
22. THIS SUBDIVISION IS LOCATED WITHIN THE CITY OF TUCSON SERVICE AREA, WHICH HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER A.R.S. 45-576.

RECORDING DATA

STATE OF ARIZONA } S.S.
COUNTY OF PIMA

FEE $34.00
SEQUENCE NO. 20201050245

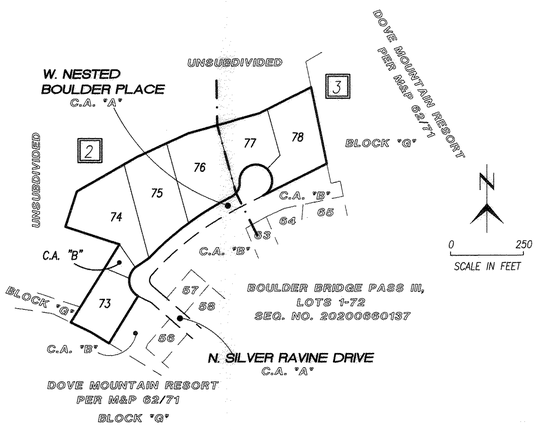
COUNTY RECORDER PIMA COUNTY ARIZONA

THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF BAKER AND ASSOCIATES ENGINEERING, INC., ON THIS 14TH DAY OF April, 20 20, AT 12:24 PM. IN SEQUENCE NO. 20201050245 THEREOF.

F. ANN RODRIGUEZ
PIMA COUNTY RECORDER BY DEPUTY

April 15, 2020
DATE

Maps not picked up in 45 days will be recycled. 4-14-20



COMPOSITE DETAIL

(a) County of Recordation PIMA
(b) Date of Recording 04/14/2020
(c) Fee/Recording Number 20201050245

CERTIFICATIONS

I HEREBY CERTIFY THAT THE BOUNDARY SURVEY AS SHOWN ON THIS PLAT WAS PERFORMED UNDER MY DIRECTION AND THAT ALL EXISTING OR PROPOSED SURVEY MONUMENTS AND MARKERS SHOWN ARE CORRECTLY DESCRIBED.

CHRIS E. MORRISON
OPW SURVEYING, LLC
REGISTERED LAND SURVEYOR NO. 26928
STATE OF ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 26928 CHRIS E. MORRISON Date Signed 04/06/20 ARIZONA U.S.A.

I HEREBY CERTIFY THAT THE INTERIOR SUBDIVISION GEOMETRY FOR THIS PLAT WAS REVIEWED AND SHOWN UNDER MY SUPERVISION.

WILLIAM H. BAKER, JR.
BAKER & ASSOCIATES ENGINEERING, INC.
REGISTERED LAND SURVEYOR NO. 16784
STATE OF ARIZONA

REGISTERED LAND SURVEYOR CERTIFICATE NO. 16784 WILLIAM H. BAKER, JR. Date Signed 4-7-20 ARIZONA U.S.A.

I HEREBY CERTIFY THAT THE FLOODPRONE LIMITS AND EROSION HAZARD SETBACKS WERE REVIEWED AND SHOWN UNDER MY SUPERVISION.

LARRY K. ROBERTS
ARROYO ENGINEERING, L.L.C.
REGISTERED ENGINEER NO. 25331
STATE OF ARIZONA

Registered Professional Engineer CERTIFICATE NO. 25331 LARRY K. ROBERTS Date Signed 5-30-20 ARIZONA U.S.A.

TOWN OF MARANA APPROVALS

BY: [signature] P.E. 7 APR 2020
MARANA TOWN/DEVELOPMENT ENGINEER DATE

BY: [signature] 4-10-2020
MARANA DEVELOPMENT SERVICES DIRECTOR DATE

PIMA COUNTY APPROVAL

BY: [signature] 3/31/2020
PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DEPARTMENT DATE

CERTIFICATION

I, Cherry L. Lawson, CLERK OF THE TOWN OF MARANA, HEREBY CERTIFY THAT THIS PLAT WAS APPROVED BY THE TOWN COUNCIL OF THE TOWN OF MARANA ON THE 7 DAY OF April, 2020.

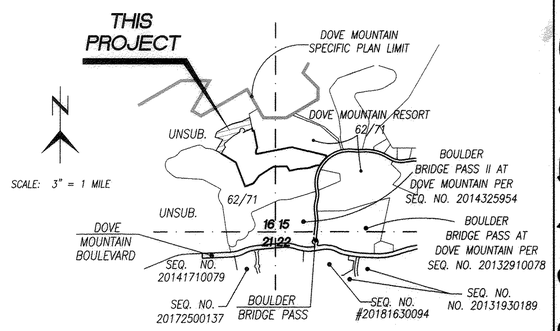
BY: [signature] 4-10-2020
CLERK OF THE TOWN OF MARANA DATE

ADMINISTRATIVE ADDRESS

6832 W. BOULDER BRIDGE PASS, MARANA, ARIZONA 85658

FOR INTERIOR LINEWORK ONLY

REGISTERED LAND SURVEYOR CERTIFICATE NO. 16784 WILLIAM H. BAKER, JR. Date Signed 3-31-20 ARIZONA U.S.A.



LOCATION PLAN

PORTIONS OF SECTION 16, T11S, R12E,
G&SRB&M, TOWN OF MARANA, PIMA COUNTY, ARIZONA

LEGEND

▲	SURVEY MONUMENT TO BE SET BY REGISTERED LAND SURVEYOR PER TOWN OF MARANA STANDARD DETAIL M-103B
•	PROPERTY CORNER (5/8" REBAR TAGGED "RLS 26928")
⊣	SURVEY MONUMENT TO BE SET BY A REGISTERED LAND SURVEYOR AT NEW LOT CORNERS
———	SUBDIVISION BOUNDARY
C23	CURVE DATA (SEE SHEET #3)
L10	LINE DATA (SEE SHEET #3)
☆	ADDRESSING/ACCESS LOCATION
— — — —	EXISTING RIGHT-OF-WAY LINE
—— – ——	STREET CENTERLINE
— — — —	EASEMENT LINE AS SHOWN (SEE ALSO "EASEMENT KEYNOTES," SHEETS #2-#3)
—·—·—·—	DEVELOPED 100 YEAR FLOODPRONE LINE ("F.P.L.")
—— - - ——	EROSION SETBACK LINE ("E.S.L.")

FINAL PLAT for
BOULDER BRIDGE PASS IV AT DOVE MOUNTAIN, LOTS 73 - 78 AND COMMON AREA "B" (OPEN SPACE/DRAINAGE)

BEING A RESUBDIVISION OF BLOCK "A" OF BOULDER BRIDGE PASS III AT DOVE MOUNTAIN, LOTS 1-72, BLOCK "A" AND COMMON AREAS "A" AND "B," AS RECORDED IN SEQ. #20200660137, LOCATED IN SECTION 16, T11S, R12E, G&SRBM, TOWN OF MARANA, PIMA COUNTY, ARIZONA

Baker & Associates Engineering, Inc.
3561 E. Sunrise Drive, Suite #225 Tucson, Arizona 85718 (520) 318-1950 Fax (520) 318-1930

#PRV1911-002

REF.: #PRV-1911-001;
#PRV-06012F; PRV-14009F JOB #2235.11B DATE: MARCH 31, 2020 SHEET 1 OF 3

SEQUENCE #20201050245-1

SEQUENCE #20201050245-1

Council-Regular Meeting **C6**

Meeting Date: 08/01/2023

To: Mayor and Council

From: Curry C. Hale, Human Resources Director

Date: August 1, 2023

Strategic Plan Focus Area:
Proactive Public Services

Strategic Plan Focus Area Additional Info:
Focus Area 5: Proactive Public Service
Goal: Foster a workplace culture that attracts, retains, and motivates a talented workforce.
Strategy: Invest in professional development, training, and engagement opportunities for employees

Subject: Resolution No. 2023-076: Relating to Personnel; approving and authorizing the Human Resources Director to execute a Memorandum of Understanding between the Town and the Arizona Board of Regents, Arizona State University providing a tuition discount program for Town employees (Curry C. Hale)

Discussion:
As part of the Town of Marana' s dedication to continuing academic and professional education for its employees, the Town has engaged in a series of agreements with state universities to offer tuition discounts to public employees of the Town of Marana, to save them additional dollars as it relates to continuing education. By entering into these agreements, additional tuition savings will be passed on to Town employees, simultaneously furthering the value of every dollar offered in the Town's Tuition Reimbursement program, as well as contributing to a more educated and dedicated workforce for our community.

The proposed agreement between the Town and the Arizona Board of Regents, Arizona State University (ASU) provides that ASU shall grant eligible Town employees

a 10% discount off the base tuition rate for a program degree of study. The discount shall be available as long as the agreement is in place and the student remains continuously employed by the Town and enrolled at ASU during the time that program is in effect. The agreement will remain in place from May 1, 2023 through the end of the Spring semester in 2028, but may be terminated for convenience with 90 days written notice or 30 days advance written notice for breach or default of the other party.

Staff Recommendation:

Staff recommends the approval of the agreement with the Arizona Board of Regents, Arizona State University.

Suggested Motion:

I move to adopt Resolution No. 2023-076, approving and authorizing the Human Resources Director to execute a Memorandum of Understanding between the Town and the Arizona Board of Regents, Arizona State University providing a tuition discount program for Town employees.

Attachments

Resolution No. 2023-076

Exhibit A to Resolution

MARANA RESOLUTION NO. 2023-076

RELATING TO PERSONNEL; APPROVING AND AUTHORIZING THE HUMAN RESOURCES DIRECTOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN AND THE ARIZONA BOARD OF REGENTS, ARIZONA STATE UNIVERSITY PROVIDING A TUITION DISCOUNT PROGRAM FOR TOWN EMPLOYEES

WHEREAS the Town of Marana has employees rendering valuable services; and

WHEREAS the memorandum of understanding with Arizona State University will provide employees with a tuition reduction; and

WHEREAS the Town Council finds that it is in the best interests of the Town employees to have the benefit of a tuition reduction if employees choose to pursue a degree through Arizona State University.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA approving the Memorandum of Understanding between the Town and the Arizona Board of Regents, Arizona State University attached to this Resolution as Exhibit A and authorizing the Human Resources Director 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 agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

MEMORANDUM OF UNDERSTANDING
Between
The Arizona Board of Regents, Arizona State University
And
Town of Marana, Human Resources Department

This Memorandum of Understanding ("MOU") is made and entered into the 12th day of July 2023 by and between The Town of Marana ("TOWN"), acting by and through its Human Resources Department ("TOWN HR"), and the Arizona Board of Regents for and on behalf of Arizona State University ("ASU").

A. THE PROGRAM:

1. The purpose of this MOU is to create a pathway for active employees of the TOWN and its departments ("Eligible Employees") to pursue and obtain undergraduate and graduate level degrees at ASU, including degrees in Law and graduate level (Master's) degrees (the "Program").

2. Program degree courses include campus-based immersion and/or digital (on-line) degree completion programs of study.

3. Eligible Employees who meet ASU's admission standards will receive scholarship aid equal to 10% of the base tuition rate for a Program degree of study, provided that the Eligible Employee is continuously employed by the TOWN and enrolled at ASU during the time that the Program is in effect (the "Program Tuition").

4. The Program Tuition is renewable for each term that the Eligible Employee: (i) remains in an approved ASU course of degree study within the Program; (ii) is employed by the TOWN; and (iii) meets the minimum standards required by applicable ASU Graduate Policies and Procedures, including (a) continuous enrollment, (b) maintaining satisfactory academic progress, and (c) time to degree limits.

5. Eligible Employees who would like to take advantage of the Program must provide proof of TOWN employment to ASU.

6. All students in the Program are subject to ASU's normal academic, student, tuition, financial aid and other related policies.

7. This MOU is subject at all times to the applicable State and Federal laws and regulations, and to the policies of the Arizona Board of Regents ("ABOR") and ASU.

8. The Program will officially begin on May 1, 2023 for the Summer 2023 Semester and will continue through the end of the Spring Semester, 2028, unless this MOU is modified or terminated earlier as set forth below.

9. The Program Tuition does not include "Undergraduate College Fees" or "Program Fees," as that term is defined by ABOR as well as other expenses such as library and laboratory fees, books, supplies and other special course fees, which may be applicable to the Program and charged to the Eligible Employee as a direct cost of education. (See ABOR Policy 4-101, Tuition and Fee Definitions available at: https://public.azregents.edu/Policy%20Manual/4-101-Tuition%20and%20Fee%20Definitions.pdf.)

10. Eligible Employees who are admitted and enrolled as ASU students will be solely responsible for payment of all Program Tuition and related Program Fees and expenses.

11. Eligible Employees will also be eligible for all forms of financial aid on the same basis that ASU makes financial aid available to other students.

B. ASU'S RESPONSIBILITIES:

1. ASU will provide institutional and academic guidance, transcript evaluation and oversight for the Program.

2. ASU will perform all administrative services that are related to the official student services component of the Program (for example, administrative services relating to admission, enrollment and academic advising).

3. ASU will develop, maintain and operate the Program.

4. ASU will make all decisions regarding completed student admission applications to ASU and registration criteria of Eligible Employees.

5. ASU will provide a link to its website to assist Eligible Employees with application and enrollment.

6. ASU will provide information to TOWN HR to assist its promotion of the Program.

7. ASU will designate a liaison to work with TOWN HR on the administrative aspects of the Program.

8. ASU will not share non-directory personally identifiable student information (as defined by FERPA and ASU policy) with the TOWN HR without the student's written consent.

C. TOWN HR RESPONSIBILITIES:

1. TOWN HR will announce the availability of the Program and communicate and promote the benefits of the Program to its Eligible Employees.

2. TOWN HR will establish a link between its internet site and ASU's website for Eligible Employees to self-identify and apply to the Program.

3. TOWN HR will designate a liaison to work with ASU on the administrative aspects of the Program.

4. TOWN HR will include information about ASU opportunities on the TOWN's internal human resources website for promotion of the Program, as appropriate.

D. GENERAL TERMS:

1. Effective Date and Term. This MOU shall become effective upon on the date this MOU has been fully executed by the parties (the "Effective Date") and will expire on May 15, 2028 or at the conclusion of the Spring 2028 semester, unless this MOU is modified or terminated earlier as set forth herein.

2. Announcements; Promotion. The parties will announce and promote the Program as part of their employee outreach and public relations efforts. Neither party will issue a press release, public statement, advertisement or announcement regarding this MOU or the Program, or use the logos or trademarks of the other party, without the prior input and consent of the other party. Use of either party's marks must comply with the owning party's trademark standards and guidelines, including using the "®" indication of a registered trademark where applicable.

3. Student Educational Records. ASU and the TOWN recognize that certain student educational records may be protected by the federal Family Educational Rights and Privacy Act and its implementing regulations (FERPA) (20 U.S.C. § 1232g). To the extent that it obtains records that are subject to FERPA, ASU and the TOWN each agree to comply with FERPA.

4. Modification. Modifications to this MOU may be made by written modification, signed and dated by authorized officials, prior to any changes taking effect.

5. Termination. Either party, upon ninety (90) days advance written notice, may terminate this MOU for convenience before the date of expiration, or upon thirty (30) days advance written notice for breach or default of the other party. Eligible Employees enrolled in the Program at the time of termination will be permitted to complete their course of study provided that eligibility is maintained as set forth in Section A., above. Either party may cancel the Program at any time for insufficient enrollment or any other reason.

6. Notices. All notices, requests, demands and other communications hereunder will be given in writing and will be: (a) personally delivered; (b) sent via email or other electronic means; or (c) sent to the parties at their respective addresses indicated herein by registered or certified U.S. mail, return receipt requested and postage prepaid, or by commercial overnight courier service. The respective addresses to be used for all such notices, demands or requests are as follows:

If to Town: If to ASU:

Human Resources Department
Town of Marana
11555 W. Civic Center Drive
Marana, AZ 85653
Attn: Curry C. Hale
Email: chale@maranaaz.gov

Arizona State University
Office of The University Provost
P.O. Box 877805
Tempe, Arizona 85287-7805
Attn: Nancy Gonzales, University Provost
Email: nancy.gonzales@asu.edu

7. Named Representative. Each party is naming a liaison who is authorized to act on its behalf in making or obtaining decisions regarding this MOU. Such named liaison may be changed from time-to-time by giving the other party written notice.

   (a) ASU. ASU's liaison is Kent Hopkins, Vice President, AE Enrollment.

   (b) Town. TOWN's liaison is the Human Resources Director, Human Resources Department.

8. No Third-Party Beneficiaries. This MOU is not intended to benefit any third party, nor shall any person who is not now or in the future a party hereto be entitled to enforce any of the rights or obligations of a party under this MOU.

9. Force Majeure. Neither party will be liable for failure to perform any obligation under this Agreement if such failure is directly caused by a Force Majeure Event. A "Force Majeure Event" shall mean an event or circumstance that is beyond the reasonable control and without the fault or negligence of the party impacted, and that could not have been prevented by the reasonable diligence of the party. Without in any way limiting the foregoing, a Force Majeure Event may include, but is not restricted to, acts of God or of a public enemy, acts of the Government in either its sovereign or contractual capacity, war, riots, fires, floods, epidemics or pandemics, mass health issues or disease, quarantine restrictions, strikes or labor difficulties, civil tumult, freight embargoes, natural disasters, unusually severe weather, a failure or disruption of utilities or critical electronic systems, acts of terrorism, mass shootings or other emergencies that may disrupt the operations of a party's campus or facility.

10. Nondiscrimination. The parties will comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration and nondiscrimination, including the Americans with Disabilities Act.

11. Conflict of Interest. Each party's participation in this MOU is subject to Arizona Revised Statutes ("A.R.S.") Section 38-511, which provides that this MOU may be cancelled if any person significantly involved in initiating, negotiating, securing, drafting or creating this MOU on behalf of ASU or the TOWN is, at any time while this MOU or any extension thereof is in effect, an employee or agent of the other party to this MOU in any capacity or a consultant to any other party with respect to the subject matter of this MOU.

12. Notice of Arbitration Statutes. As required by A.R.S. § 12-1518, the parties agree to make use of arbitration in disputes that are subject to mandatory arbitration pursuant to A.R.S. § 12-133.

13. Failure of Legislature to Appropriate. In accordance with A.R.S. § 35-154, if either party's performance under this MOU depends upon the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then the affected party may provide written notice of this to the other party and cancel this MOU without further obligation. Appropriation is a legislative act and is beyond the control of either party.

14. Responsibility. Each party will be responsible for the negligence, acts and omissions of its employees and agents when acting under such party's direction and supervision.

15. Entire Agreement. This MOU embodies the entire understanding of the parties and supersedes any other agreement or understanding between the parties relating to the subject matter.

16. Choice of Law. This MOU shall be governed by and construed in accordance with the laws of the State of Arizona. Jurisdiction for any claim or dispute shall be Maricopa County, Arizona.

17. Counterparts; Signatures. This MOU may be executed in duplicate counterparts, each of which shall be deemed an original and both of which together shall constitute but one and the same instrument. Counterparts may be executed in either original or faxed form, and the parties hereby adopt as original any signatures received via facsimile or pdf.

18. Financial Responsibility. This Agreement is not a commitment of funds by either party and neither party will be liable to the other for any Program Tuition or Program Fees.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the last written date below.

TOWN a municipal corporation

By: _____
Curry C. Hale
Human Resources Director

Date: _____

By: _____
Yiannis Kalaitzidis
Town Procurement Director

Date: _____

THE ARIZONA BOARD OF REGENTS, FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY

By: _____
Nancy Gonzales
University Provost

Date: _____

Council-Regular Meeting **C7**

Meeting Date: 08/01/2023

To: Mayor and Council

From: Curry C. Hale, Human Resources Director

Date: August 1, 2023

Strategic Plan Focus Area:
Proactive Public Services

Strategic Plan Focus Area Additional Info:
Focus Area 5: Proactive Public Service
Goal: Foster a workplace culture that attracts, retains, and motivates a talented workforce.
Strategy: Invest in professional development, training, and engagement opportunities for employees.

Subject: Resolution No. 2023-077: Relating to Personnel; approving and authorizing the Human Resources Director to execute an agreement between the Town of Marana and Grand Canyon University providing a tuition discount program for Town employees (Curry C. Hale)

Discussion:

The proposed agreement between the Town and Grand Canyon University (GCU) provides that GCU shall grant eligible Town employees a 10% discount off the current GCU Catalog tuition prices for online or evening cohort Bachelor's, Master's or Doctoral degree programs and single course /non degree courses offered by GCU through the Colangelo College of Business, College of Humanities and Social Sciences, College of Science, Engineering and Technology, College of Doctoral Studies, College of Education, College of Nursing & Health Care Professions and College of Arts and Media.

The discount shall be available as long as the Agreement is in place and the student remains continuously enrolled in the program and takes the required courses necessary to complete the program. Continuously enrolled is defined as no breaks greater than 14 days unless an approved leave of absence has been granted by GCU. Students who do

not maintain continuous enrollment will no longer be eligible to receive the discount; they will not, however, be obligated to reimburse GCU for the completed courses where the discount has been awarded. Recipients must also maintain a minimum grade point average as outlined in the University Policy Handbook.

GCU shall provide marketing literature and informational sessions to Town employees at GCU's expense, to promote continuing education and support employee educational goals. GCU shall also include the programs in its general marketing efforts and, at the request of the Town, shall conduct periodic marketing efforts specifically targeted at potential students for the programs. GCU shall also conduct all necessary public relations activities designed to enhance and further the status and reputation of the programs with the Town's prior consent. GCU will provide a local University Development Representative as a primary contact and resource for the Town.

The agreement will remain in place for 3 years, but may be terminated with or without cause by either party with 60 days' written notice.

Staff Recommendation:

Staff recommends approval of the agreement with Grand Canyon University.

Suggested Motion:

I move to adopt Resolution No. 2023-077, approving and authorizing the Human Resources Director to execute an agreement between the Town of Marana and Grand Canyon University providing a tuition discount program for Town employees.

Attachments

Resolution No. 2023-077

Exhibit A to Resolution

MARANA RESOLUTION NO. 2023-077

RELATING TO PERSONNEL; APPROVING AND AUTHORIZING THE HUMAN RESOURCES DIRECTOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF MARANA AND GRAND CANYON UNIVERSITY PROVIDING A TUITION DISCOUNT PROGRAM FOR TOWN EMPLOYEES

WHEREAS the Town of Marana has employees rendering valuable services; and

WHEREAS the agreement with Grand Canyon University will provide employees with a tuition reduction; and

WHEREAS the Town Council finds that it is in the best interests of the Town employees to have the benefit of a tuition reduction if employees choose to pursue a degree through Grand Canyon University.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA approving the agreement between the Town of Marana and Grand Canyon University attached to this Resolution as Exhibit A and authorizing the Human Resources Director 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 agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

EDUCATIONAL ALLIANCE PARTICIPANT AGREEMENT

Grand Canyon University and Town of Marana

This Agreement is entered into by and between Grand Canyon University (GCU), an Arizona nonprofit corporation, with its principal place of business located at 3300 W. Camelback Road, Phoenix, Arizona 85017 and Town of Marana (Participant) with its principal place of business located at 11555 W. Civic Center Drive Marana, AZ . This Agreement refers to GCU and Participant collectively as "the Parties." This agreement shall replace or supersede all other agreements between the Parties.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein expressed, the Parties do hereby agree as follows:

PURPOSE OF AGREEMENT. GCU offers over 295 programs, including over 130 degree programs, over 125 emphases and over 35 certificate programs.[1] Participant is Town of Marana . GCU and Participant wish to enter into an agreement in which in return for the promises contained herein GCU shall offer a scholarship to Participant's employees subject to the terms of this Agreement. The scholarship shall apply to online or evening campus bachelor's, master's or doctoral degree programs and single course/non-degree courses offered by GCU (the "Programs").

PERFORMANCE BY PARTICIPANT. Participant shall allow GCU to create and make available to Participant's employees marketing materials which describe the Programs and provide Participant's employees with all relevant information regarding each of the Programs. Participant shall also provide any additional services that may be listed in Exhibit A to this Agreement.

PERFORMANCE BY GCU. GCU shall provide the content, instruction and academic oversight of the above mentioned Programs. GCU shall also provide the services listed in Exhibit A to this Agreement.

TERMS OF AGREEMENT. This Agreement shall be effective when signed by all Parties and shall remain in effect until the earlier of (a) three (3) years from the date of the last signature below, or (b) the termination of this Agreement by either party in accordance with the terms below. Either party may terminate this Agreement with sixty (60) days written notice. In the event this Agreement is terminated, any students enrolled in any of the Programs at the time of termination will be permitted to continue their studies and complete the Programs under the terms specified in this Agreement, provided such students maintain continuous enrollment with no breaks greater than 14 days unless an approved leave of absence has been granted by GCU. This Agreement contains the entire understanding of the parties and replaces all other agreements or understandings, written or verbal, which may be in effect between the parties relating to the subject matter herein.

PARTICIPANT SCHOLARSHIP. To claim the scholarship, Participant's employees must complete a Memorandum of Understanding which will be provided as part of the GCU application process and submit that MOU with their application for approval by GCU in its sole and absolute discretion. The scholarship cannot be used in conjunction with any other scholarships, awards, promotions and/or other programs offered by GCU unless otherwise stated on the MOU. MOUs submitted after the application process will not be honored except in cases where Participant employees is/are active in a GCU program prior to the signing of this agreement. This scholarship shall be available as long as this Agreement is in place.

CONTINUOUS ENROLLMENT AND MINIMUM SCHOLASTIC ACHIEVEMENT. The scholarship will only be awarded to students who remain continuously enrolled in the Program and take the required courses necessary to complete the Program. Continuously enrolled is defined as no breaks greater than fourteen (14) days unless an approved leave of absence has been granted by GCU. Students who do not maintain continuous enrollment will no longer be eligible to receive the scholarship; they will not, however, be obligated to reimburse GCU for the completed courses where the scholarship has been awarded. Recipients must also maintain a minimum grade point average as outlined in the University Policy Handbook located at www.gcu.edu/Policy-Handbook.php

[1] As of September 30, 2021

EDUCATIONAL ALLIANCE PARTICIPANT AGREEMENT

NOTICE: Any notice which may be given by a party under this Agreement shall be deemed to have been duly delivered if delivered by reputable carrier, hand delivered or electronic mail to the receiving party at the following address(es) or email address:

For Grand Canyon University

Grand Canyon University
Attn: Legal Department
3300 W. Camelback Road
Phoenix, AZ 85017
LegalDepartment@gcu.edu

For Town of Marana

Attn: Human Resources Director
11555 W. Civic Center Drive
Marana, AZ 85750
chale@maranaaz.gov

IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed by themselves or by their duly authorized representatives as of the day and date first written above.

The Participant organization is a 501C3 or 501C4? ☐ Yes ☒ No

Grand Canyon University

By: _____
Print Name: Raymond Kaselonis
Title: GCU Chief Administrative Officer and General Counsel
Date: _____

Town of Marana

By: _____
Print Name: Curry Hale
Title: Human Resources Director
Date: _____

EDUCATIONAL ALLIANCE PARTICIPANT AGREEMENT

Exhibit A

Performance and Services By GCU and Town of Marana

GCU offers content, instruction and academic oversight of the Programs through the Colangelo College of Business, College of Humanities and Social Sciences, College of Science, Engineering and Technology, College of Doctoral Studies, College of Education, College of Nursing and Health Care Professions and College of Arts and Media.

The Programs' courses will follow the applicable Programs of Study outlined in the current catalog, which can be viewed by visiting www.gcu.edu/academics/academic-policies.php, and clicking on Academic Catalog. As improvements are made to the Programs, the Program of Study courses may change; however, credit hour requirements will follow the specifications of the current catalog.

GCU REQUIREMENTS INCLUDE:

1. GCU shall grant eligible Participant employees a 10 % off scholarship for the current GCU tuition prices for the Programs (the "Participant Scholarship"). This Participant Scholarship shall be available as long as this Agreement is in place and the student meets the requirements of this Agreement. GCU reserves the right to change tuition pricing at any time and the Participant Scholarship will be applied only as an offset to tuition stated in GCU's University Policy Handbook. The Participant Scholarship cannot be used in conjunction with any other scholarships, awards, promotions and/or other programs offered by GCU unless otherwise indicated on the MOU.

2. Regarding any enrolled students from Participant organizations. For purposes of clarification, the Participant Scholarship will not apply to any courses already taken or in progress on the effective date of this Agreement and will apply only to future courses. Any student utilizing federal aid as of the effective date of this Agreement will have the Participant Scholarship applied at the beginning of the student's next payment period.

3. GCU shall provide marketing literature and informational sessions to Participant's employees at GCU's expense, to promote continuing education and support employees educational goals. GCU shall also include the Programs in its general marketing efforts and, at the request of Participant, shall conduct periodic marketing efforts specifically targeted at potential students for the Programs. GCU shall also conduct all necessary public relations activities designed to enhance and further the status and reputation of the Programs with Participant's prior consent, and which consent shall not be unreasonably withheld.

4. GCU shall provide a local University Development Counselor as a primary contact and Participant resource. It is the responsibility of the Participant employees to identify themselves in order to receive the Participant Scholarship available through this Agreement. Subject to the consent, Participant will assist GCU in confirming that the Participant employees is/are indeed associated with Participant.

PARTICIPANT REQUIREMENTS INCLUDE:

1. GCU may announce the formation of the alliance with GCU to Participant's employees . GCU and Participant will work together to communicate to Participant's employees the benefits and variety of programs offered by GCU.

2. Participant to allow access, within Participant guidelines, to present information regarding GCU programs to Participant employees via information meetings at least once a quarter.

3. Participant shall allow GCU to provide outreach to employees , including, but not limited to, informational webinars, posting of flyers and other activities as appropriate, which must be consistent with Participant policies.

Participant and GCU may issue joint press releases and other announcements with prior approval of both parties.

Council-Regular Meeting **C8**

Meeting Date: 08/01/2023

To: Mayor and Council

Submitted For: Fausto Burruel, Public Works Director

From: Dan Grossman, CIP Process Analyst

Date: August 1, 2023

Strategic Plan Focus Area:
Not Applicable

Subject: Resolution No. 2023-078: Relating to Public Works; approving and authorizing the Mayor to sign an intergovernmental agreement between the State of Arizona by and through its Department of Transportation, and the Town of Marana for funding to design a traffic interchange located at Cortaro Road and Interstate 10 (Fausto Burruel)

Discussion:

The Arizona State Legislature passed Senate Bill 1722 during this Legislative Session, which appropriates funding from the State's General Fund for highway projects. If adopted, this resolution would authorize the Mayor to sign an intergovernmental agreement in which the Arizona Department of Transportation (ADOT) would issue a warrant in the amount of $10,000,000.00 appropriated to the Town of Marana for funding to design a traffic interchange located at Cortaro Road and Interstate 10.

The Cortaro Road/Interstate 10 Traffic Interchange Project was not included within the 2024 fiscal year Capital Improvement Plan. Town staff may, at a later time, request approval to proceed with this project.

Financial Impact:

Fiscal Year:	2024
Budgeted Y/N:	No

Amount: $10,000,000

Staff Recommendation:

Staff recommends approval of Resolution No. 2023-078.

Suggested Motion:

I move to adopt Resolution No. 2023-078, approving and authorizing the Mayor to sign an intergovernmental agreement between the State of Arizona by and through its Department of Transportation and the Town of Marana for funding to design a traffic interchange located at Cortaro Road and Interstate 10.

Attachments

Resolution No. 2023-078

Exhibit A - Intergovernmental Agreement

MARANA RESOLUTION NO. 2023-078

RELATING TO PUBLIC WORKS; APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, AND THE TOWN OF MARANA FOR FUNDING TO DESIGN A TRAFFIC INTERCHANGE LOCATED AT CORTARO ROAD AND INTERSTATE 10

WHEREAS the State of Arizona, acting by and through its Department of Transportation, and the Town of Marana desire to enter into an intergovernmental agreement (IGA) in which the State will issue a warrant in the amount of $10,000,000.00 to the Town for design costs for a traffic interchange between Interstate 10 and Cortaro Road; and

WHEREAS the Town and the State have authority to enter into this IGA pursuant to A.R.S. § 11-952; and

WHEREAS the Mayor and Council find that entering into the IGA is in the best interests of the Town and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the Intergovernmental Agreement Between the State of Arizona and the Town of Marana, AG Contract No. P0012023000926, substantially in the same form attached to and incorporated by this reference in this resolution as Exhibit A, 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 the terms, obligations, and objectives of the agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

ADOT CAR No.: IGA 23-0009266-I
AG Contract No.: P0012023000926
Project Location/Name: Design Costs for Traffic Interchange between I-10 and Cortaro Road
Type of Work: Traffic Interchange Design
TIP/STIP No.: NA
Budget Source: 2024 Legislative Appropriation Transportation Projects: General Fund (Laws 2023, 1st Regular Session, Chapter 135 Senate Bill 1722)
Appropriation No.: 2024 DT56180

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF MARANA

THIS AGREEMENT ("Agreement") is entered into this date _____, pursuant to the Arizona Revised Statutes ("A.R.S.") §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State" or "ADOT") and the TOWN OF MARANA, an Arizona municipal corporation, acting by and through its MAYOR and TOWN COUNCIL (the "Town" or "Local Agency"). The State and the Local Agency are each individually referred to as a "Party" and are collectively referred to as the "Parties."

I. RECITALS

1. The State is empowered by A.R.S. § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Local Agency is empowered by A.R.S. §§ 9-240 and 11-952 to enter into this Agreement and has by resolution, a copy of which is attached and made a part of this Agreement, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Local Agency.

3. Laws 2023, 1st Regular Session, Chapter 135 (Senate Bill 1722), Section 10, (A)(8) appropriated funding from the State general fund for highway projects. ADOT will issue a warrant in the amount of $10,000,000.00 appropriated to the Local Agency for design costs for traffic interchange between Interstate 10 and Cortaro Road, (the "Project").

4. The foregoing Recitals shall be incorporated into this Agreement.

In consideration of the mutual terms expressed herein, the Parties agree as follows:

II. SCOPE OF WORK

1. The Parties agree:

   a. After this Agreement is executed, the State will issue a warrant to the Local Agency in the amount of $10,000,000.00 for the Project.

   b. The Local Agency will complete the Project in accordance with Laws 2023, 1st Regular Session, Chapter 135 (Senate Bill 1722), Section 10, (A)(8).

   c. After Project completion, the Local Agency will submit written certification to localpublicagencysection@azdot.gov that the Project was completed in accordance with Laws 2023, 1st Regular Session, Chapter 135 (Senate Bill 1722), Section 10, (A)(8).

III. MISCELLANEOUS PROVISIONS

1. Effective Date. This Agreement shall become effective upon signing and dating of all Parties.

2. Duration. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of the Project and all related deposits and/or reimbursements are made.

3. Cancellation. This Agreement may be cancelled at any time up to 30 days before the appropriated funds are issued, so long as the cancelling Party provides at least 30 days' prior written notice to the other Party. It is further understood and agreed that in the event the Local Agency terminates this Agreement, the State shall in no way be obligated to complete or maintain the Project.

4. Indemnification. The Local Agency shall indemnify, defend, and hold harmless the State, any of its departments, agencies, boards, commissions, officers or employees (collectively referred to in this paragraph as the "State") from any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including reasonable attorneys' fees and/or litigation expenses (collectively referred to in this paragraph as the "Claims"), which may be brought or made against or incurred by the State on account of loss of or damage to any property or for injuries to or death of any person, to the extent caused by, arising out of, or contributed to, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of the Local Agency, its employees, officers, directors, agents, representatives, or contractors, their employees, agents, or representatives in connection with or incident to the performance of this Agreement. The Local Agency's obligations under this paragraph shall not extend to any Claims to the extent caused by the negligence of the State, except the obligation does apply to any negligence of the Local Agency which may be legally imputed to the State by virtue of the State's ownership or possession of land. The Local Agency's obligations under this paragraph shall survive the termination of this Agreement.

5. Governing Law. This Agreement shall be governed by and construed in accordance with Arizona laws.

6. Conflicts of Interest. This Agreement may be cancelled in accordance with A.R.S. § 38-511.

7. Inspection and Audit. The Local Agency shall retain all books, accounts, reports, files and other records relating to the Agreement which shall be subject at all reasonable times to inspection and audit by the State for five years after completion of the Project. Such records shall be produced by the Local Agency, electronically or at the State office as set forth in this Agreement, at the request of ADOT.

8. Title VI. The Local Agency acknowledges and will comply with Title VI of the Civil Rights Act Of 1964.

9. Non-Discrimination. 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. The Parties to this Agreement shall comply with Executive Order Number 2009-09, as amended by Executive Order 2023-01, issued by the Governor of the State of Arizona and incorporated in this Agreement by reference regarding "Non-Discrimination."

10. Non-Availability of Funds. Every obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the fulfillment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

11. Arbitration. In the event of any controversy, which may arise out of this Agreement, the Parties agree to abide by arbitration as is set forth for public works contracts if required by A.R.S. § 12-1518.

12. E-Verify. The Parties shall comply with the applicable requirements of A.R.S. § 41-4401.

13. Contractor Certifications. The Local Agency shall certify that all contractors comply with the applicable requirements of A.R.S. §35-393.01 and 35-394.

14. Other Applicable Laws. The Parties shall comply with all applicable laws, rules, regulations and ordinances, as may be amended.

15. Notices. All notices or demands upon any Party to this Agreement shall be in writing and shall be delivered electronically, in person, or sent by mail, addressed as follows:

For Agreement Administration:

Arizona Department of Transportation
Joint Project Agreement Section
205 S. 17th Avenue, Mail Drop 637E
Phoenix, AZ 85007
JPABranch@azdot.gov

Town of Marana
Attn: Fausto Burruel
11555 W. Civic Center Dr.
Marana, AZ 85653
520.382.1999
DevEng@marana.AZ.gov

For Project Completion:

Arizona Department of Transportation
Local Public Agency Group
205 S. 17th Avenue, Mail Drop 614E
Phoenix, AZ 85007
localpublicagencysection@azdot.gov

Town of Marana
Attn: Fausto Burruel
11555 W. Civic Center Dr.
Marana, AZ 85653
520.382.1999
DevEng@marana.AZ.gov

For Financial Administration:

Arizona Department of Transportation
Financial Management Services
206 S. 17th Avenue
Phoenix, AZ 85007
fmscontroller@azdot.gov

Town of Marana
Attn: Yiannis Kalaitzidis
11555 W. Civic Center Dr.
Marana, AZ 85653
520.382.1999
ykalaitzidis@marana.AZ.gov

16. Revisions to Contacts. Any revisions to the names and addresses above may be updated administratively by either Party and shall be in writing.

17. Legal Counsel Approval. In accordance with A.R.S. § 11-952 (D), the written determination of each Party's legal counsel providing that the Parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form is set forth below.

18. Electronic Signatures. This Agreement may be signed in an electronic format using DocuSign.

Remainder of this page is intentionally left blank.

(Signatures begin on the next page)

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective upon the full completion of signing and dating by all Parties to this Agreement.

TOWN OF MARANA

By _____ Date_____
ED HONEA
Mayor

ATTEST:

By _____ Date_____
DAVID UDALL
Town Clerk

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its Department of Transportation, and the Town of Marana, an agreement among public agencies which, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. §§ 9-240 and 11-952 and declare this Agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.
Approved as to Form:

By _____ Date_____
Town Attorney

ARIZONA DEPARTMENT OF TRANSPORTATION

By _____ Date_____
STEVE BOSCHEN, PE
Infrastructure Delivery and Operations Division
Division Director

A.G. Contract No. P0012023000926 (ADOT IGA 23-0009266-I), an Agreement between public agencies, the State of Arizona and the Town of Marana, has been reviewed pursuant to A.R.S. §§ 11-951 through 11-954 and A.R.S. § 28-401, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona. No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

By _____ Date_____
Assistant Attorney General

Council-Regular Meeting **C9**

Meeting Date: 08/01/2023

To: Mayor and Council

From: David L. Udall, Town Clerk/Assistant Town Attorney

Date: August 1, 2023

Strategic Plan Focus Area:
Proactive Public Services

Subject: Resolution No. 2023-079: Relating to Water; approving and authorizing the Mayor to sign the Assignment and Assumption of Town of Marana Agreement for Construction of Water Facilities Under Private Contract - Tortolita Mountain Estates, Lots 1-81 (David L. Udall)

Discussion:

On February 7, 2023, the Town Council approved, via adoption of Marana Resolution No. 2023-013, the Town of Marana Agreement for Construction of Water Facilities Under Private Contract - Tortolita Mountain Estates, Lots 1-81 (the "Agreement"), which required the developer to construct certain water infrastructure improvements in order for water to be served to the property. The Agreement also allowed for wheeling pursuant to the terms and conditions of the Intergovernmental Agreement Between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water and the Town's Water Wheeling Policy adopted on January 19, 2021.

Section 7.3 of the Agreement provides that the Developer "intends to assign and delegate its rights and responsibilities under [the Agreement] to a third party and may do so upon the prior written consent of the Town, which consent shall not be unreasonably withheld."

If approved, the assignment attached as Exhibit A to the resolution accompanying this agenda item would authorize the Mayor to provide the Town's consent for the Developer to assign its rights and responsibilities under the Agreement to Mattamy Tucson LLC.

Staff Recommendation:

Staff recommends approval of Resolution No. 2023-079.

Suggested Motion:

I move to adopt Resolution No. 2023-079, approving and authorizing the Mayor to sign the Assignment and Assumption of Town of Marana Agreement for Construction of Water Facilities Under Private Contract - Tortolita Mountain Estates, Lots 1-81.

Attachments

Resolution No. 2023-079
Exhibit A - Consent to Assignment
Wheeling Agreement

MARANA RESOLUTION NO. 2023-079

RELATING TO WATER; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE ASSIGNMENT AND ASSUMPTION OF TOWN OF MARANA AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES UNDER PRIVATE CONTRACT - TORTOLITA MOUNTAIN ESTATES, LOTS 1-81

WHEREAS effective March 31, 2023, the Orla O'Reilly Hazra and Sanat Hazra Joint Trust, Dated September 8, 2020 (the "Developer") entered into the following agreement with the Town of Marana: Town of Marana Agreement for Construction of Water Facilities Under Private Contract, approved by the Marana Town Council on February 7, 2023, via Marana Resolution No. 2023-013, and recorded on April 7, 2023 in the Office of the Pima County Recorder at Sequence No. 20230970016 (the "Agreement"); and

WHEREAS Section 7.3 of the Agreement provides that the Developer "intends to assign and delegate its rights and responsibilities under [the Agreement] to a third party and may do so upon the prior written consent of the Town, which consent shall not be unreasonably withheld"; and

WHEREAS the Orla O'Reilly Hazra and Sanat Hazra Joint Trust, Dated September 8, 2020 now desires to assign its right, title, interest, and responsibilities under the Agreement to Mattamy Tucson LLC; and

WHEREAS the Mayor and Council of the Town of Marana find that authorizing the Town's consent of such an assignment is in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the Assignment and Assumption of Town of Marana Agreement for Construction of Water Facilities Under Private Contract – Tortolita Mountain Estates, Lots 1-81, substantially in the same form 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.

IT IS FURTHER RESOLVED 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 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

WHEN RECORDED RETURN TO:

Marc D. Blonstein, Esq.
Berens Blonstein PLC
7033 East Greenway Pkwy., Suite 210
Scottsdale, Arizona 85254

ASSIGNMENT AND ASSUMPTION

OF

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

TORTOLITA MOUNTAIN ESTATES, LOTS 1-81

THIS ASSIGNMENT AND ASSUMPTION OF TOWN OF MARANA AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES UNDER PRIVATE CONTRACT (the **"Assignment"**) is dated this 8th day of August, 2023 (the "**Effective Date**"), by and between the **ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST, DATED SEPTEMBER 8, 2020** (**"Assignor"**) and **MATTAMY TUCSON LLC**, a Delaware limited liability company (**"Assignee"**).

RECITALS

A. Assignor is a party to that certain Town of Marana Agreement for Construction of Water Facilities Under Private Contract, dated as of March 31, 2023 (the "**Water Agreement**"), which Water Agreement was recorded on April 7, 2023 in the Official Records of Pima County, Arizona at Document No. 2023-0970016, relating to certain real property described therein (the "**Property**");

B. Assignor, as owner of the Property, desires to assign its right, title, interest and obligations in the Water Agreement pursuant to the terms of this Assignment, and Assignee desires to assume Assignor's right, title, interest and obligations in the Water Agreement; and

C. Capitalized terms not defined in this Assignment shall have the meanings set forth in the Water Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Assignment and Assumption of Assignor's Rights. As of the Effective Date, Assignor hereby assigns to Assignee all of Assignor's right, title, interest and obligations in and under the Water Agreement. On and after the Effective Date, Assignee hereby assumes from Assignor all of Assignor's right, title, interest and obligations in and under the Water Agreement.

2. Indemnification by Assignor. Assignor hereby agrees to indemnify, protect, defend, and hold Assignee harmless for, from and against any liabilities, obligations, actions, suits, proceedings, or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and expert witness fees) incurred in connection with the Water Agreement, based upon or arising out of any breach or alleged breach

of the Water Agreement by Assignor occurring or alleged to have occurred prior to the Effective Date and with respect to liability relating to or accruing prior to the Effective Date.

3. Indemnification by Assignee. Assignee hereby agrees to indemnify, protect, defend, and hold Assignor harmless for, from and against any liabilities, obligations, actions, suits, proceedings, or claims, and all costs and expenses (including without limitation reasonable attorneys' fees and expert witness fees) incurred in connection with the Water Agreement, based upon or arising out of any breach or alleged breach of the Water Agreement by Assignee occurring or alleged to have occurred after the Effective Date and with respect to liability relating to or accruing on or after the Effective Date.

4. Binding Effect. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

5. Further Assurances. Promptly upon the request of Assignee, Assignor shall do such further acts and shall execute, have acknowledged and delivered to Assignee or to any third party, as appropriate, any and all further documents or instruments reasonably requested in order to carry out the intent and purpose of this Assignment.

6. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Assignment.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment to be effective as of the Effective Date.

ASSIGNOR:

ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST, DATED SEPTEMBER 8, 2020

By: _____
Name: Orla O'Reilly Hazra
Title: Co-Trustee

By: _____
Name: Sanat Hazra
Title: Co-Trustee

STATE OF FLORIDA)
) ss.
County of Sarasota)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Orla O'Reilly Hazra, as Co-Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST, DATED SEPTEMBER 8, 2020, for and on behalf thereof.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

STATE OF FLORIDA)
) ss.
County of Sarasota)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Sanat Hazra, as Co-Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST, DATED SEPTEMBER 8, 2020, for and on behalf thereof.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

ASSIGNEE:

MATTAMY TUCSON LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by _____, as _____ of MATTAMY TUCSON LLC, a Delaware limited liability company, for and on behalf thereof.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

CONSENT

The undersigned hereby consents to the foregoing Assignment and Assumption of Town of Marana Agreement for Construction of Water Facilities Under Private Contract by the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST, DATED SEPTEMBER 8, 2020 to MATTAMY TUCSON LLC, a Delaware limited liability company.

THE TOWN OF MARANA, an Arizona municipal corporation

By: _____
Ed Honea, Mayor

ATTEST:

_____
David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____
Jane Fairall, Town Attorney

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Ed Honea, the Mayor, respectively, of the Town of Marana, an Arizona municipal corporation, for and on behalf thereof.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

CONSENT

The undersigned hereby consents to the foregoing Assignment and Assumption of Town of Marana Agreement for Construction of Water Facilities Under Private Contract by the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST, DATED SEPTEMBER 8, 2020 to MATTAMY TUCSON LLC, a Delaware limited liability company.

TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by _____, the _____ of TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity, for and on behalf thereof.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

My Commission Expires:

GABRIELLA CÁZARES-KELLY, RECORDER
Recorded By: KKE
DEPUTY RECORDER
5026

SMARA
TOWN OF MARANA
PICKUP

PIMA COUNTY
RECORDER'S OFFICE

SEQUENCE: 20230970016
NO. PAGES: 12
04/07/2023
10:03:32

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

Tortolita Mountain Estates, Lots 1-81

THIS AGREEMENT (this "Agreement") is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town"), and ORLA O'REILLY HAZRA AND SANAT HAZRA, as Co-Trustees of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020 (the "Hazra Trust"), and TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity ("Title Security 202214-S"). The Hazra Trust and Title Security are collectively referred to in this Agreement as the "Developer." The Town and the Developer are sometimes collectively referred to as the "Parties," each of which is sometimes individually referred to as a "Party."

RECITALS

A. This Agreement is entered into and authorized pursuant to Title 14 of the Marana Town Code as it may be amended from time to time ("Marana Town Code Title 14").

B. The Developer desires for the Town to provide water service to the land described in the Special Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on July 29, 2014, at Sequence 20142100582 (the "Subject Property").

C. Title Security 202214-S owns the Subject Property. The Hazra Trust is the sole beneficiary of Title Security 202214-S.

D. Effective August 21, 2020, the Town and the City of Tucson (the "City") entered into the Intergovernmental Agreement between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water recorded in the office of the Recorder of Pima County, Arizona, at Sequence 20202340063 (the "Water Wheeling IGA"). The Water Wheeling IGA allows the Marana Water Department ("Marana Water") to provide potable water service to certain areas of land that (1) are within the Marana town limits, (2) are too far away from Marana Water's existing water infrastructure to receive cost-effective service from Marana Water, and (3) are close enough to be served by water infrastructure owned and operated by the Tucson Water Department ("Tucson Water") but do not meet Tucson Water's service area policy. The Water Wheeling IGA requires that the Town use its own CAP water, which will be wheeled through Tucson Water's potable water system to points of interconnection to the new Marana Water customers.

E. The Subject Property is located in an area that meets the three criteria for service under the Water Wheeling IGA, as described in recital D above.

F. The Developer requested that the Town and the City use the Water Wheeling IGA to deliver water to the Subject Property, and the Town and the City agreed that the Subject Property is a candidate for wheeling per the Water Wheeling IGA.

G. In order to receive water through the Water Wheeling IGA, the Developer must enter into an agreement for construction of water facilities under private contract with the Town and a separate facilities construction agreement with the City.

H. As a condition of securing water service from the Town for the Subject Property, the Developer agrees to install those certain water infrastructure improvements (the "Developer-Installed Facility") in accordance with the required plans, specifications, and materials as outlined and depicted in the Public Water Distribution System To Serve Tortolita Mountain Estates, Lots 1 - 81, Plan No. ENG2208-009, sealed by Baker & Associates Engineering, Inc. on September 21, 2022 and accepted by the Town of Marana Water Department on October 28, 2022 (the "Facility Plan"), which is on file in the office of the Town of Marana Water Department.

I. The Developer desires that the Town take ownership of, operate, and service the Developer-Installed Facility.

J. The Town is willing to accept the Developer-Installed Facility, provided it meets Town standards and the work is done in accordance with Town requirements.

K. As described in the Facility Plan, the Developer must construct certain offsite water infrastructure (the "Offsite Work") in coordination with the City of Tucson in order for water to be delivered to the Subject Property.

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. The Water Wheeling IGA

1.1. *Applicability*. All of the terms and conditions of the Water Wheeling IGA shall apply herein as though they were set forth in this Agreement in full.

2. The Developer-Installed Facility

2.1. *Developer installation of the Developer-Installed Facility*. The Developer has designed and shall install, at the Developer's own expense, the water infrastructure improvements as depicted in the Facility Plan. The water infrastructure improvements depicted in the Facility Plan are referred to in this Agreement as the "Developer-Installed Facility," and shall conform to the design standards of the City of Tucson Water Department and the Town of Marana Town Code Title 14 and special specifications and details as approved by the Town and by this reference made a part of this Agreement. The Facility Plan shall include a plan note identifying the Developer-Installed Facility as a new water facility and shall show any and all alterations to the existing water system. Construction and installation of the Developer-Installed Facility in accordance with the Facility Plan, including without limitation all labor, materials, equipment, supplies, and tools required for the construction and installation, is referred to in this Agreement as the "Work."

2.2. *Work by licensed contractor.* The Work shall be performed by a contractor properly licensed by the State of Arizona as determined by the Arizona Registrar of Contractors. In addition

to any other contractor's license classifications required by the Arizona Registrar of Contractors, the contractor shall hold contractor's license classifications A, A-12 and A-16.

2.3. *Applicable fees.* As a condition of and prerequisite to the Town accepting the Work, the Developer shall pay all applicable fees, including, but not limited to, fees for permitting and inspection, as set forth by the Town of Marana and the City of Tucson.

2.4. *Payment of connection fees*. Before any service connections are made to the Developer-Installed Facility, the person or entity seeking the service connection shall pay to the Town the connection fees and any other fees required by Marana Town Code Title 14.

2.5. *Anticipated cost per meter*. The person or entity seeking installation of a meter from the Town shall pay all applicable fees and charges in effect at the time of the meter installation request. As of the effective date of this Agreement, the Town's fees and charges to install a five-eighths-inch water meter on the Subject Property are:

2.5.1. Meter Install Fee: $360

2.5.2. Water Resource Development Impact Fee: $3,050

2.5.3. If larger meters are installed, the person or entity seeking installation shall pay the applicable Meter Install Fee, as set forth in the Town of Marana fee schedule, and the applicable Water Resource Development Impact Fee, as set forth in Marana Ordinance No. 2014.013 recorded in the office of the Recorder of Pima County, Arizona, on May 9, 2014, at Sequence 20141290586, a copy of which is on file in the office of the Marana Town Clerk.

2.5.4. The Meter Install Fee and Water Resource Development Impact Fee outlined above reflect the fees established as of the Effective Date of this Agreement. By listing them herein, the Town does not guarantee the fees will remain at the same rate as at the time they are due.

2.6. *Developer-Installed Facility acceptance by Town and the City of Tucson.* No service connections shall be made to the Developer-Installed Facility until the Developer-Installed Facility has been accepted by the Town in accordance with Marana Town Code Title 14 and until the Offsite Work has been accepted by the City of Tucson. The Developer must provide the Town of Marana Water Department with written verification of the City of Tucson's final acceptance of the Offsite Work prior to final acceptance of the Work by the Town.

2.7. *Developer's certification.* Execution of this Agreement certifies that the developer has reviewed the Facility Plan and all other specifications applicable to the Work and has approved and agrees with the location of all service lines.

2.8. *Termination for lack of Work.* Approval of the Facility Plan shall lapse and this Agreement shall terminate if more than one year has passed since the date of this Agreement and the Work has not begun, or if the Work is discontinued for a period of one year.

2.9. *City of Tucson Agreement Contingency*. The rights and obligations of the Parties under this Agreement are contingent upon Developer entering into a separate facilities construction agreement with the City of Tucson. Orla and Sanat Hazra have satisfied this condition by entering into the Agreement for Construction of Water Facilities Under Private Contract (No. DP1755) with the City of Tucson on October 19, 2022.

2.10. *Developer responsible for Offsite Work.* The Developer shall be solely responsible for the Offsite Work and for complying with the terms and conditions of any agreement with the City of Tucson related thereto.

3. Engineering and Inspection

3.1. *Registered civil engineer.* The developer shall employ a registered Civil Engineer to design, lay out, establish control lines for and certify the layout of the Work according to the Facility Plan.

3.2. *Town inspector's authority*. Any inspector authorized by the Town shall have full inspection authority over the Work.

3.3. *Inspection provisions*. The Developer shall furnish the Town's inspector with all facilities reasonably necessary to inspect the Work. The Work shall be subject to Town inspection at all times. Defective work shall be corrected in a manner satisfactory to the Town's inspector. Inspection by the Town is for the purpose of ensuring compliance with plans and specifications only. The Town makes no guarantee as to the safety or engineering soundness of plans prepared by the Developer or any contractor.

3.4. *Payment of Town inspector's overtime cost*. If scheduling by the Developer's contractor reasonably requires the Town's inspector to work overtime, the Developer or Developer's contractor shall pay the Town for any additional salaries, expenses or employee benefits relating to the overtime. For purposes of this paragraph, overtime is any time over 40 hours worked in a seven-day work period, any time over eight hours worked Monday through Friday, and any time worked on weekends and legal holidays observed by the Town.

4. Preconstruction Procedure

4.1. *Request to begin construction*. The Developer shall submit a written request to begin construction to the Town five working days before the Work is to commence.

4.2. *Construction permit*. This Agreement shall be completed, signed and notarized, and returned to the Town prior to issuance of a construction permit for the Work.

4.3. *Start and completion of the Work*. No portion of the Work shall begin until the Town has issued a construction permit specifying the starting date and a reasonable time for completion.

4.4. *Progress of the Work*. The Work shall be commenced and carried on at such points and in such order as may be directed by the Town.

4.5. *Materials sampling and testing*. Materials shall be available for sampling and testing by the Town prior to being used in the Work. Materials that fail to meet Town specification shall be removed from the site.

4.6. *Permits and approvals*. The Developer shall, at Developer's expense, obtain all necessary permits and licenses for the Work, pay all fees and comply with all laws, ordinances and regulations relating to the Work.

5. Construction

5.1. *Developer's presence on site*. The developer, or Developer's designated agent, shall be present at all times during performance of the Work. The name of the Developer's designated agent and the contractor performing the Work shall be furnished to the Town before the Work

begins. Instructions given by the Town to the designated agent shall be deemed to have been given to the Developer.

5.2. *Competence and diligence*. The Developer shall employ only competent and efficient laborers, mechanics or artisans on the Work, and the Developer agrees to perform diligently to complete the Work on or before the completion date given in the notice to proceed.

5.3. *Paving*. The Developer shall identify and locate all water valves prior to paving and set valve boxes to final grade after paving.

5.4. *Alterations to the existing Town water system*. The Developer shall, at Developer's expense, make any and all alterations to the existing water system either on-site or off-site necessitated by paving, drainage, or other improvements caused by the development of the Subject Property.

5.5. *Worksite safety*. The Developer shall require all contractors and subcontractors performing any portion of the Work to comply with all safety requirements of the Occupational Safety and Hazards Act as set forth by the Federal Government and as implemented by the State of Arizona. The Developer or its contractors shall be solely responsible for all fines or other penalties provided for by law for any violations of the Occupational Safety Hazards Act.

6. Dedication

6.1. *Transfer of the Developer-Installed Facility to the Town*. Upon the Town's final acceptance of the Work, the Developer shall at no cost grant, bargain, sell, convey, transfer and deliver to the Town the Developer-Installed Facility free and clear of all liens, claims, charges or encumbrances.

6.2. *Two-year warranty*. The Developer guarantees the Work to be free from all failures due to poor workmanship or materials for a period of two years from the date of the Town's final acceptance of the Work.

6.3. *Other conflicting construction prohibited*. The Developer shall not construct or allow the construction of any utility, building, or other improvement that would interfere with the operation or maintenance of the Developer-Installed Facility.

6.4. *Developer's obligation to maintain finished grade*. The Developer guarantees that all service lines, meters, and meter boxes on the Subject Property will be to finished grade and that Developer will remain responsible for raising or lowering said services as required until the Subject Property is fully developed.

6.5. *Acceptance by the Town*. The Town shall accept title to and take possession of the Developer-Installed Facility when the Work has been completed to the satisfaction of the Town. Subject to the Developer's continuing obligations under this Agreement, the Town shall operate and service the Developer-Installed Facility after taking over possession of it under this paragraph.

7. Miscellaneous

7.1. *Indemnity*. Developer shall indemnify, defend, and hold harmless the Town, its Mayor and Council, officers and employees, boards, committees and commissions from and against any loss, claim, suit, demand, cause of action, or liability of any nature, including but not limited to damage to property and injuries to persons, including death, arising or alleged to have arisen, in whole or in part, out of any negligent act or omission of the Developer or any contractor, subcontractor, or

any person employed directly or indirectly by any of them in the performance of the Work or in the operation of the Developer-Installed Facility.

7.2. *Binding effect.* This agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

7.3. *Consent required for assignment and delegation.* The Developer intends to assign and delegate its rights and responsibilities under this Agreement to a third party entity and may do so upon the prior written consent of the Town, which consent shall not be unreasonably withheld.

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

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

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this 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: February 8, 2023

ATTEST:

_____
David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____
Jane Fairall, Town Attorney

[Notary page follows.]

THE "DEVELOPER":

ORLA O'REILLY HAZRA AND SANAT HAZRA, as Trustees of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020

By: _____
Orla O'Reilly Hazra
Co-Trustee

Date: _____

By: _____
Sanat Hazra
Co-Trustee

Date: _____

TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity

By: _____

Name: _____

Its: _____

Date: _____

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on _____, 2023, by Orla O'Reilly Hazra, as Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020, on behalf of the trust.

(Seal)

_____
Notary Public

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on _____, 2023, by Sanat Hazra, as Co-Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020, on behalf of the trust.

(Seal)

_____
Notary Public

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on _____, 2023, by _____, as _____ of TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity.

(Seal)

_____
Notary Public

IN WITNESS WHEREOF, the Parties have executed this 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:

_____
David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____
Jane Fairall, Town Attorney

[Notary page follows.]

THE "DEVELOPER":

ORLA O'REILLY HAZRA AND SANAT HAZRA, as Trustees of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020

By: Orla O'Reilly Hazra
Orla O'Reilly Hazra
Co-Trustee

Date: 31 March 2023

By: Sanat Hazra
Sanat Hazra
Co-Trustee

Date: 03/31/23

TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity

By: _____

Name: _____

Its: _____

Date: _____

STATE OF Florida)
ss
County of Sarasota)

The foregoing instrument was acknowledged before me on March 31, 2023, by Orla O'Reilly Hazra, as Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020, on behalf of the trust.

(Seal)

Notary Public State of Florida
Cassandra K Zupan
My Commission GG 970565
Expires 03/17/2024

Cassandra K Zupan
Notary Public

STATE OF Florida)
ss
County of Sarasota)

The foregoing instrument was acknowledged before me on March 31, 2023, by Sanat Hazra, as Co-Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020, on behalf of the trust.

(Seal)

Notary Public State of Florida
Cassandra K Zupan
My Commission GG 970565
Expires 03/17/2024

Cassandra K Zupan
Notary Public

STATE OF _____)
ss
County of _____)

The foregoing instrument was acknowledged before me on _____, 2023, by _____, as _____ of TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity.

(Seal)

_____
Notary Public

IN WITNESS WHEREOF, the Parties have executed this 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:

_____
David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____
Jane Fairall, Town Attorney

[Notary page follows.]

THE "DEVELOPER":

ORLA O'REILLY HAZRA AND SANAT HAZRA, as Trustees of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020

By: _____
Orla O'Reilly Hazra
Co-Trustee

Date: _____

By: _____
Sanat Hazra
Co-Trustee

Date: _____

TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity

By: CSalcido

Name: Crystal Salcido

Its: Authorized Signer

Date: February 13 2023

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on _____, 2023, by Orla O'Reilly Hazra, as Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020, on behalf of the trust.

(Seal)

_____
Notary Public

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on _____, 2023, by Sanat Hazra, as Co-Trustee of the ORLA O'REILLY HAZRA AND SANAT HAZRA JOINT TRUST dated September 8, 2020, on behalf of the trust.

(Seal)

_____
Notary Public

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on February 13, 2023, by Crystal Salcido, as Authorized Signer of TITLE SECURITY AGENCY, LLC, a Delaware limited liability company, as Trustee under Trust No. 202214-S, and not in its corporate capacity.

(Seal)

NOTARY PUBLIC
STATE OF ARIZONA
Pima County
RONDA L TATRO
COMMISSION # 625634
My Commission Expires May 19 2026

_____
Notary Public

Council-Regular Meeting **C10**

Meeting Date: 08/01/2023

To: Mayor and Council

From: David L. Udall, Town Clerk/Assistant Town Attorney

Date: August 1, 2023

Subject: Approval of Regular Council Meeting Summary Minutes of June 20, 2023, and Special Council Meeting Summary Minutes of June 20, 2023 (David L. Udall)

Attachments

Regular Council Meeting Summary Minutes, 06/20/2023

Special Council Meeting Summary Minutes, 06/20/2023

MARANA TOWN COUNCIL
REGULAR COUNCIL MEETING

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, June 20, 2023, at or after 6:00 PM

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

SUMMARY MINUTES

CALL TO ORDER AND ROLL CALL

Mayor Honea called the meeting to order at 6:00 PM and directed the Town Clerk to call the roll. **Vice Mayor Post** and **Council Member Kai** were absent. All other Council Members were present, constituting a quorum.

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

APPROVAL OF AGENDA

Mayor Honea asked for a motion to approve the agenda.

Council Member Ziegler moved to approve the agenda as presented. Council Member Officer seconded the motion. Motion passed, 5-0.

CALL TO THE PUBLIC

Mr. David Morales addressed the Council regarding the benefits DAV Chapter 4 provides to the community and requested help to receive a storage facility to help in continuing its operations. During his presentation, he showed Council Members a letter and plaque the DAV received. **Mr. Morales** presented the Town Clerk with a copy of a DAV Chapter 4 Tucson letter and supporting documentation, which are on file with the Town Clerk's Office.

PROCLAMATIONS

PR1 Proclamation Recognizing Water Billing Specialist Renee Sommerville (David L. Udall)

Town Clerk / Assistant Town Attorney David Udall read the proclamation as **Mayor Honea** presented it to its recipient.

MAYOR AND COUNCIL REPORTS: SUMMARY OF CURRENT EVENTS

Council Member Ziegler thanked Airport staff for the information recently provided to her. She also commented on the iFly opening she attended at the Airport.

Mayor Honea also commented on the iFly event and on a quarterly event at the local prison. He complemented the work of the prison designed to help inmates and for the work the inmates do for the community. **Council Member Officer** also complemented the training opportunities provided to the inmates by the prison.

Mayor Honea also provided an update on zoning bills that were pending in the Arizona Legislature and mentioned the bill's sponsor resigned his seat.

MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Town Manger Terry Rozema said the Town has issued 36 single-family residential permits so far in June. Last June, there were 63 total permits issued. He provided an update on the Gladden Farms Community Dog Park and said it should be completed in August. He said the bike path between Twin Peaks and Avra Valley Road should be reopened by the end of June, highlighted the upcoming Star-Spangled Spectacular signature event on July 4, 2023, and provided an update on the Tangerine Road corridor improvements. **Mr. Rozema** also said a Real Talk with the Town podcast would be released this week regarding the restaurant recruiting task force.

PRESENTATIONS

CONSENT AGENDA.

C1 Ordinance No. 2023.020: Relating to Finance; amending the Town of Marana Comprehensive Fee Schedule by modifying the Vacation Service Fee note to eliminate the six-month requirement for the vacation disconnect period and to clarify that monthly water and sewer base rate fees still apply during the vacation disconnect period; and designating an effective date (Jing Luo)

C2 Ordinance No. 2023.021: Relating to Land Development; revising Marana Town Code Title 17 (Land Development), chapter 17-5 (Subdivisions), section 17-5-4 (Performance guarantee) to add permit hold forms of assurance as an acceptable form of substitute assurance to guarantee the completion of subdivision improvements; and declaring an emergency (Jane Fairall)

[The emergency clause in Item C2 failed to pass for lack of a supermajority of all Council Members. Item C2 otherwise passed.]

C3 Resolution No. 2023-057: Relating to Development; accepting public improvements for maintenance for the intersection of Twin Peaks and Camino De Manana (Jason Angell)

C4 Resolution No. 2023-058: Relating to Development; approving a final plat for Solana Canyon, Lots 1-4 and Common Area "A" (Private Street), generally located northeast of the intersection of Sunset Gallery Place and Sunset Gallery Drive within Section 14, Township 11 South and Range 12 East (Scott S. Radden)

C5 Resolution No. 2023-059: Relating to Economic Development; approving and authorizing the Mayor to execute a Funding and In-Kind Support and Assistance Agreement between the Town of Marana and the Marana Chamber of Commerce, Inc. for fiscal year 2023-2024 to support operation of the Marana Visitor Center and provision of services to the Marana community (Curt Woody)

C6 Resolution No. 2023-060: Relating to Municipal Court; approving and authorizing the Mayor to execute an Intergovernmental Agreement between the Town of Marana and Pima County for provision of video-court hearings of municipal prisoners for 2023-2024 (Laine McDonald)

C7 Resolution No. 2023-061: Relating to Parks and Recreation; approving and authorizing the acceptance of grant funding from Gila River Indian Community State-Shared Revenue Program funds for the purchase of exercise equipment to be used in the Marana Senior Wellness Improvement Program; and approving and authorizing the Town Manager to sign any and all documents required to accept the grant (Jim Conroy)

C8 Resolution No. 2023-062: Relating to Parks and Recreation; approving and authorizing the Mayor to execute the first amendment to an intergovernmental agreement for educational services and programming between the Town of Marana and Pima County (Jim Conroy)

C9 Resolution No. 2023-063: Relating to the Police Department; approving and authorizing the Mayor to execute a service agreement with the Marana Unified School District to provide two school resource officers in support of the District's School Safety Program (Libby Shelton)

C10 Resolution No. 2023-064: Relating to the Police Department; approving and authorizing the Mayor to execute an Intergovernmental Agreement between Pima County and the Town of Marana for payment for the incarceration of municipal prisoners for the period of July 1, 2023 through June 30, 2024 (Jane Fairall)

C11 Resolution No. 2023-065: Relating to Public Works; approving and authorizing the Mayor to sign a public improvement participation agreement with Jihong Kai, LLC for the construction of Driveway improvements as part of the Tangerine Road widening project Phase 2A (Jane Fairall)

C12 Resolution No. 2023-066: Relating to Public Works; approving and authorizing the Mayor to sign a public improvement participation agreement with Trico Electric Cooperative, Inc for the construction of water improvements as part of the Tangerine Road water main project (Jane Fairall)

C13 Resolution No. 2023-067: Relating to Utilities; authorizing Town staff to apply for a Drinking Water Revolving Fund loan from the Water Infrastructure Finance Authority of Arizona (WIFA) to fund the design and construction costs for a Marana Park emerging contaminants water treatment facility (Jing Luo)

C14 Approval of Regular Council Meeting Summary Minutes of June 6, 2023, and Special Council Meeting Summary Minutes of June 7, 2023

Council Member Commerford moved to approve the consent agenda. Council Member Craig seconded the motion. Mayor Honea called for a roll-call vote. Each Council Members present voted Aye. Motion passed, 5-0.

LIQUOR LICENSES

L1 Relating to Liquor Licenses; recommendation to the Arizona Department of Liquor Licenses and Control regarding an application for a new series #010 Beer and

Wine Store Liquor License submitted by Lauren Kay Merrett on behalf of Maverik, located at 9171 West Tangerine Road, Marana, AZ 85658 (David L. Udall)

Mr. Udall informed the Council that the liquor license application was posted in accordance with applicable regulations and that the Clerk's Office had not received any comments for or against the application. He said Town staff had reviewed the application and found it to be in compliance with the relevant regulations and that the Police Department had conducted a local background check. He said that Town staff recommended the Council adopt an order recommending approval to the Arizona Department of Liquor, who would make the ultimate determination on approval.

Council Member Ziegler moved to approve and submit to the Arizona Department of Liquor Licenses and Control an order recommending approval of an application for a new series #010 Beer and Wine Store Liquor License submitted by Lauren Kay Merrett on behalf of Maverik, located at 9171 West Tangerine Road, Marana, AZ 85658. Council Member Officer seconded the motion. Motion passed, 5-0.

BOARDS, COMMISSIONS AND COMMITTEES

B1 Resolution No. 2023-068: Relating to Boards, Commissions and Committees; approving and authorizing the creation of the Marana Civic Committee as a special committee of the Town of Marana (Andrea Caicedo)

Assistant to the Town Manager Andrea Del La Cruz (formerly Caicedo) presented on this item. A copy of the presentation slides is on file with the Town Clerk's Office. **Ms. Del La Cruz** reminded the Council that it dissolved the Marana Citizen's Forum via Resolution No. 2023-018. She said that, if adopted, this resolution would create in its place the Marana Civic Committee pursuant to the Council's feedback. She highlighted the new Committee's purpose in increasing citizen engagement, explained its role in acting in an advisory capacity for various Town issues, projects, and programs benefitting from public input, and detailed the elements of the Committee. For more detailed information, please see the presentation slides.

Council Member Officer moved to adopt Resolution No. 2023-068. Council Member Ziegler seconded the motion. Motion passed, 5-0.

B2 Resolution No. 2023-069: Relating to Boards, Commissions and Committees; approving the appointment of Tom Sommerville to the Marana Public Safety Personnel Retirement System (PSPRS) local board and to the Marana Correctional Officer Retirement Plan (CORP) local board; and approving the appointment of George A. Kennedy to the CORP local board (David L. Udall)

Mr. Udall said Town staff recently felt it would be best to combine the citizen membership of the PSPRS and CORP boards, and said that Mayor Honea was seeking Council approval for the appointment of Tom Sommerville to both local boards, each for four-year terms, and for the appointment George A. Kennedy to the CORP board for a two-year term to coincide with his current term on the PSPRS local board ending in two years.

Council Member Comerford moved to adopt Resolution No. 2023-069. Council Member Ziegler seconded the motion. Motion passed, 5-0.

COUNCIL ACTION

A1 Resolution No. 2023-070: Relating to Public Works; authorizing Town staff and representatives to acquire, by negotiations or condemnation, lands and property rights needed for the following Town of Marana projects: Tangerine Road Corridor Widening, Phase 2A (ST098), and Tangerine Road Corridor Widening, Phase 2B (ST060) (George Cardieri)

Real Property Manager George Cardieri presented on this item. A copy of the presentation slides is on file with the Town Clerk's Office. **Mr. Cardieri** explained that the purpose of this item was to seek Council's approval for the acquisition of real estate for the Tangerine Phase 2A and Phase 2B projects. For a depiction of the project areas involved, please see the presentation slides.

Council Member Ziegler moved to adopt Resolution No. 2023-070. Council Member Officer seconded the motion. Motion passed, 5-0.

A2 Resolution No. 2023-071: Relating to Water; approving and authorizing the Mayor to sign the Third Amendment to Amended and Restated Agreement for Construction of Water Facilities and Provision of Water Utility Service for the Saguaro Bloom Development Project (David L. Udall)

Mr. Udall explained the history of the original water service agreement, its relevant terms and conditions, and the recently imposed 19-residential-unit cap on development within Saguaro Bloom pursuant to the terms of the original agreement. He said that, if adopted, this amendment to the original water service agreement would allow the Saguaro Bloom development cap to be raised to a total of 100 residential units in exchange for certain emergency measures paid for or provided by the developer of Saguaro Bloom in the event the Saguaro Bloom Well No. 1 actually goes out of service between the time of the amendment's effective date and the completion date of the second well, which is currently under construction.

Council Member Ziegler referenced the letter in the agenda materials sent by **Mr. Udall** to the developer and asked that the Town enforce the cap if the well's construction ends up being delayed. **Mr. Udall** clarified the difference between the amendment's actual terms as negotiated between the parties versus the initial, proposed terms outlined in the letter, and he affirmed the Town would enforce the new cap as outlined in the amendment to the original agreement.

Council Member Ziegler moved to adopt Resolution No. 2023-071. Council Member Officer seconded the motion. Motion passed, 5-0.

ITEMS FOR DISCUSSION / POSSIBLE ACTION

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

Mr. Rozema explained there were a few outstanding items before the Governor, but that otherwise the legislative work at the Capitol was essentially complete.

D2 Relating to Development; review, discussion, and possible direction regarding the proposed Town of Marana Public Art Policy (Jason Angell)

Development Services Director Jason Angell presented a final draft of the Town's proposed public art policy previously introduced to the Town Council at the 2023 Council Retreat held in March. A copy of the presentation slides is on file with the Town Clerk's Office. **Mr. Angell** said the purpose of tonight's meeting was to receive direction and feedback prior to bringing the plan to Council for formal adoption.

Mr. Angell explained the purpose of the public art policy, overviewed proposed private development contribution requirements, discussed the recommendation that this be part of the Town's capital improvement program, shared proposed locations in the Town for public art projects, went over the membership of the proposed Art Review Committee, touched on design principles, and showed a slide outlining the financial implications of the policy. **Mr. Angell** answered clarifying questions during his presentation.

For more detailed information, including images, a comparison table of what other jurisdictions are doing, and a map of the proposed areas for public art projects, please see the presentation slides.

Council Member Ziegler asked how the Art Review Committee members would be chosen and commented that artistic individuals should be selected. **Mr. Angell** explained that the Council would have input in the selection process and highlighted that the preference would be for Marana artists to be chosen.

Mayor Honea asked if the art designs would be limited to the current geometric metal art (as depicted in the slides). **Mr. Angell** said the design was not limited to that specific art style and that different styles of art could be utilized.

Mayor Honea also asked if the funds derived from this proposed policy could be used for maintenance of existing art within the Town, and **Mr. Angell** confirmed it could be used for that purpose.

Council Member Ziegler referenced an email opposing the proposed public art policy, a copy of which is on file with the Town Clerk's Office, and asked if this policy would raise the cost of housing in subdivisions. **Mr. Angell** clarified that the email was in reference to multifamily housing, such as apartments, and said the policy would not apply to single-family residences.

D3 PUBLIC HEARING: Relating to Budget; public hearing regarding the Town of Marana's fiscal year 2023-2024 final budget (Yiannis Kalaitzidis)

Mayor Honea opened the public hearing at 7:01 PM.

Deputy Town Manager Erik Montague presented on this item. A copy of the presentation slides is on file with the Town Clerk's Office. **Mr. Montague** explained that the Town Council adopted the tentative budget on May 16, 2023. He said there have been no changes to the amounts included in the tentative budget and that this public hearing was the last step in the formal process for adopting the Town's budget for the next fiscal year. He reviewed the budget process timeline, a budget expenditure summary, and a budget overview summary.

Mr. Montague highlighted that the considerable increase from last year's budget was directly attributable to the number and nature of large capital improvement projects taking place during the upcoming fiscal year, including the new community center and aquatics facility. For additional information, including relevant tables and charts, please see the presentation slides.

Mayor Honea closed the public hearing at 7:07 PM.

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).

E2 Executive Session pursuant to A.R.S. §38-431.03 (A)(3) for discussion or consultation for legal advice with the Town's attorneys regarding the Town's interests in the property located at 12545 W. Moore Road, Marana, AZ.

[An executive session was not held.]

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).

Mayor Honea asked for future agenda items. **Council Member Ziegler** requested eliminating the Council Committee for Planning Commission and Board of Adjustment Appointments be added to a future agenda. **Mayor Honea** said it would be added to an agenda in August.

ADJOURNMENT

Mayor Honea asked for a motion to adjourn the meeting.

Council Member Comerford moved to adjourn the meeting. Council Member Officer seconded the motion. Motion passed, 5-0. Meeting adjourned at 7:09 PM.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the regular Town Council meeting held on June 20, 2023. I further certify that a quorum was present.

_____

David L. Udall, Town Clerk

DRAFT

MARANA TOWN COUNCIL
SPECIAL COUNCIL MEETING

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, June 20, 2023, at or after 6:00 PM

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

SUMMARY MINUTES

CALL TO ORDER AND ROLL CALL

Mayor Honea called the meeting to order at 7:09 PM and directed the Town Clerk to call the roll. **Vice Mayor Post** and **Council Member Kai** were absent. All other Council Members were present, constituting a quorum.

APPROVAL OF AGENDA

Council Member Ziegler moved to approve the agenda as presented. Council Member Officer seconded the motion. Motion passed, 5-0.

COUNCIL ACTION

A1 Resolution No. 2023-072: Relating to Budget; adopting the Town of Marana's fiscal year 2023-2024 final budget (Yiannis Kalaitzidis)

Deputy Town Manager Erik Montague briefly provided an overview of this item and explained next steps should the final budget be adopted. For more details, and for a

reference to presentation slides related to the final budget, please see the Regular Council Meeting Summary Minutes of June 20, 2023.

Council Member Officer moved to adopt Resolution No. 2023-072. Council Member Ziegler seconded the motion. Motion passed, 5-0.

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

Mayor Honea asked for a motion to adjourn.

Council Member Craig and Council Member Comerford moved to adjourn the meeting. Motion passed, 5-0. Meeting adjourned at 7:12 PM.

CERTIFICATION

I hereby certify that the forgoing are the true and correct minutes of the Marana Town Council Special Meeting held on June 20, 2023. I further certify that a quorum was present.

_____

David L. Udall, Town Clerk

Council-Regular Meeting **A1**

Meeting Date: 08/01/2023

To: Mayor and Council

From: Jane Fairall, Town Attorney

Date: August 1, 2023

Strategic Plan Focus Area:
Thriving Commerce, Vibrant Community, Proactive Public Services

Subject: Resolution No. 2023-080: Relating to Traffic and Highways; approving and authorizing the Mayor to execute the Town of Marana Fiber Optic Communications License issued to Ting Internet, LLC (Jane Fairall)

Discussion:

The proposed Fiber Optic Communications License ("License") with Ting Internet, LLC ("Ting") will grant to Ting nonexclusive and revocable rights and nonexclusive and revocable privileges to construct, install, operate, and maintain its infrastructure and communications facilities and equipment in the Town's Public Rights-of-Way and on other Town-owned property for the purpose of providing broadband internet access services to subscribers. Ting intends to build its network in four construction Area Work Zones as described on the map attached to the License as Exhibit A. Ting's build sequence will be confirmed by its final construction plan.

The License includes the following provisions:

- Ting will be required to obtain right-of-way use permits from the Town prior to work in the right-of-way, pursuant to agreed-upon permit specifications in Exhibit B
- All construction will be accomplished according to agreed-upon construction specifications set forth in Exhibit C
- The term of the License will be for ten years with three additional five-year automatic renewals unless written notice of termination is provided by either party no less than six months before the end of the initial term or any renewal term
- The Town may request that Ting install conduit for the Town's use while working

in the right-of-way, which conduit will then be dedicated to the Town, and will be credited to Ting as an in-kind contribution to the Town
- Ting may also use co-location space for certain equipment within the Town's facilities at the Marana Municipal Complex (MMC) and Marana Operations Center (MOC)
- Ting must pay the following fees to the Town:
  - Use of Town right-of-way or other Town property: Annual Fee equal to $2.43 per linear foot, up to a maximum amount that shall not exceed 3% of Ting's annual Gross Broadband Revenue
  - Use of Town conduit: $0.40 per foot, per year
  - Permit fees: $150,000 per year in Area Permit Fees for the first three years of the License; after the first three years, Ting will then pay the Town's normal fees in place at the time
  - Co-location in Town facilities: $250 per month for each equipment rack plus electrical costs

Financial Impact:

Fiscal Year:	24
Budgeted Y/N:	No
Amount:	$See Fees Section above

This will be a new ongoing revenue source for the Town.

Staff Recommendation:

Staff recommends approval of the License.

Suggested Motion:

I move to adopt Resolution No. 2023-080, approving and authorizing the Mayor to execute the Town of Marana Fiber Optic Communications License issued to Ting Internet, LLC.

Attachments

Resolution No. 2023-080

Exhibit A - Fiber Optic Communications License

MARANA RESOLUTION NO. 2023-080

RELATING TO TRAFFIC AND HIGHWAYS; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE TOWN OF MARANA FIBER OPTIC COMMUNICATIONS LICENSE ISSUED TO TING INTERNET, LLC

WHEREAS the Town Council is authorized by A.R.S. § 9-240 to exercise exclusive control over the streets, alleys, avenues and sidewalks of the town; and

WHEREAS Ting Internet, LLC desires to install, operate, maintain, and use a system to be used to provide Services including Broadband Services in, along, under, over, and across certain Public Rights-of-Way within the Town or on other Town-owned property; and

WHEREAS the Mayor and Council of the Town of Marana find it is in the best interests of its citizens to enter into this Fiber Optic Communications License agreement with Ting Internet, LLC.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, approving the Fiber Optic Communications License issued to Ting Internet, LLC, substantially in the same form attached to and incorporated by this reference in this resolution as Exhibit A, and authorizing the Mayor 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 license agreement, including the approval of future Conduit Requests by the Technology Services Director and the Town Engineer, or their respective designees, as set forth in the agreement..

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

TOWN OF MARANA
FIBER OPTIC COMMUNICATIONS LICENSE ISSUED TO TING INTERNET, LLC

THIS LICENSE ("License") is issued by the Town of Marana, an Arizona municipal corporation, as represented by the Town Council and acting through the Town Manager or the Town Manager's designee ("Town" or "Licensor") to Ting Internet, LLC, a Delaware limited liability company ("Licensee"). The Town and Licensee are each a "Party" and collectively, the "Parties."

RECITALS

A. Town is responsible for management of the Public Rights-of-Way (as defined below) and has the authority to grant licenses authorizing occupancy and use of the Public Rights-of-Way; and

B. Licensee desires to install, operate, maintain, and use a System (as defined below) to be used to provide Fiber Optic Communications Services (as defined below) including Broadband Services (as defined below) in, along, under, over, and across certain Public Rights-of-Way within the Town or on other Town-owned property.

LICENSE

NOW, THEREFORE, Town hereby grants Licensee this License under the following terms and conditions:

SECTION 1. DEFINITIONS

For the purpose of this License, unless the context otherwise requires, the following terms, phrases, words, and their derivatives have these meanings. When not inconsistent with the context, words in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory. If a conflict or ambiguity exists among the definitions in Arizona Revised Statutes, the Marana Town Code, and this License, the definitions in the following order prevail and control: (1) Arizona Revised Statutes; (2) Marana Town Code; (3) this License. Additional definitions for this License include:

"ACC" means the Arizona Corporation Commission.

"Adjusted Per Linear Foot Fee" has the meaning set forth in Section 4.1.5.

"A.R.S." means Arizona Revised Statutes, as amended.

"Anniversary Date" means the annual anniversary of the Effective Date.

"Annual Fee" has the meaning set forth in Section 4.1.1.

"Broadband Services" means the offering of broadband Internet access services to Subscribers.

"Cable Service" means the transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service over a Cable System.

"Cable System" means any facility consisting of a set of closed transmission paths and associated signal generation reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. Cable system does not include (1) a facility that serves fewer than fifty (50) subscribers; (2) a facility that serves subscribers without using any public street, road or alley; (3) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (4) a facility of a

common carrier that is subject, in whole or in part, to 47 United States Code Sections 201 through 276, except that the facility is considered a cable system, other than for purposes of 47 United States Code Section 541(c), to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of the use is solely to provide interactive on-demand services; (5) an open video system that complies with 47 United States Code Section 573; or (6) a facility of an electric utility that is used solely for operating its electric utility system.

“Day” means calendar day unless noted otherwise.

“Effective Date” means the signature date of the last Party to sign this License.

"Environmental Laws" means all federal, state, and local laws, ordinances, rules, regulations, statutes, and judicial decisions now or subsequently in effect, in any way relating to or regulating human health, or safety, or industrial hygiene, or environmental conditions, or protection of the environment, or prevention or cleanup of pollution or contamination of the air, soil, surface water, or groundwater.

"FCC" means the Federal Communications Commission.

"Fiber Optic Communications Services” means communications services that are excluded from the definition of “Telecommunications” set forth in A.R.S. § 9-581(4).

“Gross Broadband Revenue” means any and all consideration of any kind or nature, including cash, credits, property, and in-kind contributions (services or goods) arising from or attributable to Licensee’s provision of Broadband Services over the System within Town to Subscribers (including fees attributable to Broadband Service when sold individually or as part of a package or bundle, with services other than Broadband Services), without regard to the billing address of the Subscriber. The term “Gross Broadband Revenue” shall not include the following: (1) any revenue not actually received, even if billed, provided that uncollectible fees written off as bad debt which are subsequently collected shall be included in gross revenues in the period collected; (2) refunds, rebates, credits or discounts to Subscribers or Town to the extent not already offset by (1) immediately above and to the extent such refund, rebate, credit, or discount is attributable to Broadband Service; (3) any revenues received by Licensee or its Affiliates from the provision of services other than Broadband Service; (4) any revenues received by Licensee or its Affiliates for the provision of Internet advertising, including banner advertisement and electronic publishing; (5) any amounts attributable to the provision of any service to Subscribers at no charge, including the provision of such service to public institutions without charge; (6) any tax of general applicability imposed on the Subscriber or the transaction (but not on Licensee) by a federal, state, or local government or any other governmental entity, collected by Licensee, and required to be remitted to the taxing entity, including, to the extent applicable to Broadband Services, sales and use taxes, and utility user taxes (the Annual Fee imposed herein is not such a tax); (7) any forgone revenue from the provision of service at no charge to any Person, except that any forgone revenue exchanged for trades, barters, services, or other items of value shall be included in gross revenue; (8) any value of capital assets or surplus equipment; (9) the sale of Broadband Service for resale to the extent the purchaser thereof certifies to Licensee in writing that it will resell the Broadband Service and pay a fee to Town with respect thereto; and (10) any revenue derived from rental of modems or other equipment used to provide or facilitate the provision of the Broadband Services.

"Hazardous Substances" means those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Laws and the following substances: gasoline, kerosene, or other petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials.

"License" means this non-exclusive authorization granted by the Town to construct, operate, maintain, reconstruct, repair, and remove the System or any portion thereof in, over, under, and across public rights of way owned or controlled by the Town.

"Licensee" has the meaning set forth in the Preamble.

"Licensor" has the meaning set forth in the Preamble.

“Per Linear Foot Fee” has the meaning set forth in paragraph 4.1.2.

“Person” means an individual, corporation, limited liability company, partnership, association, trust or any other entity or organization, including a governmental or political subdivision, including Town, or an agency or instrumentality thereof.

"Pre-existing Environmental Condition" means the presence, emission, disposal, discharge, or release of any Hazardous Substance at, in, on, under, or about the System, however caused, existing prior to the placement of the System within the Public Rights-of-Way, whether the nature and extent of such contamination is known or unknown at the time.

"Provider" means a Person that constructs, installs, operates, or maintains fiber optic communications facilities or Fiber Optic Communications Services in or using the Public Rights-of-Way.

"Public Rights-of-Way" means all roads, streets, alleys, and all other dedicated public rights-of-way and public utility easements located within the Town’s corporate boundaries.

“Right-of-Way Use Permit” means the nonexclusive permission granted by the Town to Licensee within the Public Rights-of-Way for the specific location of Licensee’s System, and includes fees (if any) for the specific location, and other terms and conditions in accordance with the Marana Town Code Chapter 12-7, applicable Rights-of-Way construction regulations, and other applicable law.

“Subscriber” means any Person who is lawfully receiving Broadband Services provided by Licensee using the System within the territorial limits of Town.

“System” means Licensee’s infrastructure and communications facilities and equipment including, but not limited to, conduit, fiber optic cables, splice cases, manholes, hand holes, and related and associated facilities installed in the Public Rights- of- Way, and when specifically authorized by the Town on other Town-owned property, and which are used to provide Fiber Optic Communications Services.

"Telecommunications" has the same meaning as defined in A.R.S. § 9-581(4), as amended.

"Telecommunications Services" has the same meaning as defined in A.R.S. § 9-581(6), as amended.

“Town” means the Town of Marana, Arizona.

"Town Council" means the Council of the Town of Marana.

“Town Dedicated Conduit” has the meaning set forth in Section 4.2.

“Video Programming” means programming that is provided by, or generally comparable to programming provided by, a broadcast television station.

SECTION 2. PERMISSION GRANTED

2.1. Grant. Subject to the provisions of this License, the Marana Town Code, and Arizona and federal law, the Town grants to Licensee nonexclusive and revocable rights and nonexclusive and revocable privileges as set forth in this License to construct, install, operate, and maintain its System in the Public Rights-of-Way and on other Town-owned property.

2.1.1 At any time during the term of this License, Licensee may apply to the Town for Right-of-Way Use Permits that set forth the specific location of Licensee’s System and other terms and conditions as provided in Exhibit B

hereto. The Town may approve, deny, or conditionally approve Licensee's Right-of-Way Use Permit application based on the following, but not exclusive, reasons: (i) availability of space at the location sought by Licensee; (ii) public health, safety, and welfare; and (iii) other considerations in accordance with this License (including Exhibit B) and applicable construction regulations, and other applicable law.

2.1.2 Subject to the permission of the affected property owner, this License also authorizes Licensee to place its System on property owned by third parties, such as an electric utility company or other private property owners; provided, however, the System installed or constructed by Licensee on the private property must comply with applicable Town regulations and other applicable laws. Upon request from the Town, Licensee must promptly furnish to the Town documentation of the third party's permission. By executing this License, the Town does not waive any rights that Town may have against any public utility or other third party to require such owners to obtain the Town's prior approval for such uses of their property or facilities, or that revenues received by any public utility or other property owner from Licensee be included in the computation of the use fees owed by such parties to the Town.

2.1.3 No component or part of Licensee's System may be installed, constructed, located on, or attached to any property within the Town until Licensee has applied for and received approval for a Right-of-Way Use Permit or other applicable permit under the Marana Town Code and this License. Additionally, Licensee must comply with all other provisions of the Marana Town Code and this License related to construction, including without limitation the requirements set forth in Marana Town Code Section 12-7-9 regarding work on asphalt pavements having an overall condition index (OCI) of over 70, and other applicable Town regulations. Notwithstanding the foregoing, Licensee may deviate from Marana Town Code Section 12-7-9(E) as follows: with respect to Licensee's work in the Public Rights-of-Way, permanent pavement repairs as the result of daylighting (potholing) associated with safe construction pursuant to Arizona's underground locates laws (A.R.S. §§ 40-360.21 through 40-360.32), shall be a minimum of 1 foot by 1 foot asphalt restoration, for each excavation to be completed for daylighting (potholing), and no more than 2 square feet total. Areas of restoration larger than 2 square feet may be subject to applicable provisions of the Marana Town Code.

2.1.4 Any right or privilege claimed under this License by Licensee for any use in the Public Rights-of-Way and on other Town-owned property is subordinate to any Town prior or subsequent lawful occupancy or use or any other governmental entity and is subordinate to any prior easements, provided, however, nothing in this License extinguishes or otherwise interferes with the Parties' property rights established independently of this License.

2.1.5 Nothing in this License will be construed to prevent the Town from abandoning, altering, improving, repairing, or maintaining the Town's facilities in the Public Rights-of-Way, and for any or more of such purposes or any other lawful purpose requiring Licensee to remove, relocate, or abandon in place Licensee's System to accommodate the Town's projects and activities (a "Required Relocation"). Licensee shall be responsible for its own costs of any Required Relocation of Licensee's System or any portion thereof, provided, however, that Town shall take all reasonable actions to minimize costs of any such Required Relocation to Licensee, including without limitation making reasonable efforts on its own and in cooperation with Licensee to seek reimbursements and other available federal or state funding that, under applicable law, may be used by municipalities to fund or subsidize the costs of relocating underground facilities, and passing through to Licensee its pro-rata portion (based on the linear feet of Licensee's facilities subject to the Required Relocation as a share of the total linear feet of the Public Rights-of-Way that is abandoned, altered, improved, repaired, or maintained) of any funds received by Town from federal or state funding sources for such purpose. The Town will not be liable for Licensee's lost revenues, however caused, due to any Town activity or project in the Public Rights-of-Way, when such costs or lost revenues result from the construction, operation, or maintenance of Town facilities and any other lawful project or activity in the Public Rights-of Way; provided, however, that the Town's activities and projects that result in such costs or lost revenues to Licensee are conducted in accordance with applicable laws and regulations. Required Relocations must be accomplished in accordance with the directions from Town including the Town's reasonable construction schedule and made under the same terms and conditions as the initial installation allowed pursuant to this License and Right-of-Way Use Permit. Licensee must reimburse the Town for any direct or indirect damages incurred by the Town as a result of unreasonable delays in the Required Relocation caused by Licensee's negligence, willful misconduct, or undue delay.

2.2 Description of the Services, System, and its Construction.

2.2.1 Licensee may use its System only to provide Fiber Optic Communications Services, including Broadband Service. Licensee represents and warrants that Licensee does not provide services that are considered Telecommunications Service, Cable Service, or Video Programming service.

2.2.2 Licensee acknowledges, represents, warrants, and agrees that: (i) the Services authorized under this License do not require a Certificate of Convenience and Necessity ("CC&N") or other legal authorization; (ii) if a CC&N or other authorization is required by law for certain Services, Licensee agrees that it will not provide these Services under this License until Licensee receives the proper authorization; (iii) if Licensee obtains a CC&N or other legal authorization during the term of this License, Licensee will furnish a copy of any legal authorization to Town as provided in this License within 30 days of receipt of the same or the Effective Date, whichever is later; and (iv) Licensee will indemnify, defend, save, and hold harmless the Town as provided in this License and assume all liability and risk for Licensee's failure to possess the proper legal authorization to provide some or all of the Services under this License.

2.2.3 As part of Licensee's authorized System, Licensee may install empty conduit and dark fiber within the Public Rights-of-Way or on other Town-owned property.

2.2.4 Licensee must obtain the proper and necessary Right-of-Way Use Permit before Licensee begins any work or construction in the Public Rights-of-Way. Licensee must obtain any other applicable permit before Licensee begins any work or construction on Town-owned property or public Rights of Way.

2.2.5 Unless otherwise permitted by applicable law or this License and associated exhibits, including, for the avoidance of doubt, the construction specifications set out in Exhibit C hereto, Licensee must install and construct Licensee's System in accordance with the Marana Town Code and this License. Licensee may lease fiber or other assets as it deems necessary from other Persons to provide service to business customers. It is the Parties' intent that the Parties will work to minimize inconvenience to Marana residents and other Public Rights-of-Way users. Before Licensee installs the System, Licensee shall submit plans and specifications for proposed construction to the Town for approval, which approval the Town will not unreasonably delay or withhold. All work on Licensee's System shall comply with all lawful and reasonable requirements of Town, and must follow and comply with industry best practices and standards, which shall be deemed to include the construction specifications set out in Exhibit C.

2.2.6 Any changes to the System that would have required approval in Licensee's initial Right-of-Way Use Permit for the affected part of the System must be approved in writing by Town, whose approval will not be unreasonably withheld, delayed, or conditioned.

2.2.7 Licensee's installation of the System must be reasonably coordinated with other utilities and Town to accommodate construction being simultaneously undertaken at the same location by another utility. In accordance with applicable law, all installations must be located underground unless an exception is granted by the Town Engineer; provided, however, that nothing in this License requires Licensee to incur any additional expense to accommodate common installations. The provisions relating to additional expense in the foregoing sentence relate only to coordinated common installations and are not applicable to any other section of this License.

2.3 Location of the System.

2.3.1 At the time of proposed construction, Licensee must submit a Right-of-Way Use Permit application(s) together with the details, plans, and specifications for Town's review and approval, and pay all applicable application, review, and inspection fees required by Section 4.6 before any and all construction work is performed under the rights and privileges granted under this License. The proposed locations of Licensee's planned installation of its System, including related facilities or equipment, is depicted on the map attached and made a part of this License as Exhibit A ("Service Area"). The System may be depicted more specifically in the Right-of-Way Use Permit process, as reasonably required by Town, and shall be updated annually on the Anniversary Date of this License. Proposed locations of the System that are part of any Right-of-Way Use Permit(s) must also be made a part of a general depiction of Licensee's System in Exhibit A and must be

updated at the time of License renewal or amendment.

2.3.2 If Licensee desires to change the location of any of the System, including any related facilities or equipment, from the location depicted in initial Right-of-Way Use Permit application(s), Licensee must submit revised plans to apply for and obtain approval for an amendment to the Right-of-Way Use Permit prior to installation and construction of the facilities or equipment.

2.4 Licensee Use of Town Conduit

2.4.1. The Town has constructed and is the owner, in whole or in part, of an Intelligent Transportation Systems (ITS) conduit system constructed for the purposes of telecommunications connectivity in Marana, Arizona comprised of conduit, innerduct, manholes, handholes, vaults, pull boxes, and support structures needed for the use of the ITS conduit.

2.4.2 Licensee desires to acquire from the Town, from time-to-time and as the need arises, the right to use certain ITS conduit within portions of the Town for the purpose of installing Licensee facilities, which includes but is not limited to fiber optic cables, innerduct, tracer wires, equipment and associated hardware, owned and/ or utilized by Licensee, and the Town desires to allow Licensee to use such certain ITS conduit in the Town's system.

2.4.3 The following definitions shall apply to this Section 2.4:

“Additional Conduit” means Conduit for which Licensee is granted a right to use after the Effective Date of this License and which is made subject to this License pursuant to the execution of one or more Conduit Request(s) (as defined in this Section 2.4.3 below). Upon the execution of a Conduit Request by both parties, the term “Additional Conduit” shall be included in the definition of “Conduit” for all purposes under this License.

“Connected Points” means the beginning and ending points of the Conduit as more specifically described in a Conduit Request.

“Conduit” means the system of four-inch Intelligent Transportation Systems (ITS) conduit, innerducts, shared manholes, handholes, vaults, pull boxes, support structures, and assist points needed for the use of the ITS conduit, together with certain other associated facilities owned or operated by the Town that provide communications continuity between the Connected Points and to which Licensee is granted use of from the Town pursuant to this License, as it may be amended from time to time. For the purposes of this License, “Conduit” does not include Town owned conduit installed for traffic signal operations and street lighting.

“Conduit Request” means an executed supplement to this License, a form of which is attached hereto and incorporated herein by this reference as Exhibit E.

“Equipment” means the telecommunications equipment owned or used by Licensee to generate signals across fiber optic cable, or copper cables, as the case may be, including tracer wires, equipment, and associated hardware.

“Facilities” means fiber optic or copper cables and associated hardware and conduit.

“Fiber Cable” means the fiber optic cable sheath installed in the Conduit and owned by Licensee.

“Innerduct” means a system of three 1.25-inch smaller conduit (or tubes) used to subdivide larger conduit ducts for the placement of optical fiber cables in the underground conduit system.

“Manhole” means a below ground level enclosure entered through a hole on the surface covered with a cast iron, cast aluminum, steel, concrete or other cover, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities associated with a fiber optic communications system. As used in this License, the term “Manhole” refers to manhole structures owned or operated by the Town and which are components of the Conduit.

“Pull Box '' means a buried No. 7 pre-cast concrete box with an extension and a removable cover as identified in Pima Association of Governments Standard Details, used to facilitate the pulling of cables.

"Route" means the physical path of the Conduit required to provide continuity between the Connected Points, as more specifically described in each Conduit Request.

"Splice" means the splicing or terminating of fiber optic cables, copper cables, or both.

"Vault" means a pre-cast concrete buried Arizona Department of Transportation No. 9 pull box with a lid for pulling and terminating fiber optic cable runs.

2.4.4 The Town hereby grants to Licensee a non-exclusive right to access and use the Conduit, Connected Points, Vaults, Pull Boxes, and Manholes, including permission to install Fiber Cable in the Conduit, to interconnect Licensee's own conduit network with the Conduit, and to terminate or Splice Fiber Cable at the Connected Points, and to provide all necessary maintenance and repairs to the Conduit, subject to the conditions set forth in this License. Licensee may interconnect its conduit to the Manholes or Conduit to facilitate the Splices. All work is to be performed by Licensee at Licensee's sole cost and expense.

2.4.5 Licensee shall mark with a stamp or medallion (or other form of identification) each Town Pull Box cover where Licensee has placed Fiber Cable.

2.4.6 If Licensee requires the use of Conduit that is not currently populated with three 1.25-inch Innerducts, Licensee shall be required to install a system of three 1.25-inch Innerducts in the empty Conduit prior to use. Licensee shall notify the Town of empty Innerducts installed by but not being used by Licensee and those empty Innerducts shall be made available for Town use.

2.4.7 If Licensee requires the use of Conduit that is populated with Town fiber optic cable but no Innerduct, Licensee shall install Innerduct and maintain Town fiber optic cable.

2.4.8 No Splices shall be made in Town-owned Pull Boxes. Splices may be made in Vaults.

2.4.9 Licensee shall be responsible for repairing any damage that Licensee causes to Town owned Conduit, Pull Boxes, Vaults or fiber optic cable.

2.4.10 Licensee's right to use Additional Conduit shall be memorialized in separate and independent Conduit Requests. Licensee may request the inclusion of Additional Conduit by executing a Conduit Request, in the form attached hereto as Exhibit E. Approval of a Conduit Request, when deemed to be technically and operationally feasible in the sole reasonable discretion of the Town, shall not be unreasonably withheld, conditioned or delayed by the Town. The Town shall not unreasonably condition or delay execution of a Conduit Request. The Town shall review and act on Conduit Requests within 15 Town business days of receipt of the request. Subject to the provisions of Section 2.4.16 below, Licensee shall be solely responsible for costs associated with use of Additional Conduit. Upon execution, the Conduit Request will be incorporated into this License and fully subject to the terms and conditions of this License.

2.4.11 Each Conduit Request executed pursuant to this License shall continue in effect until terminated by Licensee as set forth in this License, or until expiration of the term of this License. Licensee may terminate a Conduit Request, or Route within a Conduit Request, at any time upon 90 days' prior written notice to the Town. Upon termination or expiration of a Conduit Request, or a Route within a Conduit Request, the right to use granted by that Conduit Request shall immediately terminate, all rights granted to Licensee for use of the Conduit shall terminate, and neither Party shall owe the other any further duties or consideration. Licensee shall remove all Licensee Property from the Conduit as prescribed in Section 2.4.21 of this License, unless the Town gives Licensee permission to abandon any Facility or Equipment laid, directly constructed, operated, or maintained.

2.4.12 Any Conduit Request must be jointly approved by the Town's Technology Services Director and the Town Engineer, or their respective designees.

2.4.13 Licensee shall pay the Town a fee for the right to use granted under each Conduit Request pursuant to this License as follows:

2.4.13.1 The fee shall be calculated by multiplying the total aggregate length of the Conduit, in feet, by the applicable per foot rate, per year and shall be paid on an annual basis.

2.4.13.2 The Conduit use rate for the initial term of this License is $0.40 per foot, per year.

2.4.13.3 The payment period for each Conduit Request shall begin on the applicable Conduit Request Acceptance Date (as defined in Section 2.4.16 below) and conclude upon termination or expiration of the Conduit Request for the Conduit in use. The fee shall be due and payable by Licensee annually on July 30 of each year for the fiscal year in which the payment is received (July – June Town fiscal year) and will be prorated for any conduit Request placed during that fiscal year, payable 30 days after the applicable Conduit Request Acceptance Date.

2.4.13.4 All charges for Conduit are net of Applicable Taxes (as defined below). Except for taxes or surcharges based on the Town's corporate existence, status, net income, corporate property taxes, or payroll taxes, Licensee will be responsible for all Applicable Taxes that arise in any jurisdiction, including, without limitation, consumption, sales, use, gross receipts (except those in lieu of income taxes), excise or other taxes, fees, charges or surcharges, however designated, imposed on, incident to, or based upon the provision, sale, or use of the Conduit (collectively "Applicable Taxes"). The Town represents that it has paid all applicable sales or use tax with respect to the Conduit on the basis that the Conduit was incorporated in real property at the time it was installed in the Town's system, and the Parties agree to treat the transactions contemplated in this License in a manner consistent with that position. Licensee shall pay and be solely responsible for any state or local transfer taxes and sales taxes arising from the transactions contemplated by this License, and shall indemnify the Town for all such taxes assessed against or paid by the Town.

2.4.14 The Conduit shall remain the property of the Town and will never be deemed a fixture to any real property owned by Licensee or any third party. The Town and Licensee will each retain title to all of their respective equipment, cable, electronics and facilities used in connection with this License.

2.4.15 Upon request of the Licensee, the Town will provide Licensee with CADD as-built plans that include the Conduit. No later than 30 days after each installation of Licensee facilities in the Conduit, Licensee will provide the Town with CADD as built plans of all Licensee facilities placed in the public right-of-way.

2.4.16 The Town does not guarantee that the condition of the Conduit is acceptable for Licensee's purposes. Licensee shall have 20 days after being notified by the Town that Conduit is ready for acceptance inspection to inspect, accept or reject the Conduit (hereinafter "Inspection Period"). Licensee will perform such tests as it deems necessary to determine the acceptability of the Conduit for its intended use. All testing shall be at the sole cost of Licensee. If, based on the sole determination of the Licensee, the Conduit is deemed unacceptable, the Town will assign, where available, different Conduit to the Licensee. If any Conduit made available to Licensee along a Route fails to meet Licensee's acceptance criteria, Licensee shall be entitled, at Licensee's sole discretion, to either (i) repair the unacceptable Conduit, at Licensee's sole cost and expense, or (ii) reject the affected portion of Conduit and be released from any further related obligations without affecting other rights granted by this License, or (iii) terminate this License and be released from any further obligations under the License. The "Acceptance Date" shall be (a) the date Licensee notifies the Town in writing that it has accepted the Conduit, or (b) if Licensee fails to respond within the Inspection Period, the date following expiration of the Inspection Period.

2.4.17 Each Party is responsible for the safety and health of its employees, agents, and contractors while working on the Conduit, or the facilities installation pursuant to this License. Each Party shall comply with all applicable rules and regulations, as well as all local, state and federal environmental, health and safety requirements, including without limitation those relating to the use and handling of hazardous materials.

2.4.18 Licensee shall be responsible for obtaining all applicable permits, licenses, or other forms of approval or authorization necessary to install its facilities in the Conduit, prior to installation. This includes Licensee's obligation to obtain a right-of-way use permit pursuant to Marana Town Code Chapter 12-7 (Construction in town rights-of-way) each time Licensee or its contractor installs, replaces, or maintains its facilities in the Conduit.

2.4.19 Licensee shall be responsible for ownership, maintenance, and operation of its Facilities installed in the Conduit and for compliance with all applicable laws and regulations regulating the same. Licensee shall

at all times retain exclusive right, title, and interest in the Facilities or any other Equipment installed by Licensee pursuant to this License.

2.4.20 Licensee, its agents or subcontractor may perform industry standard maintenance, locates and repairs for the Conduit to ensure proper protection and functioning of the Conduit, subject to all permits and authorizations required by applicable law, to be secured at Licensee's sole expense. Licensee shall bear all costs associated with industry standard maintenance, locates and repairs of the Conduit during the Term of this License.

2.4.21 The Town may give Licensee permission to abandon, without removing, any Facility or Equipment laid, directly constructed, operated, or maintained in the Conduit pursuant to this License.

2.4.21.1 Except for Facilities and Equipment authorized to remain in place pursuant to the preceding Section 2.4.23, Licensee shall, within a reasonable period of time, remove all abandoned Facilities and Equipment installed in the Conduit and shall restore any affected right-of-way to its former state at the time the Facilities and Equipment were installed in the Conduit.

2.4.21.2 Licensee shall refill, at its own expense, any excavation made by Licensee and shall leave all right-of-way in as good condition as existed prior to the removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments.

2.4.21.3 The Town shall have the right to inspect and approve the condition of the Facilities and the public right-of-way prior to and after removal from the Conduit.

2.4.21.4 The liability, indemnity and insurance provisions of this License shall continue in full force and effect during the period of removal and until full compliance with the terms and conditions of this Section 2.4.21.

2.4.21.5 Upon Licensee's abandonment of its Facilities pursuant to this section 2.4.21 the exclusive right to use the Conduit is returned to the Town.

2.4.22 If the Town is required or desires to remove any of the Conduit, the Town agrees to provide Licensee not less than 60 calendar days' prior written notice of such removal. Upon receipt of the notice, Licensee shall have 45 calendar days to remove all Equipment from the affected use area. Licensee shall be entitled, at Licensee's sole discretion, to either terminate the Conduit Request(s) covering the affected portion of Conduit and be released from any further obligations related thereto without affecting other rights granted in paragraph 2 above, or to terminate this License as provided in paragraph 4 above.

2.4.23 If any provision of this Section 2.4 conflicts with another provision of this License, this Section 2.4 shall take precedence for purposes of the Licensee's use of Town Conduit only.

SECTION 3. SCOPE

3.1 Use of Licensee's System by Others. This License authorizes Licensee in its ordinary course of business: (i) to lease to or contract with others for use of all or part of the System, attach to poles and/or store aerial fiber for purposes of leasing or contracting with others for use of all or part of the system, and (ii) to sell or lease dark fibers, conduit, or any other facilities that are parts of the System to others that have an agreement, franchise, or other licenses with the Town to use the Public Rights-of-Way or other Town-owned property. Under this section, Licensee must first provide written notice to the Town of the identity of the proposed user or purchaser and a description of the proposed use or sale arrangement. In the event the lease or agreement provides for the other entity to construct, install, operate, or maintain any of Licensee's System, no such arrangement may proceed until the other entity enters into a license with the Town for use of the Public Rights-of-Way. Licensee may not allow third parties to use its System for any use for which Licensee itself does not have authority under this License.

3.2 Joint Trenching. Licensee's installation of the System must be reasonably coordinated with other utilities and the Town to accommodate opportunities for common installation along with Licensee's project as set forth in this license. All installations must be located in conduit unless otherwise approved by the Town Engineer.

3.3 Compliance with Laws. Licensee must comply with all applicable laws as amended from time to time, including but not limited to, the Marana Town Code and Arizona and federal law, in the exercise and performance of its rights and obligations under this License. If it is necessary for Licensee to comply with any law or regulation of the FCC or the Arizona Corporation Commission ("ACC") to engage in the business activities anticipated by this License, Licensee must comply in all material respects with such laws or regulations as a condition precedent to exercising any rights granted by this License; provided; however, that no such law or regulation of the FCC or ACC may enlarge or modify any of the rights or duties granted by this License without a written modification to this License.

3.4 Reports.

3.4.1 Upon request, Licensee will provide to Town copies of any communications and reports submitted by Licensee to any federal or state regulatory commission or agency with jurisdiction regarding any matters that directly affect this License, subject to the same confidentiality protections, if any, applicable to the federal or state regulatory submission.

3.4.2 In addition to the reports required in Section 4.1.3 of this License, upon Town's reasonable request, Licensee will provide Town with regular reports, as needed, to establish Licensee's compliance with the various requirements, fees, and other provisions of this License.

3.5 Non-Interference.

3.5.1 Licensee's System must be constructed, installed, operated, and maintained to interfere as little as possible with traffic or other authorized uses over, under, or through the Public Rights-of-Way and on other Town-owned property. All phases of permitting, construction, traffic control, backfilling, compaction and paving, and the location or relocation of the System are subject to Town's jurisdiction and authority. Licensee must keep accurate construction and installation records of the location of all its System and facilities, both aboveground and underground within the Town and furnish them to Town within 30 days of installation. Licensee must furnish such information in an electronic format compatible with the then current Town electronic format.

3.5.2 Licensee must locate and relocate, at its own expense, any facilities, equipment or other encroachment installed or maintained in, on, or under the Public Rights-of-Way and on other Town-owned Property as may be necessary to facilitate any public purpose or any governmental action by Town whenever directed to do so by Town in writing on a non-discriminatory basis. Such relocations must be accomplished in accordance with the directions from Town including the Town's construction schedule and made under the same terms and conditions as the initial installation allowed pursuant to this License and Right-of-Way Use Permit. Licensee must reimburse the Town for any direct or indirect damages incurred by the Town as a result of delays in locations or relocations as required by this paragraph if caused by Licensee's negligence, willful misconduct, or undue delay.

3.5.3 Licensee agrees to obtain construction and excavation permits as required by this License prior to removing, abandoning, relocating, or repairing any portion of its System in the Public Rights-of-Way and on other Town-owned property. Notwithstanding the foregoing, Town understands and acknowledges there may be instances when Licensee is required to make repairs that are of an emergency nature or in connection with an unscheduled disruption of the System. Licensee will maintain any annual permits required by the Town for such repairs. Licensee will notify Town, if practicable, before the repairs and will apply for and obtain the necessary permits the next business day after the repairs are initiated.

SECTION 4. FEES, CHARGES, PERFORMANCE BOND, DAMAGE TO THE PUBLIC RIGHTS-OF-WAY AND OTHER TOWN-OWNED PROPERTY

Except as expressly stated otherwise herein, Licensee will be solely responsible for the payment of all fees and charges in connection with Licensee's performance under this License, including those set forth below.

4.1 Annual Fee.

4.1.1 Licensee must pay an annual fee to use the Public Rights-of-Way and other Town-owned property under the terms and conditions of this License and as calculated and assessed under this Section 4.1 (collectively "Annual Fee"), subject to any offset provided for in Section 4.2 (In-Kind).

4.1.2 Licensee must pay an Annual Fee equal to $2.43 per linear foot of the System located in the Public Rights-of Way or on other Town-owned property used to provide Fiber Optic Communications Services (the "Per Linear Foot Fee") up to a maximum amount that shall not exceed 3% of Licensee's annual Gross Broadband Revenue (the "Annual Fee Cap"). Town may, but is not obliged to, accept in-kind consideration in lieu of all or any portion of the Annual Fee if offered by Licensee.

4.1.3 On each Anniversary Date, Licensee will report to the Town (i) the amount of linear feet of those portions of the System, if any, subject to the Annual Fee under Section 4.1.2 permitted and installed in the Public Rights-of-Way or on other Town-owned property (the "Linear Feet Total") and a statement showing the product of multiplying the Linear Feet Total by the Per Linear Foot Fee (or Adjusted Per Linear Foot Fee (as defined in Section 4.1.5), as applicable); and (ii) a summary of Licensee's Gross Broadband Revenue for the twelve-month period ending on the last day of the calendar quarter ending no less than ninety (90) days prior to the Anniversary Date, multiplied by 3%. If the amount calculated under Section 4.1.3(ii) is greater than the amount calculated under Section 4.1.3(i), the Annual Fee Cap will not be applicable and the Annual Fee shall be equal to the amount calculated under Section 4.1.3(i). If the amount calculated under Section 4.1.3(ii) is less than the amount calculated under Section 4.1.3(i), the Annual Fee Cap will be applicable and the Annual Fee shall be equal to the amount calculated under Section 4.1.3(ii). Licensee shall pay the amount of Annual Fee that is due no later than sixty (60) days following its receipt of an invoice from Town after each Anniversary Date. The Licensee must pay and the Town must receive any Annual Fee that is due, as calculated in the preceding sentences, before the Town will issue any new Right-of-Way Use Permits for additional facilities or equipment in the Public Rights-of-Way or other Town-owned property.

4.1.4 In the event Licensee cancels or returns a Right-of-Way Use Permit and does not construct or install the System approved by such Right-of-Way Use Permit, the fees Licensee previously paid for the respective Right-of-Way Use Permit may be applied as a credit to a future Annual Fee or may be refunded to Licensee by Town.

4.1.5 The Per Linear Foot Fee will be adjusted annually based on the percentage of change in the consumer price index ("CPI") for the previous twelve-month period. Any change in the Per Linear Foot Fee will be referred to herein as the "Adjusted Per Linear Foot Fee." In no event may the Adjusted Per Linear Foot Fee be less than the Per Linear Foot Fee for the prior year. For purposes of this License, CPI is defined as the Western Region Consumer Price Index for All Urban Consumers, All Items, as published by the Bureau of Labor Statistics (BLS), United States Department of Labor. Base period 1982-84 = 100. Adjusted Per Linear Foot Fees will be effective upon the next subsequent Anniversary Date. The change in CPI will be calculated based on the change in the CPI for the previous twelve-month period. In the event that the BLS ceases publication of the specified CPI, Town and Licensee may determine an agreeable inflation index that most clearly approximates the Western Region CPI for the remaining term of the License.

4.2 In-Kind. Town may from time to time request Licensee to install additional conduit to be dedicated to Town's ownership and use for any purpose ("Town Dedicated Conduit") in segments of the System that, at the time of the request, have not yet been constructed. Licensee shall evaluate such requests and engage in good faith discussions with Town as to the schedule, specifications, fair market value, and other terms and conditions of Licensee's construction of such Town Dedicated Conduit. If the Parties agree on such terms and conditions, which shall be memorialized in writing, then upon Licensee's completion of construction of the Town Dedicated Conduit, Licensee shall dedicate the same to Town by a bill of sale substantially in the form attached hereto as Exhibit F. The agreed upon fair market value of Town Dedicated Conduit in a given year shall be offset against the total amount next due and payable by Licensee to Town, including the Annual Fee and Area Permit Fee. Unless otherwise agreed to by the Parties, the fair market value of Town Dedicated Conduit shall be the sum of: (i) Licensee's actual incremental cost of installing the Town Dedicated Conduit, and (ii) a proportionate share of Licensee's fixed costs of installation of the segment of the System in which the Town Dedicated Conduit is located, calculated based on the total linear feet of the Town Dedicated Conduit as a percentage of the total linear feet of the conduit installed in such segment of the System.

4.3 Failure to Pay. Any undisputed amounts not paid by Licensee when due as described in this License shall bear

interest at the rate of 1.5%, or the highest lawful rate, whichever is less, from the date due until paid. If it is determined that Licensee owes a disputed amount, the amount shall accrue interest from the date the amount was originally due.

4.4 Invoice and Payment Information:

4.4.1 The Town will send invoices for fees and charges under this License to Licensee at the following address:

Ting Internet, LLC.
c/o Tucows, Inc
96 Mowat Avenue
Toronto, ON, M6K 3M1 Canada

Invoicing contact information: Phone: 520.545-0400

Email: ap_fiber@ting.com

4.4.2 Licensee will send payment to Town under this License made payable to the "Town of Marana" at the following address:

Town of Marana
ATTN: Finance Department
11555 W Civic Center Dr
Marana, AZ 87653

Phone: 520-382-1999

Email: financemgr@maranaAZ.gov

4.5 Taxes. Licensee must obtain any required business/sales tax licenses and pay any generally applicable Town, county, and state transaction privilege and use tax. The Annual Fee must not be an offset to any transaction privilege tax due and owing by Licensee.

4.6 Permit Fees and Construction Costs. In addition to the fees and taxes set forth in this Section 4, Licensee must pay $150,000 per year (Area Permit Fees) in lieu of all permitting, plan review, inspection, testing or other applicable fees associated with the permitting and construction of the first three (3) years. After the first three (3) years, Licensee shall then pay those fees and charges for Right-of-Way Use Permit applications, inspection, testing, plan review, pavement damage fees, and any other fees adopted by Town and applicable to Persons doing work in the Public Rights-of-Way or on other Town-owned property at the time of Licensee's application(s). The Parties acknowledge and agree that Licensee's payment of the Area Permit Fees is to reimburse Town for the additional resources that Town will commit to process and approve Right-of-Way Permit and other required construction and excavation permits in a timely manner. Accordingly, as long as Licensee is not delinquent in the payment of Area Permit Fees and Annual Fees, Town shall process and approve all Right-of-Way Permit applications and other required construction and excavation permit applications within 30 business days of its receipt of the same.

4.7 Performance Bond. In lieu of the bonding requirements set forth in Marana Town Code § 12-7-5(B)(6), Licensee must furnish a performance bond as set forth below.

4.7.1 Amount; Purpose. Within 45 days after the Effective Date of this License, Licensee must furnish the Town with a surety bond ("Bond") in the amount of $150,000 issued by a corporate surety or financial institution reasonably acceptable to Town and authorized to do business in the State of Arizona. The Bond will be used to ensure: (i) the faithful performance by Licensee of all provisions of this License; (ii) compliance with all orders, permits, and directions of any Town department having jurisdiction over Licensee's acts or defaults under this

License; and (iii) Licensee's payment of any penalties, liquidated damages, claims, liens, and taxes due to the Town that arise by reason of the construction, operation, or maintenance of the System, including cost of removal or abandonment of any of Licensee's property.

4.7.2 Claims Against Bond. Town may make a claim against the Bond pursuant to the terms of the Bond. Payments to Town under the terms of the Bond shall not be deemed a cure of the default that led to the claim and payment. Town may not seek recourse against the Bond for any costs or damages for which Town has previously been compensated through a payment under the Bond or otherwise by Licensee. Payment of any claim under the Bond shall constitute a credit against the amount of the applicable liability of Licensee to Town, but only to the extent of such payment.

4.7.3 Replenishing. The terms of the Bond shall provide that, if a claim is paid under the Bond, the full amount of the Bond shall remain in effect as surety for any subsequent claims that may be made by Town.

4.8 Damage to Public Rights-of-Way or Town-owned Property. Whenever the installation, removal, or relocation of any of Licensee's System is required or permitted under this License, and such installation, removal, or relocation causes damage to Public Rights-of-Way or other Town-owned property, Licensee at its sole cost and expense must promptly repair and return Public Rights-of-Way or other Town-owned property in which the System components are located to a safe and satisfactory condition in accordance with applicable laws and to the specifications of the Town Engineer. Licensee shall not be obligated to install or provide any betterment or upgrade that would exceed the characteristics of such Public Right-of-Way or Town-owned property prior to the disturbance or damage by Licensee. If weather conditions or the availability of materials delay permanent pavement restoration, Licensee shall provide a temporary cover consistent with industry practice until a permanent restoration can be completed. If Licensee does not initiate the action to repair the Public Rights-of-Way or other Town-owned property as just described, then Town shall have the option, upon 15 days' prior written notice to Licensee, to perform or cause to be performed such reasonable and necessary work on behalf of Licensee and to charge Licensee for the actual costs incurred by the Town at Town's standard rates, plus an administrative fee of 15%. Upon the receipt of a demand for payment accompanied by detailed explanation of cost and fees incurred by Town, Licensee must, within 30 days, reimburse Town for such costs. Licensee agrees to pay within 30 days from the date of issuance of an invoice and explanation of costs and fees from Town.

SECTION 5. TERM OF LICENSE

The term of this License and duration of the rights, privileges, and authorizations granted hereunder will be for ten (10) years from the Effective Date. The term will automatically renew for up to three additional five (5) year terms unless written notice of termination is provided by either Party no less than six (6) months before the end of the initial term or any renewal term.

SECTION 6. ACCEPTANCE AND VALIDITY

6.1 Written Acceptance. Licensee's execution of this License constitutes Licensee's acceptance of the License as granted and Licensee's agreement to be bound by and to comply with and to do everything, which is required of the Licensee by this License. This License is effective upon the signature date of the last Party to sign this License.

6.2 Validity of License. Licensee must acknowledge that as a condition of acceptance of this License, Licensee was required to be represented throughout the negotiations of the License by its own attorneys and Licensee had the opportunity to consult with its own attorneys about its rights and obligations regarding the License. Licensee has reviewed Town's authority to execute and enforce this License and has reviewed all applicable law, both federal and state, and, after considering the same, Licensee acknowledges and accepts the right and authority of Town to execute this License, to issue this License and to enforce the terms herein, and Licensee agrees it will not contest or challenge Town's authority under applicable federal, state, or local law, as of the Effective Date, to enter into and enforce this License in any city, state, or federal court, or regulatory or administrative agency.

SECTION 7. INSURANCE AND INDEMNITY

7.1 Insurance Responsibility. During the entire term of this License, Licensee must insure its property and activities and must provide insurance and indemnification as follows. Licensee must procure and maintain, and must cause its contractors to procure and maintain as provided in Section 7.2 below, until all their respective obligations have been discharged, insurance against claims for injury to persons or damage to property that may arise from or in connection with Licensee's obligations under this License and Licensee's activities including, but not limited to, the installation, construction, relocation, removal, repair, operation, and maintenance of the System by Licensee, its agents, representatives, employees, or contractors. The insurance requirements herein are minimum requirements for this License and in no way limit the indemnity covenants contained in this License. The Town in no way warrants that the minimum limits contained herein are sufficient to protect Licensee from liabilities that might arise out of this License by Licensee, its agents, representatives, employees or contractors, and Licensee is free to purchase such additional insurance as may be determined necessary.

7.2 Minimum Scope and Limits of Insurance: Licensee must provide coverage with limits of liability not less than those stated below.

7.2.1 Commercial General Liability – Occurrence Form

Said insurance must also include coverage for products completed operations, independent contractors, personal injury, property damage, and advertising injury.

Products – Completed Operations Aggregate	$10,000,000
Each Occurrence	$10,000,000

The policy must be endorsed to include the following additional insured language: "The Town of Marana, its agents, representatives, officers, directors, officials, employees, and volunteers are named as an additional insured with respect to liability arising out of the activities performed by Licensee." This endorsement may not contain an exclusion or limitation of completed operations coverage as regards the additional insured except with respect to the stated aggregate limits of liability.

The policy may not exclude the explosion/collapse/underground ("xcu") hazard.

7.2.2 Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of work under this License.

Combined Single Limit (CSL) $1,000,000

7.2.3 Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability

Each Accident $1,000,000
Disease – Each Employee $1,000,000
Disease – Policy Limit $1,000,000

Policy must contain a waiver of subrogation against the Town of Marana.

7.2.4. Tech E&O, Network Security and Privacy Liability Insurance (Cyber):

Technology E&O $5,000,000
Data Breach Liability $5,000,000

Sublimits:

Privacy Breach Expenses $2,000,000
Public Relations Expenses $2,000,000
Network Extortion $2,000,000
Network Business Interruption $2,000,000
Network Asset Damage $2,000,000
Privacy Regulatory Proceedings, Fines & Penalties $500,000

(a) In the event that the Tech E&O, Network Security and Privacy liability insurance required by this License is written on a claims-made basis, Licensee warrants that any retroactive date under the policy will precede the Effective Date of this License; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning at the Effective Date of this License. If such insurance is maintained on an occurrence form basis, Licensee must maintain such insurance for an additional period of one year following termination or expiration of this License. If such insurance is maintained on a claims-made basis, Licensee must maintain such insurance for an additional period of three years following termination or expiration of this Licensee. If Licensee contends that any of the insurance it maintains pursuant to other sections of this clause satisfies this requirement (or otherwise insures the risks described in this section), Licensee must provide proof of same.

(b) The insurance must provide coverage for the following risks: (i) Liability arising from a Privacy Breach (as defined below); (ii) Network security liability arising from the unauthorized access to the Licensee's Computer Systems, use of or tampering with the System including hacker attacks and, denial of service, unless caused by a mechanical or electrical failure; and (iii) Liability arising from "Malicious Attack" (as defined below).

(c) Cyber Definitions:

(1) "Privacy Breach" means the actual, alleged or suspected Unauthorized Collection unauthorized release, disclosure or failure to protect from theft, loss or other misappropriation, of Confidential Business Information or Personally Identifiable Information, and shall include:

(i) Identity theft and identity fraud;

(ii) The violation of the Licensee's procedures and policies intended to protect the confidentiality of Confidential Business Information or Personally Identifiable Information by an employee of the Licensee;

(iii) the unintentional violation by a Senior Executive of the Licensee's procedures and policies intended to protect the confidentiality of Confidential Business Information or

Personally Identifiable Information, or;

(iv) Actual or alleged violation of any federal, provincial, territorial, state, foreign or local privacy statute or law directly resulting from the foregoing.

(v) Privacy Breach shall also include any actual or alleged failure to provide any required notices in connection with the matters as described above in this paragraph.

(2) "Malicious Attack" means intentional hacking, damaging, corrupting or misusing the Licensee's Computer systems, including Unauthorized Access or the insertion of Malicious Code by a third party or an employee of the Licensee. A Malicious Attack does not include hacking or the insertion or Malicious Code by a Senior Executive if such hacking or insertion of Malicious Code by a Senior Executive is intentional and with intent to cause harm.

(3) "Malicious Code" means any virus, trojan horse, worm or other similar software program, code or script intentionally designed to insert itself into computer memory, a computer file, onto a computer disk or spread itself from one computer to another with intent to cause harm.

7.3 Hazardous Substances. Licensee does not anticipate that work under the license will require the movement of Hazardous Substances. In the event that the work performed under the License requires the transportation of any Hazardous Substances by motor vehicle, Licensee must inform the Town of Marana and obtain appropriate insurance.

7.4 Additional Insurance Requirements: The policies must contain, or be endorsed to contain, the following provisions: Licensee's insurance coverage must be primary insurance and non-contributory with respect to the obligations that Licensee has undertaken under this License. The policies must contain a severability of interest clause and waiver of subrogation against the Town, its officers, officials, agents, volunteers, and employees, for losses arising from work performed by the Licensee under this License.

7.5 Notice of Cancellation: Each insurance policy required by the insurance provisions of this License will endeavor to provide the required coverage and must not be canceled except after 30 days' prior written notice has been given to the Town. Such notice must be sent directly to the addresses listed below:

Town of Marana
Attention: Town Manager
11555 W Civic Center Drive
Marana, Arizona 85653
Phone: 520-382-1904
Email: townmanager@maranaAZ.gov

With a copy to:
Marana Legal Department
11555 W Civic Center Drive
Marana, Arizona 85653
Phone: 520-382-1999

7.6 Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with an "A.M. Best" rating of not less than A-VII. Town in no way warrants that the above-required minimum insurer rating is sufficient to protect Licensee from potential insurer insolvency.

7.7 Verification of Coverage: Licensee must furnish Town with certificates of insurance (ACORD form or equivalent approved by Town) and endorsements as required by this License. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by Town before work commences. Each insurance policy required by this License must be in effect at or prior to commencement of work under this License and remain in effect for the duration of the License. Failure to maintain the insurance policies as required by this License or to provide evidence of renewal is a material breach of this License. All certificates required by this License must be sent directly to the Town of Marana at the addresses listed in Section 7.5. The License number and description are to be noted on the certificate of insurance. At Town's request, Licensee must make copies of all insurance policies required by this Licensee available for Town's review through a representative and at a location within Maricopa County, Arizona designated by Licensee.

7.8 Contractors: Licensee's certificate(s) contractors must maintain separate insurance as determined by Licensee and contractors must name Town of Marana as an additional insured, however, contractor's limits of liability must not be less than $1,000,000 per occurrence, $2,000,000 aggregate.

7.9 Approval: Any modification or variation from the insurance requirements in this License must have prior approval from the Office of the Town Attorney, whose decision will be final. Such action will not require a formal contract amendment, but may be made by administrative action.

7.10 Indemnity**.**

7.10.1 Licensee shall defend, indemnify and hold harmless the Town, its Mayor and Councilmembers, officers, agents, employees, boards, and commissions (collectively, including Town, "Town Indemnitees") from and against all third-party claims, demands, damages, losses and expenses of any nature (including an award of reasonable attorneys' fees), sustained by the Town Indemnities on account of any suit, judgment, execution, claim or demand whatsoever arising out of or resulting from the acts or omissions of Licensee, its customers, officers, agents, employees, contractors, successors or assigns (collectively, "Licensee and its Agents"), or the performance of work by Licensee and its Agents pursuant to this License or the installation, operation, or maintenance of the System, whether or not any act or omission complained of is authorized, allowed or prohibited by this License (each, a "Claim"), except to the extent such Claim arises due to the sole and active negligence or willful misconduct of the Town Indemnitees. The amount and type of insurance coverage requirements set forth in this License will not be construed as limiting the scope of the indemnity stated in this section. In the event of any Claim specified in this section, the Town Indemnitees shall give reasonable, prompt notice to Licensee of such Claim. Failure of the Town Indemnitees to timely give such notice to Licensee shall relieve Licensee of its indemnity obligations hereunder only to the extent Licensee is actually prejudiced or damaged by such failure. Licensee shall have reasonable control of the defense of any action or litigation of a Claim and all negotiations for the settlement or compromise of the same, except that Licensee may not make any non-monetary settlement or compromise without the Town Indemnitees' consent, which consent shall not be unreasonably withheld or delayed. The Town Indemnitees shall cooperate with Licensee in the defense and settlement of any Claim at Licensee's expense. No Town Indemnitee shall take any action to settle, to compromise or otherwise to make any payment, admission, or statement to or for the benefit of any third-party claimant without Licensee's written consent.

7.10.2 For the avoidance of doubt, Licensee's customers shall be considered third parties for purposes of this Section 7.10, and the Parties acknowledge that Licensee shall indemnify Town Indemnitees against any suit, judgment, execution, claim or demand whatsoever from its customers, so long as it is alleged to arise or result from the installation, operation, maintenance, repair, or condition of any facilities authorized under this License including the System, the delivery of services over the System, or the condition of public or private property altered as a result of Licensee's activities.

7.11 Risk of Loss. Licensee assumes the risk of any and all loss, damage or claims related to Licensee's use of the Public Rights-of-Way or other Town-owned property, Licensee or third parties throughout the term of this License and the term(s) of any and all permits. Licensee must be responsible for any and all damage to its property and equipment related to this License unless caused by the negligence of the Town or its agents or contractors.

SECTION 8. TRANSFER OF LICENSE

8.1 Assignment Requiring Consent. Except as otherwise set forth in this Section 8, (i) this License and the related rights and privileges may not be assigned or otherwise transferred without the express written consent of the Town, which consent will not be unreasonably withheld, conditioned, or delayed and (ii) this License may not be sublet or assigned, nor must any of the related rights or privileges be leased, assigned, sold or transferred, either in whole or in part, nor must title, either legal or equitable, or any right, or property interest pass to or vest in any Person other than Licensee, by act of the Licensee or operation of law, without the written consent of Town, which consent will not be unreasonably withheld, conditioned, or delayed. If the License is assigned or otherwise transferred pursuant to this Section, it must be subject to all the obligations and privileges of this License including any amendments, which will remain in effect, as if the assigned License was the original License. No such assignment or transfer will be valid unless Licensee and the proposed

transferee submit a binding license and warranty to the Town stating that:

8.1.1 The proposed transferee has read, accepts, and agrees to be bound by the terms of the License;

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

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

8.2 Assignment Requiring Notice. Notwithstanding the foregoing, prior consent will not be required for transfer to any entity which owns or controls, is owned or controlled by, or under common control with the Licensee, or to any entity that acquires (whether through merger, acquisition, sale of assets, or otherwise) all or substantially all of the broadband Internet access business of Licensee together with the broadband Internet access businesses of all of Licensee's Affiliates.

8.3 Notice to Town. Prior to executing such transfer described in section 8.2, Licensee and the proposed transferee must submit to the Town a description of the nature of the transfer, and submit complete information regarding the effect of the transfer on the direct and indirect ownership and control of the Licensee.

8.4 Binding on Assignee. After assignment, this License, including any amendments, shall be binding on the assignee to the full extent that was binding upon Licensee.

8.5 Conditional Ownership. Nothing in this Section prohibits a pledge, hypothecation, mortgage, or similar instrument transferring conditional ownership of all or part of Licensee's assets to a lender or creditor in the ordinary course of business. In the event a lender assumes control of the assets and operation of Licensee, the lender may assume the rights and obligations of the Licensee. The Lender may not transfer or change control of the License without submitting the change to the Town for approval. If the lender does continue operation on any basis at any time, the lender shall be subject to all provisions of the License. No later than three (3) years after assumption of control by the lender, the lender must apply to the Town for the right to continue assumption of control or to transfer the License. Application by the Lender for approval of assumption of control or transfer must be subject to consent by the Marana Town Council that may not be unreasonably denied, conditioned, or withheld. A "Lender" for the purposes of this License does not include a Licensee, Person, or corporation, or other entities that operate cable television systems or fiber optics telecommunications systems as a principal or important business. This paragraph is intended to prohibit the intentional use of lending and/or foreclosure as a method for effecting change of control or transfer of the License without Town Council review and approval.

SECTION 9. NON-EXCLUSIVE RIGHTS

9.1 Non-Exclusive Rights. This grant is not exclusive and nothing herein contained may be construed to prevent Town from granting other like or similar grants or privileges to any other Person, or to deny to or lessen the powers and privileges granted Town under the Constitution and laws of the State of Arizona.

9.2 Priority Rights. Any and all rights granted to Licensee under this License must be exercised at Licensee's sole cost and expense and are subject to the prior and continuing right of Town to use all the Public Rights-of-Way and other Town-owned property concurrently, with any other Person or Persons, and further will be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title that may affect the Public Rights-of-Way and on other Town-owned property. Nothing in this License will be construed to grant, convey, create, or vest a perpetual real property interest in land to Licensee, including any fee or leasehold interest, easement, or any franchise rights.

SECTION 10. MATERIAL BREACH

10.1 Material Breach by Licensee. Licensee, its affiliates, agents, employees, contractors, successors, assigns, and representatives must comply with and perform each obligation required of Licensee as set forth in this License. Licensee's failure to cure an Event of Default as described in Section 10.2 within 30 days from the date the notice is deemed received from the Town, or such longer period of time as may be reasonable under the circumstances, provided the cure is commenced within the thirty (30) day period after notice from Town and Licensee is proceeding with reasonable diligence to complete such cure, constitutes a material breach by Licensee.

10.2 Events of Default. All agreements and permits issued to Licensee under this License are approved upon the condition that each of the following events will be deemed an "Event of Default" for Licensee's failure to perform or satisfy the following material obligations:

10.2.1 If Licensee fails to make timely payment of the fees and charges required under any license agreement or permit granted by the Town.

10.2.2 If Licensee fails to operate the System under the terms and conditions set forth in this License.

10.2.3 If Licensee fails to maintain any insurance or surety bond required under this License.

10.2.4 If Licensee engages in a pattern of repeated failure (or neglect) to timely perform or observe any provision of this License. After Town has once given notice of any failure by Licensee to comply with its obligations set forth in this License, the following constitute a repeated failure by Licensee to comply with such provision: (i) the Town issues a notice of default to Licensee within any 30-day period following the notice date of a prior event of default, (ii) the Town issues three or more notices of default related to the same obligation under this License to Licensee within any 90-day period following the notice date of a prior event of default, or (iii) the Town issues six or more notices of default related to the same obligation under this License to Licensee within any 12-month period following the notice date of a prior event of default.

10.3 Town's Remedies for Material Breach. Upon the occurrence of any uncured material breach or at any time thereafter, Town may, at its option, exercise at Licensee's expense any or all or any combination of the following cumulative remedies in any order and repetitively at Town's option: (i) revoke any or all license agreements and permits to the extent permitted by Section 12; the Town's revocation does not terminate Licensee's obligations arising during the time simultaneous with or prior to or the revocation, and in no way terminates any of Licensee's liability related to any breach of this License; (ii) pay or perform, for Licensee's account, in Licensee's name, and at Licensee's expense, any or all payments or performances required to be paid or performed by Licensee; (iii) abate at Licensee's expense any violation of this License; (iv) notwithstanding anything under this License to the contrary, unilaterally and without Licensee's or any other Person's consent or approval, draw upon, withdraw or otherwise realize upon or obtain the value of any letter of credit, escrowed funds, insurance policies, or other deposits, sureties, bonds, or other funds or security held by Town or pledged or otherwise obligated to Town by Licensee or by any third party (whether or not specifically mentioned herein) and use the proceeds for any remedy permitted by this License; (v) require an additional security deposit adequate in Town's sole discretion to protect the Public Rights-of-Way; or (vi) assert, exercise, or otherwise pursue at Licensee's expense any and all other rights or remedies, legal or equitable, to which Town may be entitled.

10.4 Non-waiver. Licensee acknowledges Licensee's unconditional obligation to comply with this License. No failure by Town to demand any performance required of Licensee under this License, and no acceptance by Town of any imperfect or partial performances under this License, will excuse such performance or impair in any way Town's ability to insist, prospectively and retroactively, upon full compliance with these terms and conditions. No acceptance by Town of payments or other performances hereunder will be deemed a compromise or settlement of any right Town may have for additional, different, or further payments or performances as provided for in these terms and conditions. Any waiver by Town of any breach of condition or covenant herein contained to be kept and performed by Licensee will not be deemed or considered as a continuing waiver and will not operate to bar or otherwise prevent Town from declaring a default for any breach or succeeding or continuing breach either of the same condition or covenant or otherwise. No statement, bill, or notice by Town or Licensee concerning payments or other performances due hereunder, or failure by Town to demand any performance hereunder, will excuse Licensee from compliance with its obligations nor estop Town (or otherwise impair

Town's ability) to at any time correct such notice and/or insist prospectively and retroactively upon full compliance with this License. No waiver of any description (including any waiver of this sentence or paragraph) will be effective against Town unless made in writing by a duly authorized representative of Town specifically identifying the particular provision being waived and specifically stating the scope of the waiver.

10.5 Reimbursement of Town's Expenses. Licensee must pay to Town within 30 days after Town's demand any and all amounts expended or incurred by Town in performing Licensee's obligations (upon Licensee's failure to perform the same after notice from Town).

SECTION 11. ABANDONMENT

11.1 Abandonment; Removal of Facilities. In the event that the use of a substantial part of any of the System is discontinued for any reason for a continuous period of two years for reasons other than Force Majeure, or in the event such System or property has been installed in any Public Rights-of-Way or other Town-owned property without complying with the requirements of this License, or this License has terminated or been revoked, Licensee must promptly, upon being given 60 days' notice from the Town, begin removal of the System and related appurtenances from the Public Rights-of-Way and other Town-owned property other than such underground facilities which the Town may permit to be abandoned in place. In the event of such removal, Licensee must restore the Public Rights-of-Way and other Town-owned property or other area from which such property has been removed to a condition as existed prior to the removal of the structure or property consistent with Section 12.5.

11.2 Permanent Abandonment. The System and any other property of Licensee remaining in the Public Rights of-Way and other Town-owned property without the consent of the Town 180 days after the revocation of the License will be at the option of the Town considered permanently abandoned. Any Licensee property permitted to be abandoned in place will be abandoned consistent with applicable law.

SECTION 12. LICENSE REVOCATION

In addition to the remedies set forth in Section 10, the Town may revoke, alter, or suspend this License as follows.

12.1 Revocation for Nonuse. Not later than 24 months after the Effective Date, Licensee must offer and provide Fiber Optic Communications Services to at least one Subscriber within the Service Area authorized by the License or amended License unless the Licensee cannot meet the requirement for reasons beyond the Licensee's control as provided in the License. If the Licensee fails to comply with this section, the Town may revoke this License for the affected Service Area.

12.2 Revocation for Cause. This License may, after Town Council consideration, be revoked, altered, or suspended by the Town as the Town deems necessary for any of the following events of default: (i) Licensee's failure to comply with any federal, state, local, or administrative order, law, permit, regulation, or consent decree as such may apply to Licensee's activities and services as contemplated in this License; (ii) fraud by Licensee, in its conduct or relations under this License; (iii) Licensee's willful or grossly negligent repeated violation of this License; and (iv) if Licensee is the subject of a voluntary or involuntary bankruptcy, receivership, insolvency, or similar proceeding or if any assignment of any of Licensee's property is made for the benefit of creditors or if Licensee is not regularly paying its debts as they come due.

12.3 Additional Cure Period. Due to the gravity of the events of default listed in Section 12.2, Licensee is provided additional time (when compared to Section 10) to cure these events of default. If any of the foregoing events in Section 12.2 occur, Licensee must cure the default within 60 days after receipt of notice from the Town as provided in Section 14.15. Licensee will be held in material breach under this Section 12: (i) if Licensee fails to cure the event of default listed in Section 12.2 within 60 days after notice from the Town; or (ii) if an event of a default listed in Section 12.2 cannot be cured within 60 days after notice from the Town and Licensee fails to begin and diligently pursue to cure the default.

12.4 Town Determination; Town Council Consideration. If Licensee fails to provide services as set forth in Section 2.2 or Licensee is held in material breach as provided in Section 10.1, the Town will notify Licensee as provided in Section 14.15 of the Town's determination to terminate, postpone for a period, or proceed with the revocation, alteration, or suspension of

this License. As part of this determination, the Town will state the principal reasons that support the Town's determination. Licensee may appeal the Town's determination within ten business days from the date of the determination by sending notice as provided in Section 14.15. If Licensee fails to timely appeal the Town's determination or if Licensee's appeal fails, the Town may proceed to terminate, postpone for a period, or proceed with the revocation, alteration, or suspension of this License by presenting this matter to the Marana Town Council for consideration at a regularly scheduled Council meeting. The Town will send a written statement of proposed action by certified U.S. mail, return receipt requested, to Licensee as provided in Section 14.15. The written statement of proposed action must include the date and time of the Town Council meeting and the principal reasons for the proposed action. The Town Council may take any final action the Council deems necessary and prudent related to the License.

12.5 Removal of Facilities. Upon revocation of this License, the Town may declare a forfeiture, whereupon all rights and privileges of Licensee under this License will immediately be divested without a further act upon the part of Licensee, and Licensee must promptly remove its structures or property from the Public Rights-of-Way and other Town-owned property and restore the Public Rights-of-Way and other Town-owned property to the condition as existed prior to the removal of the structure or property. Upon Licensee's failure to do so within six months of revocation, the Town may perform the work and collect the Town's cost from Licensee. At the Town's option, Licensee may abandon structures or property in place as provided in this License. At a minimum, the Public Rights-of-Way and other Town-owned property must be restored to a condition as existed before the removal of the structures or property.

SECTION 13. EFFECT OF EXPIRATION, REVOCATION, OR TERMINATION OF LICENSE

13.1 Services. Upon expiration, revocation, or termination of this License due to Licensee's lack of a license, permit, or other approval or agreement that may be lawfully required to allow Licensee to continue use of the Public Rights-of-Way and other Town-owned property, Town shall give Licensee 180 days from the date of expiration, revocation, or termination to commence the necessary proceedings to obtain any such license, permit, or other approval or agreement.

13.2 Holding Over. In any circumstance whereby Licensee continues to occupy the Public Rights-of-Way and other Town-owned property after the expiration of this License, the Licensee's hold over operates as a renewal or extension of this License on a month-to-month basis that may be terminated at any time by the Town upon 60 days' written notice to Licensee, or by Licensee upon 60 days' written notice to the Town.

SECTION 14. GENERAL CONDITIONS

14.1 License Administrator and Enforcement. In all matters of License administration, Town has authority to determine Licensee's compliance with the terms and provisions of the License, and in the event of non-compliance, to exercise any or all of the remedies included in this License.

14.2 Right of Inspection of Construction. Town may inspect all construction or installation work performed subject to the provisions of this License and to make such tests as it deems necessary to ensure compliance with the terms of this License and other pertinent provisions of law.

14.3 Right of Intervention. Town may intervene in any suit or proceeding related to or arising out of this License to which Licensee is party, and Licensee may not oppose such intervention by Town.

14.4 Public Records Acknowledgment. Notwithstanding any provision in this License, Licensee acknowledges and understands that Town is a political subdivision of the State of Arizona and is subject to the disclosure requirements of Arizona's Public Records Law (A.R.S. §§ 39-121 *et seq*.).

14.5 Permission of Property Owner Required. This License does not convey the right to install any part of Licensee's System on private property.

14.6 Compliance With Laws. Licensee must comply with all federal, state, and Town ordinances, resolutions, rules, and regulations related to the rights and duties granted Licensee under this License.

14.7 No Recourse. Licensee has no recourse whatsoever against Town or its officials, boards, commissions, agents, or employees for any loss, costs, expense, or damage arising out of any provision, requirement, enforcement, or defect in this License.

14.8 License Documents. Licensee must submit to Town the Bond within 30 days of the Effective Date and insurance certificates as required by the License within 90 days of the Effective Date. The License granted is not legally operative until all of Licensee's requirements in this Section are completed. In the event Licensee does not timely satisfy these, this License will be deemed null and void unless Licensee's time period to comply is extended by the Town Council.

14.9 Survival of Warranties. Licensee's representations and warranties made as part of the grant of this License or any permit issued under this License survive termination or revocation of this License.

14.10 Hazardous Substances. Licensee will, at its own cost, be responsible for proper investigation and management of all Hazardous Substances under its control, including Hazardous Substances Licensee uses, generates, or disposes of, and must comply with all Environmental Laws to carry out its obligations under this License. In the event Licensee releases to the environment Hazardous Substances under its control, to the extent that a governmental agency with jurisdiction requires reporting, investigation, cleanup or remedial measures to be taken, Licensee must, at its sole cost and expense, promptly undertake such required actions. If Licensee discovers a Pre-existing Environmental Condition, Licensee will immediately notify Town in writing as provided in Section 14.15.

14.11 Right of Cancellation. Licensee acknowledges that this License is subject to cancellation by Town under A.R.S. § 38-511.

14.12 Covenant Against Contingent Fees. Licensee warrants that no Person has been employed or retained to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and that no member of the Town Council, or any employee of the Town has any interest, financially or otherwise, in this License. For breach or violation of this warranty, Town has the right to annul this License without liability or at its discretion to deduct from the License price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

14.13 Independent Contractor. Any provision in this License that may appear to give Town the right to direct Licensee or Licensee the right to direct Town as to the details of accomplishing the work or to exercise a measure of control over the work means that the party will follow the wishes of the other party as to the results of the work only.

14.14 Jurisdiction; Governing Law; Venue. As a condition of the grant of this License, Licensee acknowledges and accepts that Licensee is subject to personal and subject matter jurisdiction of Arizona state courts. Arizona law governs this License, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding to enforce this License must be instituted in a court located in Pima County, Arizona.

14.15 Delivery, Procedure of Notices and Communications. All notices, consent, or other communication under this License must be in writing and: (i) delivered in person; or (ii) sent by electronic mail and deposited in the United States mail, postage prepaid, certified mail, return receipt requested; or (iii) deposited with any commercial air courier or express service and addressed as follows:

To Licensee: Ting Internet, LLC
Attn: Chief Networks Officer and EVP of Operations
5225 N. Sabino Canyon Rd.
Tucson, AZ 85750
Phone: 919.698.5341
Email: jason.s@ting.com
with a copy to: ewoods@tucows.com

To the Town: Town of Marana

Attention: Town Manager
11555 W Civic Center Drive
Marana, Arizona 85653
Phone: 520-382-1904
Email: townmanager@maranaAZ.gov

With a copy to: Marana Legal Department
11555 W Civic Center Drive
Marana, Arizona 85653
Phone: 520-382-1999

Notice will be deemed received at the time it is personally served, on the second day after its deposit with any commercial air courier or express service, on the next business day following the day it is sent by electronic mail with record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded or printed, or, if mailed, three calendar days after the notice is deposited in the United States mail as evidenced by the certified mail receipt. Any time period stated in a notice will be computed from the time the notice is deemed received unless noted otherwise. Any party may change its mailing address, phone number, email address or the person to receive notice by notifying the other party as provided in this Section. Notices sent by electronic mail must also be sent by certified mail to the recipient at the above address.

14.16 Organization/Employment Disclaimer. This License is not intended to constitute, create, give rise to, or otherwise recognize a joint venture, agreement, or relationship, partnership, or formal business organization of any kind, and the rights and obligations of the Parties will be only those expressly set forth in this License.

14.17 Entire Agreement; Amendment; Waivers. This License, and its exhibits, which are incorporated herein by this reference and are attached and/or on file at Town and available for inspection, constitute the entire agreement between Town and Licensee with respect to the transactions contemplated therein and supersede all prior negotiations, communications, discussions and correspondence, whether written or oral, concerning the subject matter hereof. No supplement, modification, or amendment of any term of this License will be deemed binding or effective unless executed in writing by the Parties. No waiver of any of the provisions of this License will be deemed, or will constitute, a waiver of any other provisions, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver is binding unless expressly executed in writing by the Party making the waiver.

14.18 Right of Parties. Nothing in this License, whether express or implied, is intended to confer any right or remedies under or by reason of this License on any Persons other than the Parties to this License and their respective successors and permitted assigns, nor is anything in this License intended to relieve or discharge any obligation or liability of any Person who is not a party to this License, nor will any provisions in this License give any Persons not a party to this License any right of subrogation or action over or against any Party to this License.

14.19 Construction. This License is the result of negotiations between the Parties, none of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions of this License will be construed in accordance with their usual and customary meanings. The Parties hereby waive the application of any rule of law that otherwise would be applicable in connection with the construction of this License that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed License or any earlier draft of the same. The words "hereof," "herein," "hereunder" and similar terms in this License refer to this License as a whole and not to any particular provision of this License. All references to "Sections" herein refer to the sections and paragraphs of this License unless specifically stated otherwise. The section and other headings contained in this License are inserted for convenience of reference only, and they neither form a part of this License nor are they to be used in the construction or interpretation of this License.

14.20 Severability. If any covenant, condition, term, or provision of this License is held to be illegal, or if the application of this License to any Person or in any circumstances to any extent be judicially determined to be invalid or unenforceable, the remainder of this License or the application of such covenant, condition, term, or provision to Persons or in circumstances other than those to which it is held invalid or unenforceable, must not be affected, and each covenant, term, and condition of this License is valid and enforceable to the fullest extent permitted by law.

14.21 Cooperation and Further Documentation. Each of the Parties agree to provide the other with such additional and other duly executed documents as are reasonably requested to fulfill the intent of this License.

14.22 Force Majeure. For the purpose of any of the provisions of this License, neither Licensee nor Town, as the case may be, will be considered in breach of or in default of their obligations under this License as a result of the enforced delay in performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to: acts of God, acts of the public enemy, acts of the Federal Government, acts of the Salt River Project, acts of Pima County, acts of the State of Arizona or any of its departments, acts of any railroad, fire, floods, epidemics, pandemics, strikes, lock outs, freight embargoes, and unusually severe weather; it being the purpose and intent of this provision that in the occurrence of any such enforced delay, the time for performance of Licensee's and the Town's obligations, as the case may be, will be extended for the period of the enforced delay, provided that the party seeking the benefit of this provision will have notified the other party in writing of the cause or causes, and requested an extension for the period of the enforced delay. If notice by the party claiming such extension is sent to the other party more than 30 days after commencement of the cause, the period of delay will be deemed to commence 30 days prior to the giving of such notice.

14.23 On-Call Assistance. Licensee must be available 24 hours a day, seven days a week to Town staff of any Town department with jurisdiction over Licensee's activities related to problems or complaints resulting from the installation, operation, maintenance, or removal of the System.

14.24 Legal Worker Requirements. A.R.S. § 41-4401 prohibits Town from awarding a contract to any party who fails, or whose contractors fail, to comply with A.R.S. § 23-214(A). Therefore, Licensee and each contractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A. A breach of this warranty will be deemed a material breach of this License and may be subject to penalties up to and including revocation of the License. Town retains the legal right to inspect the papers of Licensee's or contractor's employees who provide services under this License to ensure that Licensee and its contractors comply with this warranty.

14.25 Lawful Presence Requirement. A.R.S. §§ 1-501-502 prohibits Town from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a Town-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

14.26 Written Acceptance. Licensee's execution of this License constitutes Licensee's acceptance of this License as granted and its agreement to be bound by and to comply with the terms and conditions of this License. Licensee's signature must be acknowledged by Licensee before a notary public.

14.27 Data Confidentiality and Data Security. As used in this License, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information obtained by or transmitted to Licensee as part of the terms and conditions of this License. Except as specifically provided in this License, Licensee must not divulge data to any third party without the Town's prior written consent. These prohibitions do not apply to the following data: (i) data which was known to the Licensee prior to the Effective Date; or (ii) data which was acquired by the Licensee in its performance under this License and which was disclosed to the Licensee by a third party, who to the best of the Licensee's knowledge and belief, had the legal right to make such disclosure and the Licensee is not otherwise required to hold such data in confidence; or (iii) data which is required to be disclosed by virtue of law, regulation, or court order, to which the Licensee is subject. Licensee assumes all liability to maintain the confidentiality of the data in its possession and agrees to compensate the Town if any of the provisions of this Section are violated by the Licensee, its employees, agents, or subcontractors. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court.

14.28 Personal Identifying Information-Data Security. Personal identifying information, financial account information, or restricted Town information, whether electronic format or hard copy, must be secured and protected at all times by

Licensee. At a minimum, Licensee must encrypt or password-protect electronic files. This includes data saved to laptop computers, computerized devices, or removable storage devices. When personal identifying information, financial account information, or restricted Town information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. In the event that data collected or obtained by Licensee or its agents in connection with this License is believed to have been compromised, Licensee or its agents must immediately notify the Town contact. Licensee agrees to reimburse the Town for any costs incurred by Town to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach. It is further agreed that a violation of this Section must be deemed to cause irreparable harm that justifies injunctive relief in court. The obligations of Holder under this Section must survive the termination of this License.

14.29 Public Emergency. Town shall have the right, because of a public emergency, to sever, disrupt, dig-up or otherwise destroy facilities of Licensee without any prior notice to Licensee, if the action is deemed reasonably necessary by the Town Manager, Town Engineer, Police Chief, Public Works Director, or Water Director. A public emergency may be any condition which, in the opinion of any of the officials named, poses an immediate threat to the lives or property of the residents of the Town or others caused by any natural or man-made disaster, including but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc. Licensee will be notified by the Town of the public emergency and the action taken by the Town as soon as reasonably possible. Licensee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by Town.

14.30 Blue Stake. Licensee must comply with A.R.S. §§ 40-360.21-360.32 by participating as a member of the Arizona Blue Stake Center with the necessary records and persons to provide location service of Licensee's facilities upon receipt of a locate call or as promptly as possible, but in no event later than two working days. A copy of the License or proof of membership must be filed with the Town.

14.31 Inspection and Audit of License Provisions. All books, accounts, reports, files, and other records related to the calculation of the Annual Fee (and the basis on which the Annual Fee is calculated) License (collectively "Records") are subject at all reasonable times to inspection and audit by the Town, including for five years after the expiration or termination of this License. Licensee must produce the Records at a mutually agreed to time and location within Pima County, Arizona.

14.32 Authority. Each party represents to the other that the person signing on its behalf has the legal right and authority to execute, enter into, and bind such party to the commitments and obligations set forth herein.

[Signature page follows]

IN WITNESS WHEREOF, the Parties duly execute and agree to be bound by this License as of the Effective Date.

The "Town":

TOWN OF MARANA, an Arizona municipal corporation

By: _____

Ed Honea, Mayor

Date: _____

ATTEST:

_____

David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____

Jane Fairall, Town Attorney

"User":

TING INTERNET, LLC., a Delaware limited liability company

By: _____

Name: _____

Title: _____

Date: _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____, _____ for TING INTERNET, LLC., a Delaware limited liability company, on behalf of the LLC.

(Seal)

_____
Notary Public

EXHIBIT A Service Area

Licensee intends to build its network in the below service area, in four construction Area Work Zones. Build sequence to be confirmed by Final Construction Plan.

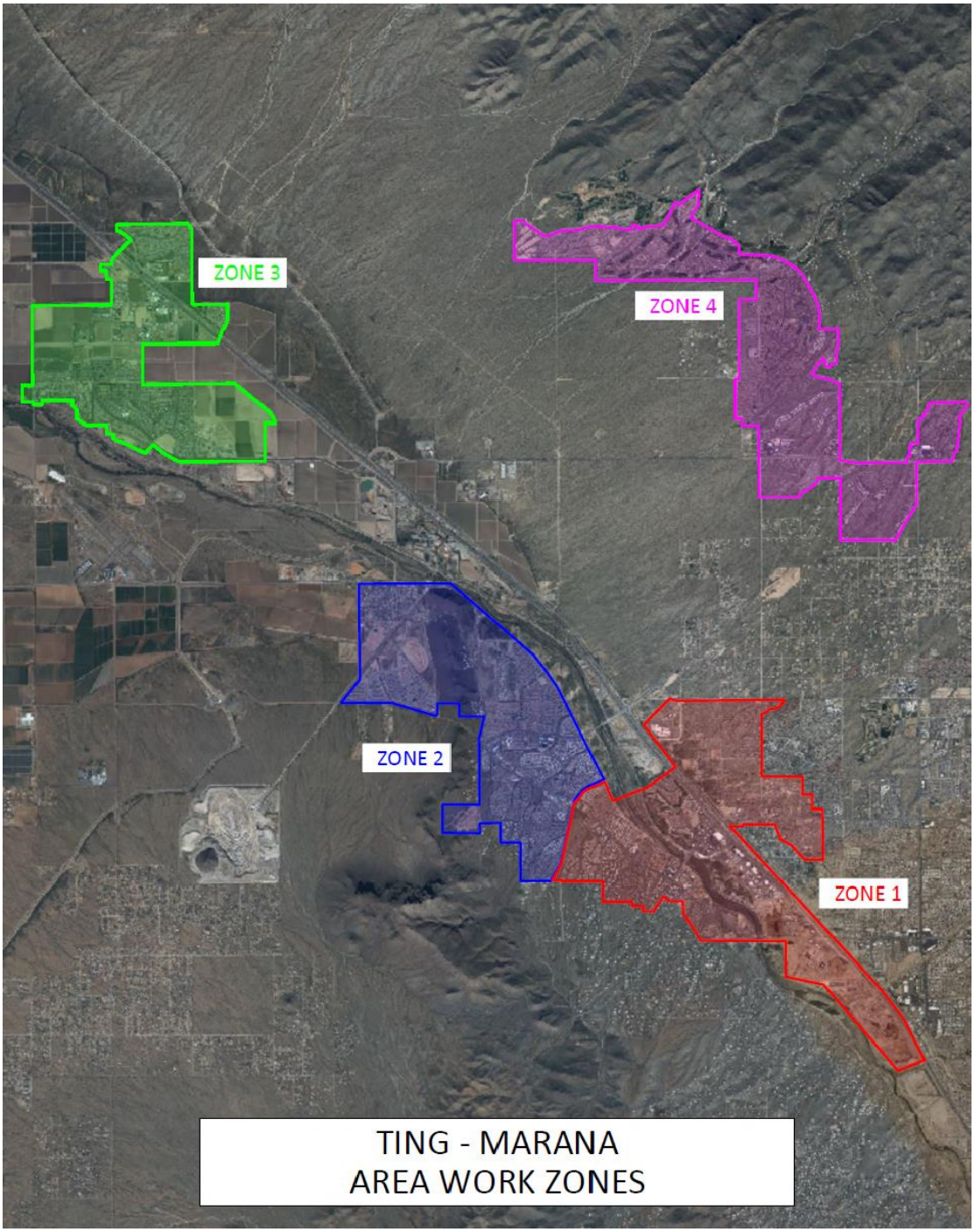

ZONE 3
ZONE 4
ZONE 2
ZONE 1
TING - MARANA
AREA WORK ZONES

EXHIBIT B
Right-of-Way Use Permit Specifications

A. Licensee's Overall Town Final Construction Plan shall designate four to twelve geographic regions, in each of which Licensee shall apply for an individual Area Permit.
B. All Right-of-Way Use Permitting by the Licensee shall be subject to the Town's general permit requirements, subject to the exceptions and additions noted below. For the avoidance of doubt, in the event of a conflict between the Town's general permit requirements and this Exhibit B, this Exhibit B shall govern.
C. Licensee shall, at the time it applies for each Area Permit:
    1. Submit to the Town Engineer the permit application information, which shall identify the specific location of the Public Rights-of-Way in which the proposed construction is to take place, which shall include:
        a. The geographic overview of the extent of the projected Public Rights-of-Way to be permitted by the Area Permit.
            i. To conform with the Town Code 12-7-5 B.5.a, Licensee will use the Town supplied 2022 imagery layer to depict the pavement, curbs, driveway, sidewalks and landscaping;
            ii. To conform with the Town Code 12-7-5 B.5.b, Licensee will depict all relevant Town utilities and structures requested by Licensee and provided to the Town.
        b. The Design Plan (showing the north arrow, design details, method of construction details, restoration details, locations of proposed conduits and structures) shall be prepared at a print sizing of 24" x 36". As Licensee intends to using boring methodology not currently covered under Town Code or Pima County code, the diagraming shall include:
            i. North Arrow correctly oriented.
            ii. Labels for Streets and cross streets
            iii. Parcel address numbers where applicable.
            iv. The size and type as well as the approximate running line of new duct and fiber facilities
            v. The size and type as well as the approximate placement of Licensee handholes and service boxes, pull points, and junctions.
            vi. Designate the construction techniques to be used in accomplishing the installation.
            vii. Typicals will include:
                1. Bore, trench, structure installation and restorations typicals
                2. Standard offset from curb or sidewalk
        c. Typical Traffic Control Plans for traffic lanes and sidewalks per the federal Manual Uniform Traffic Control Devices guidelines.
        d. Preliminary schedule of the work to be performed
        e. Sample of the notification letter/door hangers
        f. Certificate of Insurance as described by the Fiber Optic Communications License.
        g. Performance Bond as described by the Fiber Optic Communications License
    2. Verify that Licensee has obtained, or will obtain prior to commencing the construction, approval for the placement of the Facilities and any required permits from any other entity (not including departments or agencies of the Town) whose approval is required by law.
    3. Be current on all applicable fees for the requested permit or permits; and
    4. Submit the Area Permit application through the Town portal.
D. Upon reasonable consideration of the dates requested by the Licensee and other planned

and/or ongoing construction work in the affected Public Rights-of-Way, and without causing material delay to Licensee, the Town Engineer, after consultation with Licensee, shall determine the timing of the proposed construction and duration of Area Permits. It is anticipated Area Permits will apply for no less than 12 months with the option to renew for additional six-month periods as needed.

E. In addition to the Area Permit, Licensee shall apply for and be granted a Blanket Permit to install Service Drops. A Service Drop shall be defined as a singular network extension from the existing Licensee Infrastructure to a building or structure where a service request has been made.
    1. A Simple Drop shall be defined as a singular from the ROW to Private Property and terminating to the same Private Property.
    2. Complex Drop would encompass any Service Drop that is constructed underneath hardscape Town assets such as sidewalks.
    3. A Single Blanket Permit shall be submitted at the end of each Calendar Month and consist of a list of:
        a. The address of Each Service Drop installation for the previous Calendar Month.
        b. The designation of Simple or Complex of Each Service Drop.
        c. Dates during which any excavation occurred for Each Service Drop.
        d. Brief Description for Each Service Drop.
        e. Quality Photos of the restoration of Each Service Drop.
    4. Blanket Permits for Service Drops are subject to the notification, inspection, and restoration requirements of the Area Permit.

F. Licensee shall publicize scheduled work related to the construction of the Network by providing:
    1. Written notice of such work to the Public Works Director or his/her Designee at least thirty (30) days before the commencement of such work. No later than ten (10) days prior to beginning construction along any specific portion of the Public Rights-of-Way,
    2. Notification to those Persons affected by such construction not less than three (3) days prior to construction. Affected Persons may be notified by mail, distribution of flyers and/or door hangers to residences.
    3. Licensee shall create and maintain a website for public dissemination of the general progress and updates to provide adequate notice to affected Persons.
    4. Any notification must provide adequate information to notify the affected Persons of the construction work that is to be undertaken, as well as the name and telephone number of a contact person designated by Licensee to respond to questions that affected Persons may raise.

EXHIBIT C
Construction Specifications

A. All construction in the Public Rights-of-Way by the Licensee shall be subject to the Town's general Public Rights-of-Way construction and restoration requirements, subject to the exceptions and additions noted below. For the avoidance of doubt, in the event of a conflict between the Town's general construction and restoration requirements and this Exhibit C, this Exhibit C shall govern.

B. Licensee agrees that construction of Facilities in the Public Rights-of-Way shall be done in such locations and in such manner so as not to unreasonably interfere with existing water, gas, storm or sanitary sewers, traffic signal, street light and other utilities and conduits in the Public Rights-of-Way, or with the public's use of the Public Rights-of Way, and shall to the maximum degree feasible, be coordinated with any construction being simultaneously undertaken at the same location by another provider of telecommunications, broadband, or cable service, or by a provider of utilities. A drawing will be required showing the location of the work or the use requested in the permit application and any associated equipment, together with typical Traffic Control Plan (TCP) plans shall be submitted with the Area Permit application. The TCP plan shall be separate from drawings identifying the typical location within each Public Rights-of-Way in which the proposed construction is to take place. The TCP plan must meet the requirements of the current version of the Manual on Uniform Traffic Control Devices.

C. Licensee will comply with the Town's construction noise ordinance, as it is in effect at the time construction is occurring, regardless of the date of permit issuance date.

D. The following exceptions to the Town's general Public Rights-of-Way construction and restoration requirements shall apply:
    1. Licensee shall be permitted to deploy at any one time, without separate written permission from the Town Engineer, at least one but no more than twenty excavation crews. Permission may be granted for deployment of more than twenty crews, or for crews in excess of the stated size, upon submission of a written request and coordination with the Town Engineer.
    2. After work is started in one Area Permit, a new permit may be filed by Licensee for the next Area Permit. Work in up to three permit regions may be permitted simultaneously provided field work progress, including resolution to any issues that may arise in due course of the work that have been identified are proactively being addressed to the satisfaction of the Town Engineer.
    3. The typical depth of the underground facilities may be 24 inches from the existing grade in all road classifications except those non-residential roads classified as Major Streets at the time the permit is issued and as depicted on the Marana interactive Web Viewer.
        a. Underground facilities placed in nonresidential streets that are classified as Major Streets may be placed at 48 inches from the existing grade.
    4. Licensee shall provide the name and contact information for Licensee's liaison who will participate in contact meetings with Town permit staff to ensure traffic and parking impact information has been provided for the current Permit for 311 and communication purposes.

E. In compliance with and with exceptions to Marana Town Code, the underground facilities installations by Licensee will primarily utilize directional boring or similar construction techniques will:

1. Install HDPE micro ducts bundled as the fiber network design requires with individual ducts no greater than not greater than 1 inch in outside diameter. Individual ducts may be sheathed together in one or more bundles.
2. Installation of extra conduits will be placed on an as needed basis according to the Licensee network design criteria.
3. Will not require the encasement in concrete and magnetic tapes not practical for boring methodologies. However tracer wire will be placed with underground installations, such that the conduit can be located per blue stake laws.
4. The applicant shall be responsible for verifying the location of all underground utilities in accordance with the “blue stake” provisions of state law, A.R.S. § 40-360.22. The excavator shall visually check the drill head each time it passes through potholes, entrances and exit pits, including during pullback. The pothole excavation in paved areas shall be restored to the extent of the excavation as described in section.
5. Licensee shall follow standard pothole restoration for boring methodology regardless of pavement condition:
    a. Edges of pothole to be saw cut with lines either perpendicular or parallel to direction of travel or by circular cores not to exceed 8" diameter.
    b. Sand layer may be used to encapsulate existing and proposed utilities with at least 1” of cover
    c. Layered with flowable cementitious slurry approved by the Town Engineer
    d. Topped with the Perma-Patch products, a hot asphalt mix, or other material approved by the Town Engineer.
    e. Compacted prior to traffic
    f. Pothole restoration to be performed in 1 sq ft increments not to exceed 2 sq ft total.

Exhibit D Co-Location of Licensee Equipment

A. Licensee may be provided colocation space for certain equipment within specific municipal facilities (the "Properties"). Licensee has requested and the Town of Marana has agreed to allow the following equipment placement for fee as follows:

1. Marana Operations Center
    a. Licensee will place 2 secured Equipment Cabinets (the Racks) measuring approximately 32 x 32 x 84 inches.
    b. Town to provide Licensee with generator backed AC power via 2 dedicated 240V-30A circuits terminated to two L6-30R outlets above each of the Rack locations. Licensee shall pay for the cost associated with the delivery of the circuits.
    c. Licensee shall construct 2 redundant paths of underground conduit for ingress and egress cabling from the public right of way to the Racks.
    d. All ducts and raceways constructed and paid for by Licensee as a result of this License, will remain the sole responsibility of the Licensee for the purposes of ownership, maintenance, and access, until the termination of this License.
    e. With prior written approval from the Town, Licensee may utilize existing points of entry conduits owned by Town. Town will work in good faith with Licensee to modify existing or install new cable management from cable entry/exit points to location of Licensee Racks.
    f. Town will work in good faith with Licensee to modify existing or install new cable management from cable entry/exit points to location of the Racks.
2. Marana Municipal Complex
    a. Licensee will place 2 secured Equipment Cabinets (the Racks) measuring approximately 32 x 32 x 84 inches.
    b. Town to provide Licensee with generator backed AC power via 2 dedicated 240V-30A circuits terminated to two L6-30R outlets above each of the Rack locations. Licensee shall pay for the cost associated with the delivery of the circuits.
    c. Licensee shall construct 2 redundant paths of underground conduit for ingress and egress cabling from the public right of way to the Racks.
    d. All ducts and raceways constructed and paid for by licensee as a result of this License, will remain the sole responsibility of the licensee for the purposes of ownership, maintenance, and access, until the termination of this License.
    e. With prior written approval from the Town, Licensee may utilize existing points of entry conduits owned by Town. Town will work in good faith with Licensee to modify existing or install new cable management from cable entry/exit points to location of Licensee Racks.
    f. Town will work in good faith with Licensee to modify existing or install new cable management from cable entry/exit points to location of the Racks.

B. For consideration of the aforementioned, Licensee will pay the Town of Marana:
    1. $250 per month for each equipment rack
    2. Pay the actual cost of electrical usage at a rate that is current to the prevailing rate paid by the Town. Licensee, at its sole cost, will do one of the following as agreed to by the Town
        a. Place a sub-meter that can be read and reimburse the cost of electric to the Town of Marana; or
        b. Place a meter that will be billed directly to Ting by the serving electric company; or
        3. Town and Licensee may mutually agree upon in-kind compensation per Section 4.2 of the Town of Marana Fiber Optic Communications License issued to Licensee.

C. All operations, maintenance, repairs, and replacement of Licensee equipment shall be performed at the sole expense of the Licensee in a workmanlike manner, after any and all permits required by law have been obtained, in compliance with all applicable laws to minimize impact and interference to the Town's operations. Licensee shall, at its own expense, replace or repair any damage caused to the facility as a result of installation, operation, or maintenance by any of its agents, employees, representatives, contractors, sub-contractors, or invitees. If Licensee fails to repair any such damage, Town may, in its sole discretion, repair or refinish such damage and Licensee shall reimburse Town for its actual costs incurred by the Town at Town's standard rates, plus an administrative fee of 15%. Town shall provide the Licensee with 10 days' notice prior to completing or taking action of any repair of damage.
D. Licensee shall at all times be solely responsible for, maintaining and keeping Licensee equipment, hardware, and racks in a clean, sanitary, safe working condition, free of defects at all times during this License.
E. ACCESS. Subject to the reasonable Building Rules and Regulations (hereinafter defined) from time to time in effect in the Buildings (including Town's reasonable restrictions to ensure security and privacy in the Buildings), Town agrees that Licensee and its employees, contractors, subcontractors, agents and representatives shall have access to the sites and the Licensee Equipment 24 hours a day, 365 days a year. As used herein, "Building Rules and Regulations" shall mean the reasonable security, access, construction, operational, technical, sales, advertising, marketing, service and similar policies, standards, and guidelines (including requirements relating to contractor qualifications, procedures and insurance), as may be promulgated by the Town, as such Building Rules and Regulations may be reasonably modified from time to time, which Building Rules and Regulations shall be uniformly enforced against all Licensees, building contractors and telecommunications service Licensees in a nondiscriminatory manner.
F. VEHICULAR INGRESS AND EGRESS. Town grants to Licensee, and Licensee's agents, employees and contractors, a non-exclusive right and easement for pedestrian and vehicular ingress and egress across the Properties. Licensee's vehicular access is limited to areas paved with asphalt or concrete only, which Licensee acknowledges and understands do not extend directly to the sites, but Licensee shall have full pedestrian access over the Properties from the paved areas to the sites. Furthermore, in the event that circumstances

so require, Licensee shall have vehicular access over the non-paved areas to the sites only with the prior consent of Town. In such an event, Licensee shall be responsible for and will promptly repair any damage caused by such access.

G. AUTHORIZED PERSONNEL LIST. For security purposes, Licensee shall provide Town with a list of the names of all personnel who are authorized to enter onto the sites pursuant to this License. The list shall be updated whenever a change of personnel occurs. Town is authorized to block entry to any personnel whose name is not on the list.

H. Damage to Licensee equipment, caused by Town, its employees, agents, contractors, subcontractors, or invitees, shall be reported to Licensee immediately upon Town becoming aware. Town shall reimburse the Licensee for any and all reasonable costs associated with the replacement or repair of equipment.

I. Town shall, at its sole cost and expense except as set forth below, install and maintain an HVAC system capable of maintaining temperature of the leased space within reasonable working and operating temperatures of 72 degrees Fahrenheit, +/- 6 degrees Fahrenheit. If Licensee finds temperatures that exceed normal operating/working temperatures, Licensee to alert Town, who shall move forward with a remediation or repair of the issue immediately upon being alerted in a timely manner.

    1. Town shall provide Licensee a quote to conduct a site assessment with a qualified professional to determine if upgrades are required to the building in order to facilitate the co-location space request by Licensee. Licensee shall cover third party consultant costs for this assessment, up to a maximum of $10,000 USD, per site. This assessment shall be completed for both the Marana Operations Center, and the Marana Municipal Complex.
    2. Any upgrades that are determined to be required as a result of the site assessment, shall be discussed with Licensee prior to commencement of work, and Licensee shall have the right to decline to proceed with the required upgrades at its sole discretion, as a result of expected cost, time to complete, or other factors. If Licensee declines to proceed with the required upgrades, Licensee shall not place its equipment in the Town facility. If Licensee decides to proceed with the upgrades, Licensee shall pay for the HVAC and electrical upgrades required to accommodate Licensee's requested co-location space. Licensee shall provide written notice to Town as to whether Licensee wishes to proceed with or cancel the co-location request. The co-location requests for the Marana Operations Center and Marana Municipal Complex are independent, and Licensee reserves the right to approve the cost for upgrades at both, one, or none of the facilities.
    3. Licensee shall provide Town with the proposed BTU output of equipment expected to be installed within colocation racks to assist with the site assessment.

J. Any maintenance to be completed to the components within the facility that directly or indirectly affect Licensee operations, such as maintenance to items including but not limited to backup power or cooling systems of Licensee racks, Town should provide Ting with 14 days of notice, or as much as is reasonably possible, prior to date of work performance.

K. Any maintenance to be completed to the electrical circuits directly feeding Licensee racks, that can be reasonably expected to impact or provide a loss of power to racks, shall be

completed during an overnight period between 2am and 6am local time, with no fewer than 21 days of notice to Licensee prior to work performance, unless otherwise specified in writing by the Licensee.

Exhibit E: Form of Conduit Request

Conduit Request #____

This document constitutes a "Conduit Request" pursuant to Section 2.4 of the FIBER OPTIC COMMUNICATIONS LICENSE (the “License”) entered into by and between the Town of Marana, an Arizona municipal corporation (the "Town"), and Ting Internet, LLC., a Delaware limited liability company ("Licensee") on _____ , 20____. This Conduit Request is hereby incorporated into the License and is expressly made subject to all of the terms and conditions set forth in the License. To the extent that there is any inconsistency between the License and this Conduit Request, the License shall control except as expressly provided herein to the contrary. Capitalized terms used in this Conduit Request shall have the same meanings set forth in the License, unless the context requires otherwise. The effective date of this Conduit Request shall be the date of the last signature by the Parties.

Upon execution of this Conduit Request by both Parties, and subject to the provisions of the License, the Town hereby grants to Licensee, and Licensee hereby accepts from the Town, a non-exclusive right to access and use the Additional Conduit described in Section A of this Conduit Request.

Section A

Additional Conduit

1. The Additional Conduit shall follow a Route as generally depicted on the map attached to this Conduit Order as Attachment 1. The Additional Conduit shall begin and end at the Connected Points described in Table A.1 below.
2. The total aggregate length of the Additional Conduit is _____ feet.

Table A.1

Route #	Starting Connection Point	Ending Connection Point	Conduit Footage

Section B

Delivery Date; General

1. The Town shall make ready the Additional Conduit and notify Licensee, in writing, of its availability for acceptance inspection by , _____ 20___.
2. This Conduit Request may be executed via facsimile, electronic signature, or scanned documents

and in multiple counterparts, each of which when taken together shall constitute one and the same document.

In confirmation of their consent and agreement to the terms and conditions contained in this Conduit Request, and intending to be legally bound by this Conduit Request, the Parties have executed this Conduit Request on the dates set forth below.

“Town":

Town of Marana

By: _____

Name: _____

Title: _____

Date: _____

“Licensee":

Ting Internet LLC

By: _____

Name: _____

Title: _____

Date: _____

Attachment 1 to Conduit Request #____

Map of Additional Conduit Requested

Exhibit F: Bill of Sale of Licensee-Built Town Dedicated Conduit

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Ting Internet, LLC., a Delaware limited liability company ("Seller"), does hereby grant, bargain, transfer, sell, assign, convey and deliver to the Town of Marana, an Arizona municipal corporation, as represented by the Town Council and acting through the Town Manager or the Town Manager's designee ("Buyer"), all of its right, title, and interest in and to the Town Dedicated Conduit, as such term is defined in the Fiber Optic Communications License Issued to Ting Internet, LLC, dated as of the last date of signature thereto (the "License Agreement") by and between Seller and Buyer, and as further described pursuant to written agreement between Buyer and Seller dated [●], and in Table 1 below, to have and to hold the same unto Buyer, its successors and assigns, forever.

1. The Dedicated Conduit shall follow a Route as generally depicted on the map attached to this Bill of Sale as Attachment 1. The Dedicated Conduit shall begin and end at the Points described in Table A.1 below.

Table A.1

Route #	Starting Point	Ending Point	Conduit Footage	Sale Price
			Total:	

Buyer acknowledges that Seller makes no representation or warranty with respect to the assets being conveyed hereby except as specifically agreed upon in writing between Seller and Buyer in the License Agreement.

IN WITNESS WHEREOF, Seller has duly executed this Bill of Sale as of [●].

TING INTERNET, LLC	Town of Marana
By_____	By_____
	Name:
Name:	Title:
Title:	

Attachment 1 to Bill of Sale

Map of Town Dedicated Conduit

Council-Regular Meeting **A2**

Meeting Date: 08/01/2023

To: Mayor and Council

From: David L. Udall, Town Clerk/Assistant Town Attorney

Date: August 1, 2023

Strategic Plan Focus Area:
Proactive Public Services

Subject: Resolution No. 2023-081: Relating to Water; approving and authorizing the Mayor to sign the Agreement for Construction of Water Facilities Under Private Contract, a temporary water wheeling agreement, for Twin Peaks Crossings (David L. Udall)

Discussion:

On August 8, 2020, the Town Council approved an Intergovernmental Agreement Between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water, recorded in the office of the Pima County Recorder on August 21, 2020 at Sequence No. 20202340063 (the "Wheeling IGA"). The IGA allows Marana Water to provide potable water service to certain areas of land that (1) are within the Marana town limits, (2) are too far away from Marana Water's existing water infrastructure to receive cost-effective service from Marana Water, and (3) are close enough to be served by water infrastructure owned and operated by the Tucson Water Department ("Tucson Water") but do not meet Tucson Water's service area policy. The Wheeling IGA requires that the Town use its own CAP water, which will be wheeled through Tucson Water's potable water system to points of interconnection to the new Marana Water customers. The wheeling agreement allows for up to 250 acre-feet per year of total water wheeled.

At an October 13, 2020 Study Session, staff requested policy feedback on when and under what conditions to use the Wheeling IGA for prospective developments. Staff took the Council's feedback and after further research and careful consideration, returned to Council on January 19, 2021. The Council approved staff's recommended approach for applying the Wheeling IGA:

- For locations in Marana Water's intended service area, the project must connect to Marana Water infrastructure. No wheeling is allowed. All applicable impact fees must be paid.
- If the project is located in an area where Marana Water does not intend to extend infrastructure (i.e. outside its intended service area), the project will be a candidate for permanent wheeling. Temporary wheeling is not permitted. These developments are required to pay a fee for acquiring additional water resources, since these developments are not currently included in projected water developments in the Town's current Designation of Assured Water Supply (DAWS).

A copy of the Water Wheeling Policy is attached.

The owners of property generally located near the southeast corner of Twin Peaks Road and Tangerine Road (see attached map), currently known as Twin Peaks Crossings, have requested that the property receive water via the Wheeling IGA. The property is within the Town's intended service area, which, pursuant to the Town's Water Wheeling Policy, would mean that the property is not eligible for wheeled water and must connect to Marana Water infrastructure. However, prior to the approval of the current Policy, the property owners had been in discussion with the Town and Tucson Water to receive wheeled water.

Given the timing of the events as described above, the property owners requested an exception to the Water Wheeling Policy, and the request was brought before the Town Council during the December 7, 2021 regular Town Council meeting (excerpts of the meeting minutes are attached). At that meeting, Town Attorney Jane Fairall explained that, if Council approved the request, the Town would re-engage with Tucson Water regarding this property and the Town and the property owners would enter into an agreement regarding water service that would be brought to Council for approval at a later date. At a minimum, the agreement would require the following: 1) that the property owners pay a fee equal to the water infrastructure impact fee, in recognition of the project's future connection to the Town's system; 2) that the property owners dedicate certain property to the Town for future Water infrastructure; and 3) that the property will be required to connect to the Town's system when the Town extends its infrastructure to the property (meaning this would be a temporary wheeling agreement). The Town Council unanimously voted to grant an exception to the Water Wheeling Policy so long as there was a mutual agreement between the parties.

Since that time, the property owners have been in negotiations with Tucson Water and the Town regarding such an agreement, and the parties are now ready to present the agreement before the Town Council. In addition to water service agreement terms and conditions, if adopted, the attached agreement would permit temporary water wheeling pursuant to the Wheeling IGA and require: 1) that the property owners to pay a fee equal to the water infrastructure impact fee, in recognition of the project's future connection to the Town's system, which would total $456,918.00; 2) that the property owners dedicate a 150-foot by 150-foot portion of the property owner's property to the Town for future Water infrastructure; and 3) that the property connect to the Town's water system within 90 days of the date the Town extends its own water

infrastructure to the property.

Financial Impact:
The agreement will result in In-Lieu fees equal to the water infrastructure impact fees in the amount of $456,918.00 and other applicable fees.

Staff Recommendation:
Staff recommends approval of Resolution No. 2023-081.

Suggested Motion:
I move to adopt Resolution No. 2023-081, approving and authorizing the Mayor to sign the Agreement for Construction of Water Facilities Under Private Contract, a temporary water wheeling agreement, for Twin Peaks Crossings.

Attachments

Resolution No. 2023-081
Exhibit A - Twin Peaks Crossing Wheeling Agreement
Water Wheeling Policy
Excerpts of 12/07/2021 Regular Council Meeting Summary Minutes
Location Map

MARANA RESOLUTION NO. 2023-081

RELATING TO WATER; APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT FOR CONSTRUCTION OF WATER FACILITIES UNDER PRIVATE CONTRACT, A TEMPORARY WATER WHEELING AGREEMENT, FOR TWIN PEAKS CROSSINGS

WHEREAS Redwing Investments, LLC, an Arizona limited liability company, desires for the Town to provide water services to certain lands currently known as Twin Peaks Crossings, described and depicted in: the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 28, 2019, at Sequence 20191480308, the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 28, 2019, at Sequence 20191480309, the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 28, 2019, at Sequence 20191480310, the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 15, 2019, at Sequence 20191350880, and the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on March 20, 2020, at Sequence 20200800361; and

WHEREAS Town staff has negotiated an Agreement for Construction of Water Facilities Under Private Contract for Twin Peaks Crossings, which agreement incorporates the terms and conditions of the Intergovernmental Agreement Between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water recorded in the office of the Recorder of Pima County, Arizona, on August 21, 2020, at Sequence No. 20202340063 (commonly referred to as the "Water Wheeling IGA"); and

WHEREAS the Mayor and Council of the Town of Marana find that the terms and conditions of the agreement are in the best interests of the Town of Marana and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the Town of Marana Agreement for Construction of Water Facilities Under Private Contract for Twin Peaks Crossings, substantially in the same form attached to and incorporated by this reference in this resolution as Exhibit A, 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 the terms, obligations, and objectives of the agreement.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 1st day of August, 2023.

Mayor Ed Honea

ATTEST:

David L. Udall, Town Clerk

APPROVED AS TO FORM:

Jane Fairall, Town Attorney

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

Twin Peaks Crossings

THIS AGREEMENT (this "Agreement") is entered into by and between the TOWN OF MARANA, an Arizona municipal corporation (the "Town"), REDWING INVESTMENTS, LLC, an Arizona limited liability company (the "Developer"). The Town and the Developer are sometimes collectively referred to as the "Parties," each of which is sometimes individually referred to as a "Party."

RECITALS

A. This Agreement is entered into and authorized pursuant to Title 14 of the Marana Town Code as it may be amended from time to time ("Marana Town Code Title 14").

B. The Developer desires for the Town to provide water service to certain lands described and depicted in: the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 28, 2019, at Sequence 20191480308, the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 28, 2019, at Sequence 20191480309, the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 28, 2019, at Sequence 20191480310, the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on May 15, 2019, at Sequence 20191350880, and the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on March 20, 2020, at Sequence 20200800361 (together, the "Subject Property").

C. The Developer is the owner of the Subject Property.

D. Effective August 21, 2020, the Town and the City of Tucson (the "City") entered into the Intergovernmental Agreement between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water recorded in the office of the Recorder of Pima County, Arizona, at Sequence 20202340063 (the "Water Wheeling IGA"). The Water Wheeling IGA allows the Marana Water Department ("Marana Water") to provide potable water service to certain areas of land that (1) are within the Marana town limits, (2) are too far away from Marana Water's existing water infrastructure to receive cost-effective service from Marana Water, and (3) are close enough to be served by water infrastructure owned and operated by the Tucson Water Department ("Tucson Water") but do not meet Tucson Water's service area policy. The Water Wheeling IGA requires that the Town use its own CAP water, which will be wheeled through Tucson Water's potable water system to points of interconnection to the new Marana Water customers.

E. The Subject Property is located in an area that meets the three criteria for service under the Water Wheeling IGA, as described in recital D above.

F. The Developer requested that the Town and the City use the Water Wheeling IGA to deliver water to the Subject Property, and the Town and the City agreed that the Subject Property is a candidate for wheeling per the Water Wheeling IGA.

G. In order to receive water through the Water Wheeling IGA, the Developer must enter into an agreement for construction of water facilities under private contract with the Town and a separate facilities construction agreement with the City.

H. As a condition of securing water service from the Town for the Subject Property, the Developer agrees to install those certain water infrastructure improvements (the "Developer-Installed Facility") in accordance with the required plans, specifications, and materials as outlined and depicted in the Twin Peaks Crossings Master Water Distribution Plan, sealed by the Oracle Engineering Group, Inc. on _____ and accepted by the Town of Marana Water Department on _____ (the "Facility Plan"), which is on file in the office of the Town of Marana Water Department.

I. The water infrastructure improvements depicted in the Facility Plan are referred to in this Agreement as the "Developer-Installed Facility." The Developer desires that the Town take ownership of, operate, and service the Developer-Installed Facility.

J. The Town is willing to accept the Developer-Installed Facility, provided it meets Town standards and the work is done in accordance with Town requirements.

K. As described in the Facility Plan, the Developer must also construct certain offsite water infrastructure (the "Offsite Work") in coordination with the City of Tucson in order for water to be delivered to the Subject Property.

L. In accordance with the 2022 Water Facilities Infrastructure Improvement Plan approved by the Marana Town Council on September 20, 2022, a copy of which is on file in the office of the Town of Marana Water Department, the Town plans for the construction of certain water infrastructure by 2027, including a proposed C-Zone booster station, a proposed B-Zone booster station, and a proposed B-Zone transmission line extending from the Blue Bonnet Reservoir northward along Twin Peaks Road to a proposed B-Zone reservoir to be constructed near Tangerine Road. Together, the B-Zone booster station, the B-Zone transmission line, the B-Zone reservoir, and the C-Zone booster station are hereinafter referred to as the "Necessary Water Infrastructure Improvements."

M. The Developer also owns certain land described in the Warranty Deed recorded in the office of the Recorder of Pima County, Arizona, on October 24, 2022, at Sequence 20222970128 (the "Redwing Investments Property"). The Town desires to obtain an approximately 150-foot by 150-foot portion of the Redwing Investments Property, generally located at the southwest corner of the Redwing Investments, for a new reservoir and booster station (the "Reservoir Site").

N. The Parties desire to memorialize their agreement concerning the construction of the water facilities and the water wheeling through this Agreement.

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. Temporary Water Wheeling.

1.1. *Water wheeling*. Pursuant to the Water Wheeling IGA, as a temporary measure until the Necessary Water Infrastructure Improvements are installed, Tucson Water infrastructure will deliver water to the Subject Property up to the point of connection to the Developer-Installed Facility, at which point the water will be delivered through the Developer-Installed Facility, all in accordance with, and as described and depicted in, the Facility Plan.

1.2. *Dedication of the Reservoir Site*. On or before the approval of a final plat or development plan on the Subject Property, the Developer shall at no cost grant, bargain, sell, convey, transfer and deliver to the Town the Reservoir Site free and clear of all liens, claims, charges or encumbrances for the purpose of constructing and maintaining a new reservoir, booster station, and related water infrastructure. The dedication shall occur by instrument acceptable to the Town. The Developer shall include a legal description and depiction prepared by a licensed surveyor prior to the dedication.

1.3. *Connection requirement*. Within 90 days of the date that the Necessary Water Infrastructure Improvements are operational, the Developer shall disconnect the Subject Property's onsite water infrastructure from the Tucson Water infrastructure used to temporarily wheel water to the Subject Property, and shall connect the Subject Property's onsite water infrastructure to the Town's water system. Any costs associated with such disconnection and reconnection shall be borne by the Developer.

1.4. *The Water Wheeling IGA*. All of the terms and conditions of the Water Wheeling IGA shall apply herein as though set forth in this Agreement in full until the Developer connects the Subject Property's onsite water infrastructure to the Town's water system as described in paragraph 1.3 above.

2. The Developer-Installed Facility.

2.1. *Developer installation of the Developer-Installed Facility*. The Developer has designed and shall install, at the Developer's own expense, the Developer-Installed Facility as depicted in the Facility Plan. The Developer-Installed Facility shall conform to the design standards of Tucson Water and the Town of Marana Town Code Title 14 and special specifications and details as approved by the Town and by this reference made a part of this Agreement. The Facility Plan shall include a plan note identifying the Developer-Installed Facility as a new water facility and shall show any and all alterations to the existing water system. Construction and installation of the Developer-Installed Facility in accordance with the Facility Plan, including without limitation all labor, materials, equipment, supplies, and tools required for the construction and installation, is referred to in this Agreement as the "Work."

2.2. *Competitive bids*. The Developer shall go through the competitive bidding process for the Work in compliance with Title 34 of the Arizona Revised Statutes.

2.3. *Work by licensed contractor*. The Work shall be performed by a contractor properly licensed by the State of Arizona as determined by the Arizona Registrar of Contractors. In addition to any other contractor's license classifications required by the Arizona Registrar of Contractors, the contractor shall hold contractor's license classifications A, A-12 and A-16.

2.4. *Applicable fees*. As a condition of and prerequisite to the Town accepting the Work, the Developer shall pay all applicable fees, including, but not limited to, fees for permitting and inspection, as set forth by the Town of Marana and the City of Tucson.

2.5. *Payment of connection fees*. Before any service connections are made to the Developer-Installed Facility, the person or entity seeking the service connection shall pay to the Town the connection fees and any other fees required by Marana Town Code Title 14.

2.6. *Anticipated cost per meter*. The person or entity seeking installation of a meter from the Town shall pay all applicable fees and charges in effect at the time of the meter installation request. As of the Effective Date of this Agreement, the Town's fees and charges to install a five-eighths-inch water meter on the Subject Property are:

2.6.1. Meter Install Fee: $360.00

2.6.2. Water Resource Development Impact Fee: $5,358.00

2.6.3. If larger meters are installed, the person or entity seeking installation shall pay the applicable Meter Install Fee, as set forth in the Town of Marana comprehensive fee schedule approved by the Town Council and amended from time to time, and the applicable Water Resource Development Impact Fee, as set forth in Marana Ordinance No. 2014.013 recorded in the office of the Recorder of Pima County, Arizona, on May 9, 2014, at Sequence 20141290586, a copy of which is on file in the office of the Marana Town Clerk.

2.6.4. The Meter Install Fee and Water Resource Development Impact Fee outlined above reflect the fees established as of the Effective Date of this Agreement. By listing them herein, the Town does not guarantee the fees will remain at the same rate as at the time they are due.

2.7. *In-Lieu Fee*.

2.7.1. In recognition of the Subject Property's future connection to the Town's water system, the Developer shall pay to the Town $456,918.00 in lieu of water infrastructure development impact fees the Developer would have been required to pay if the Town had denied the Developer's request for water service under the Water Wheeling IGA and the Subject Property was developed after the installation of the Necessary Water Infrastructure Improvements (the "In-Lieu Fee"). The In-Lieu Fee is calculated by multiplying the equivalent demand units (EDUs) currently proposed on the Subject Property (154 EDUs) by the water infrastructure development impact fee rate for the Twin Peaks water infrastructure development impact fee benefit area for a five-eighths-inch water meter ($2,967.00). Notwithstanding A.R.S. § 9-463.05(B)(10), the Parties agree that the In-Lieu Fee shall be paid to the Town in one lump sum within 30 calendar days of the sale or transfer of ownership of the Subject Property or any portion of the Subject Property, as evidenced by the recording of a deed transferring title. If the Developer does not sell the Subject Property or any portion of the Subject Property, the In-Lieu Fee shall be due and payable to the Town upon the Developer's application for the first building permit on the Subject Property. Failure to pay the In-Lieu Fee as required by this subparagraph shall constitute a material breach of this Agreement.

2.7.2. In recognition of the payment of the In-Lieu Fee pursuant to subparagraph 2.7.1 above, the Town will not assess any water infrastructure development impact fees for the first 154 EDUs constructed on the Subject Property.

2.8. *Developer-Installed Facility acceptance by the Town and the City*. No service connections shall be made to the Developer-Installed Facility until the Developer-Installed Facility has been accepted by the Town in accordance with Marana Town Code Title 14 and until the Offsite Work has been accepted by the City. The Developer must provide the Town of Marana Water

Department with written verification of the City of Tucson's final acceptance of the Offsite Work prior to final acceptance of the Work by the Town.

2.9. *Developer's certification.* Execution of this Agreement certifies that the Developer has reviewed the Facility Plan and all other specifications applicable to the Work and has approved and agrees with the location of all service lines.

2.10. *Developer responsible for Offsite Work.* The Developer shall be solely responsible for the Offsite Work and for complying with the terms and conditions of any agreement with the City of Tucson related to the Offsite Work.

3. Termination.

3.1. *Termination for breach.* The Town may terminate this Agreement in its entirety for any material breach committed by the Developer after providing written notice to both parties of the default and a 30-day period to cure it.

3.2. *Termination after one year.* Approval of the Facility Plan shall lapse and this Agreement shall terminate if more than one year has passed since the date of this Agreement and the Work has not begun, or if the Work is discontinued for a period of one year; provided that, if the Developer or any assignee approved or deemed approved by the Town pursuant to Section 8.3 below reasonably shall require to begin the Work or resume the Work after it had begun due to adverse market conditions or any delays due to strikes, acts of God, non-availability or shortages of labor or materials, local strikes, lockouts, inclement weather, war, governmental laws, regulations, restrictions, a moratorium on construction, delays in transportation, governmental delays in granting permits or approvals, unknown and unanticipated soil or other underground conditions, pandemics, measures taken by any governmental authority in response to the COVID-19 virus, the government mandates closures of businesses due to public health concerns, including without limitation viruses, time to commence and complete a loan foreclosure of the Subject Property or any portion thereof or any other cause of any kind that is beyond the control of such party, Developer or such assignee shall be entitled to extend such one year period for such additional time as is reasonably necessary, but not to exceed one additional year, by written notice to the Town given before the expiration of the initial one year period set forth above.

3.3. *City of Tucson Agreement Contingency.* The rights and obligations of the Parties under this Agreement are contingent upon Developer entering into a separate facilities construction agreement with the City of Tucson and, if such separate agreement is not entered into between Developer and the City of Tucson within sixty (60) days after the execution and delivery of this Agreement, this Agreement shall terminate.

3.4. *Termination Instrument.* At any time after the termination of this Agreement, Developer unilaterally may prepare, execute and cause to be recorded in the official records of Pima County, Arizona, a written instrument to reflect the termination of this Agreement.

4. Engineering and Inspection.

4.1. *Registered civil engineer.* The Developer shall employ a registered Civil Engineer to design, lay out, establish control lines for and certify the layout of the Work according to the Facility Plan.

4.2. *Town inspector's authority.* Any inspector authorized by the Town shall have full inspection authority over the Work.

4.3. *Inspection provisions*. The Developer shall furnish the Town's inspector with all facilities reasonably necessary to inspect the Work. The Work shall be subject to Town inspection at all times. Defective work shall be corrected in a manner satisfactory to the Town's inspector. Inspection by the Town is for the purpose of ensuring compliance with plans and specifications only. The Town makes no guarantee as to the safety or engineering soundness of plans prepared by the Developer or any contractor.

4.4. *Payment of Town inspector's overtime cost*. If scheduling by the Developer's contractor reasonably requires the Town's inspector to work overtime, the Developer or Developer's contractor shall pay the Town for any additional salaries, expenses or employee benefits relating to the overtime. For purposes of this paragraph, overtime is any time over 40 hours worked in a seven-day work period, any time over eight hours worked Monday through Friday, and any time worked on weekends and legal holidays observed by the Town.

5. Preconstruction Procedure.

5.1. *Request to begin construction*. The Developer shall submit a written request to begin construction to the Town five working days before the Work is to commence.

5.2. *Construction permit*. This Agreement shall be completed, signed and notarized, and returned to the Town prior to issuance of a construction permit for the Work.

5.3. *Start and completion of the Work*. No portion of the Work shall begin until the Town has issued a construction permit specifying the starting date and a reasonable time for completion.

5.4. *Progress of the Work*. The Work shall be commenced and carried on at such points and in such order as may be directed by the Town.

5.5. *Materials sampling and testing*. Materials shall be available for sampling and testing by the Town prior to being used in the Work. Materials that fail to meet Town specification shall be removed from the site.

5.6. *Permits and approvals*. The Developer shall, at Developer's expense, obtain all necessary permits and licenses for the Work, pay all fees and comply with all laws, ordinances and regulations relating to the Work.

6. Construction.

6.1. *Developer's presence on site*. The developer, or Developer's designated agent, shall be present at all times during performance of the Work. The name of the Developer's designated agent and the contractor performing the Work shall be furnished to the Town before the Work begins. Instructions given by the Town to the designated agent shall be deemed to have been given to the Developer.

6.2. *Competence and diligence*. The Developer shall employ only competent and efficient laborers, mechanics or artisans on the Work, and the Developer agrees to perform diligently to complete the Work on or before the completion date given in the notice to proceed.

6.3. *Paving*. The Developer shall identify and locate all water valves prior to paving and set valve boxes to final grade after paving.

6.4. *Alterations to the existing Town water system*. The Developer shall, at Developer's expense, make any and all alterations to the existing water system either on-site or off-site necessi-

tated by paving, drainage, or other improvements caused by the development of the Subject Property.

6.5. *Worksite safety.* The Developer shall require all contractors and subcontractors performing any portion of the Work to comply with all safety requirements of the Occupational Safety and Hazards Act as set forth by the Federal Government and as implemented by the State of Arizona. The Developer or its contractors shall be solely responsible for all fines or other penalties provided for by law for any violations of the Occupational Safety Hazards Act.

7. Dedication.

7.1. *Transfer of the Developer-Installed Facility to the Town.* Upon the Town's final acceptance of the Work, the Developer shall at no cost grant, bargain, sell, convey, transfer and deliver to the Town the Developer-Installed Facility free and clear of all liens, claims, charges or encumbrances.

7.2. *Two-year warranty.* The Developer guarantees the Work to be free from all failures due to poor workmanship or materials for a period of two years from the date of the Town's final acceptance of the Work.

7.3. *Other conflicting construction prohibited.* The Developer shall not construct or allow the construction of any utility, building, or other improvement that would interfere with the operation or maintenance of the Developer-Installed Facility.

7.4. *Developer's obligation to maintain finished grade.* The Developer guarantees that all service lines, meters, and meter boxes on the Subject Property will be to finished grade and that Developer will remain responsible for raising or lowering said services as required until the Subject Property is fully developed.

7.5. *Acceptance by the Town.* The Town shall accept title to and take possession of the Developer-Installed Facility when the Work has been completed to the satisfaction of the Town. Subject to the Developer's continuing obligations under this Agreement, the Town shall operate and service the Developer-Installed Facility after taking over possession of it under this paragraph.

8. Miscellaneous.

8.1. *Indemnity.* Developer shall indemnify, defend, and hold harmless the Town, its Mayor and Council, officers and employees, boards, committees and commissions from and against any loss, claim, suit, demand, cause of action, or liability of any nature, including but not limited to damage to property and injuries to persons, including death, arising or alleged to have arisen, in whole or in part, out of any negligent act or omission of the Developer or any contractor, subcontractor, or any person employed directly or indirectly by any of them in the performance of the Work or in the operation of the Developer-Installed Facility.

8.2. *Binding effect.* This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

8.3. *Consent required for assignment.* The Developer may not assign this Agreement without the prior written consent of the Town, which consent may not be unreasonably withheld and which consent shall be deemed to have been given by the Town if the Town fails to disapprove in writing a written request for such consent from the Developer (or any previously approved assignees) within fifteen days after such consent request is received by the Town.

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

8.5. *Effective date.* The effective date of this Agreement shall for all purposes be the date that this Agreement is recorded in the office of the Recorder of Pima County, Arizona (the "Effective Date").

[Signature Page Follows.]

IN WITNESS WHEREOF, the Parties have executed this 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:

_____
David L. Udall, Town Clerk

APPROVED AS TO FORM:

_____
Jane Fairall, Town Attorney

THE "DEVELOPER":

REDWING INVESTMENTS, LLC, an Arizona limited liability company

By: _____
Charles D. Cardinal, Manager

Date: 7/12/2023

By: _____
Penny L. Cardinal, Manager

Date: 7/12/2023

[Notary Page Follows.]

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on this 12th day of July 2023 by Charles D. Cardinal, Manager of REDWING INVESTMENTS, LLC, an Arizona limited liability company, on behalf of the company.

(Seal)

ROBYN ANDERSON
Notary Public - State of Arizona
PIMA COUNTY
Commission # 635911
Expires August 23, 2026

Notary Public

STATE OF ARIZONA)
ss
County of Pima)

The foregoing instrument was acknowledged before me on this 12th day of July 2023 by Penny L. Cardinal, Manager of REDWING INVESTMENTS, LLC, an Arizona limited liability company, on behalf of the company.

(Seal)

ROBYN ANDERSON
Notary Public - State of Arizona
PIMA COUNTY
Commission # 635911
Expires August 23, 2026

Notary Public

Date: September 28, 2021

From: Jing Luo, Water Director

Wheeling IGA Policy

EFFECTIVE IMMEDIATELY

Purpose

The purpose of this document is to define and standardize the Marana Water Department's ("Marana Water") policy regarding the utilization of the Intergovernmental Agreement Between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water, recorded in the office of the Pima County Recorder on August 21, 2020 at Sequence No. 20202340063 (the "Water Wheeling IGA").

Background

The Water Wheeling IGA was approved by Marana Resolution No. 2020-087 on August 8, 2020. The IGA allows Marana Water to provide potable water service to certain areas of land that (1) are within the Marana town limits, (2) are too far away from Marana Water's existing water infrastructure to receive cost-effective service from Marana Water, and (3) are close enough to be served by water infrastructure owned and operated by the Tucson Water Department ("Tucson Water") but do not meet Tucson Water's service area policy. The Water Wheeling IGA requires that the Town use its own CAP water, which will be wheeled through Tucson Water's potable water system to points of interconnection to the new Marana Water customers. The wheeling agreement allows for up to 250 acre-feet per year of total water wheeled.

Policy

If a project or development is within Marana Water's intended service area, the project or development must connect to Marana Water's infrastructure. Wheeling pursuant to the Water Wheeling IGA may not be utilized for a project or development within Marana Water's intended service area.

If a project or development is located in an area where Marana Water does not intend to extend infrastructure, the project or development may be a candidate for permanent wheeling pursuant to the Water Wheeling IGA. Temporary wheeling is not permitted.

Approval from both Marana Water and Tucson Water must be obtained before any project or development can be considered as a candidate for permanent wheeling pursuant to the Water Wheeling IGA. If both entities approve the wheeling of water to the subject location(s), two (2) separate and distinct Water Service Agreements, one between the developer of the project or development and Marana Water and one between the developer of the project or development and Tucson Water, will be required.

If approved, the developer must comply with all plan review processes, submittals, modeling and permitting applicable to both Marana Water and Tucson Water, and the developer must pay all applicable fees to both entities.

The required onsite infrastructure shall be constructed by the developer and shall thereafter be owned, operated, and maintained by Marana Water.

The required offsite infrastructure shall be constructed by the developer and shall be thereafter owned, operated, and maintained by Tucson Water.

Authority

This policy was approved by the Marana Town Council on January 19, 2021 at its regular Town Council Meeting and will be applied administratively by Marana Water.

MARANA AZ
ESTABLISHED 1977

MARANA TOWN COUNCIL

REGULAR COUNCIL MEETING
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, December 7, 2021, at or after 6:00 PM

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

SUMMARY MINUTES

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: Jackie Craig, 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 Kai moved and Vice Mayor Post second the motion to approve the agenda as presented. Motion passes unanimously, 7-0.

CALL TO THE PUBLIC

Mayor Honea open the meeting to receive public comment.

as preschool through 12 grade CTM post-secondary education programs that results in a qualified and thriving workforce, as well as 2) Flood control mitigation that will support legislation that encourages provision and allocation of funding for flood control. Flooding mitigation and flood control infrastructure within the Town.

Council Member Kai moved and Vice Mayor Post second the motion approving Resolution No. 2021-157. Motion passes unanimously, 7-0.

ITEMS FOR DISCUSSION / POSSIBLE ACTION

D1 Relating to Water; discussion, consideration, and possible direction regarding a request from the owners of property generally located near the southeast corner of Twin Peaks Road and Tangerine Road for an exception to the Town's Water Wheeling Policy, to allow water to be wheeled to the property through the Intergovernmental Agreement Between the City of Tucson and the Town of Marana relating to the Delivery of Central Arizona Project Water (Jane Fairall)

Town Attorney Jane Fairall explained this request from the property owners that own what is known as Twin Peaks Crossing to have an exception from the town's Water Wheeling Policy that was approved by Council in January of this year. She provided a brief history. In August of 2020, Marana adopted the IGA with the City of Tucson for the Water Wheeling, which allows Marana water to serve areas by Wheeling the towns cap water through Tucson Waters potable water system. It is created for the for the reason of serving properties that are within the town limits, but are too far away from Marana Water Infrastructure to get cost effective service from random water and are close enough to Tucson water system facilities to be connected, but does not meet to Tucson Water policies. Service area policy. In October 2020, Town staff came to you with a Study Session and presented some policy discussion / policy options. At that time, the former Water Director and former Town Attorney brought forward the option. One option was a Temporary Wheeling Policy that would allow developments that are within the towns of intended service area to temporary wheel water, until the Town's infrastructure was extended.

However, between October 2020 and January 2021, after doing some research and carefully considering it, former **Water Director Mr. Schladweiler** brought forward was to not allow temporary wheeling. If you were in the towns' of intended service area, you would have to connect to the system. Council adopted that policy in January 2021. The Twin Peaks Crossing development is in the town's intended service areas. Strict application of the January 2021 policy would mean that they could not do temporary wheeling. The Town had already been engaging with them and with the City of Tucson in between the October 2020 and January 2021 timeframe about the possibility of doing that.

That is the basis of the request from the property owners to have an exception to that January 2021 policy. If the Council direct staff to do that, we would re-engage with the City of Tucson, Tucson Water about this possibility, and Town staff would bring back an agreement for water service to the Council that would require the property owners to pay equal to the Water Infrastructure Impact Fees. That we would not be collecting because they would not be connecting to our system, they would eventually have to connect once the infrastructure is there. There are still other terms of that agreement that would come forward.

Mayor Honea read the name of a member of the public who wished to comment on the item.

Brad DeSpain provided comments related to the Wheeling Agreement, and requested consideration of the Council to allow a temporary wheeling agreement.

Council Member Craig stated that she would like to have the minutes reflect that is not a precedent to waive our current policy, not allowing temporary Wheeling. We are making an exception because there has been documented agreements that this was agreed before we made that policy.

Vice Mayor Post, moved and Council Member Ziegler to make an exception on Marana's Water Wheeling Policy to serve the Twin Peaks property, as discussed, as long as there is mutual agreement between parties. Motion passes unanimously, 7-0.

D2 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)

Development Services Director Jason Angell provided a brief overview of the development activity going on in the Marana community.

D3 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 (Terry Rozema)

Mr. Rozema stated he does not have a report to offer at this time.

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

Mayor Honea asked for a motion to adjourn the meeting.

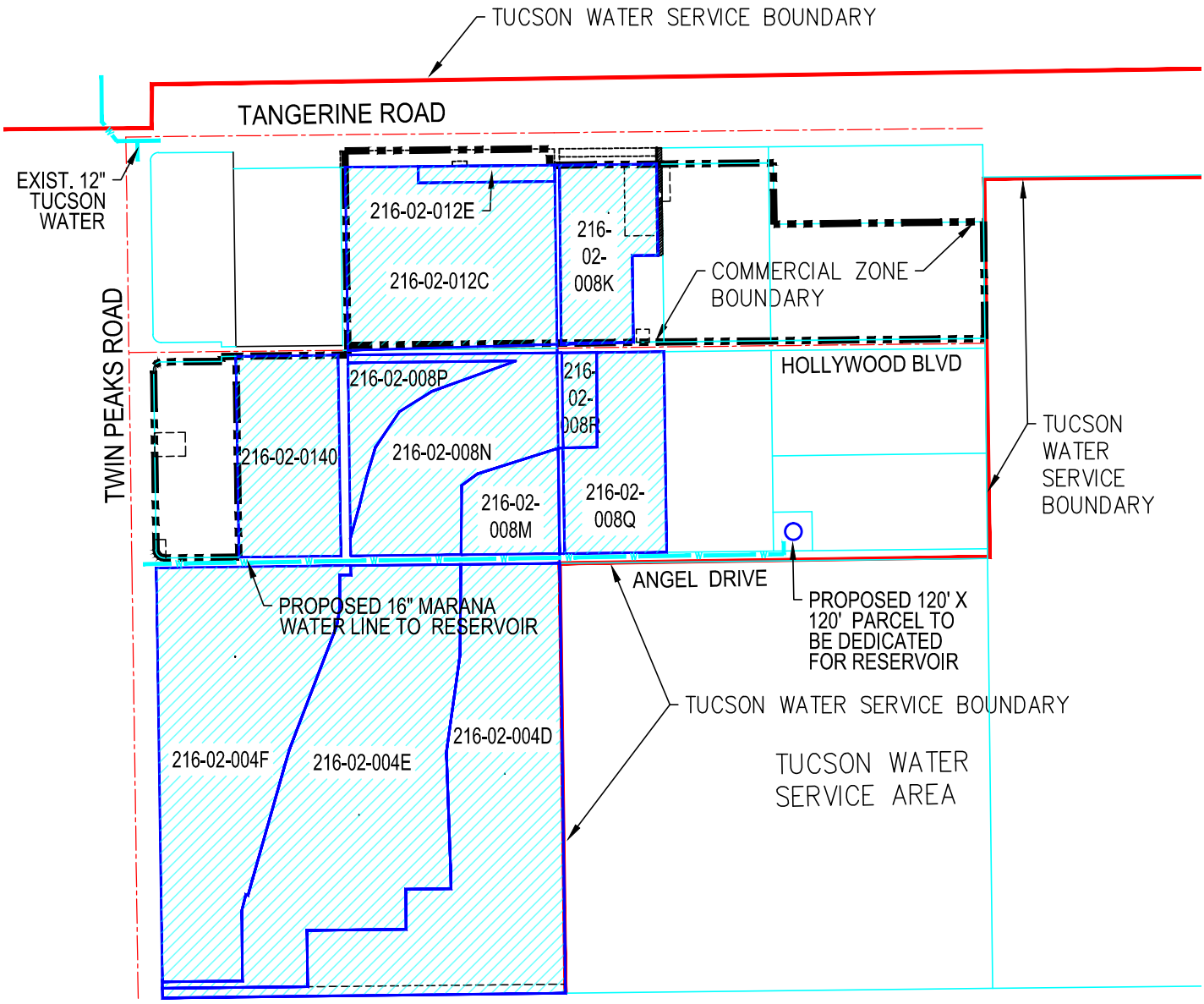
Vice Mayor Post, moved and Council Member Kai second the motion to adjourn the meeting. Motion passes, 7-0. Meeting adjourned at 7:41 PM.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Town Council meeting held on December 7, 2021. I further certify that a quorum was present.

Cherry L. Lawson, Town Clerk

MARANA AZ
ESTABLISHED 1977



INCLUDED PARCELS

1.	216-02-004D	7.	216-02-008M
2.	216-02-004E	8.	216-02-008R
3.	216-02-004F	9.	216-02-008Q
4.	216-02-0140	10.	216-02-008K
5.	216-02-008P	11.	216-02-012C
6.	216-02-008N	12.	216-02-012E

FIGURE 1

ORACLE ENGINEERING GROUP, INC.
3544 N ROMERO RD, SUITE 100
TUCSON, AZ 85705
TEL: (520) 292-6711
FAX: (520) 292-6144

PARCELS PROPOSED WATER WHEELING TWIN PEAKS CROSSINGS

MARANA, AZ